



OECD Public Governance Reviews

OECD Integrity Review of Mexico

TAKING A STRONGER STANCE AGAINST CORRUPTION



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Foreword

By signing Mexico’s General Law of the National Anticorruption System (NACS) into force on 18 July 2016, President Peña Nieto cleared the way for one of the key pillars of his administration’s reform agenda and took a major step forward in the fight against corruption in Mexico. The law brought to fruition a constitutional amendment which embodied the NACS into the highest law of the land and signalled a decidedly tougher stance on a problem that has plagued the country for far too long.

If successful, Mexico’s new national and local anti-corruption systems have the potential to be “game-changers” for the country’s anti-corruption agenda by addressing fragmentation in policies, improving co-ordination for more effective implementation, and ending impunity. The groundwork has been laid for success, with few other reforms enjoying such resounding support from citizens and civil society alike.

Passage of the General Law of the NACS – strengthened by a range of complementary laws and secondary policies – could not have come at a better time. Mexican citizens have roundly rejected what they perceive as a political and governance system with high levels of corruption that limits their opportunities for better lives and social mobility. Indeed, recent scandals and allegations against top political figures have made calls for change all the louder. In a 2015 Gallup Poll, over 70% of citizens reported they believed corruption to be widespread in government.

Plummeting confidence and high levels of corruption have, in turn, spilled over onto economic performance. The renowned annual competitiveness report by the Mexican Institute for Competitiveness (IMCO) estimates that 5% of Mexican GDP is lost to corruption yearly; other reports place losses closer to 9% of GDP.

While bleak, this picture demonstrates both the stakes and the challenges facing the NACS. The *OECD Integrity Review of Mexico* shows that if corruption is not tackled effectively, it will be impossible to effectively address many of the other dire challenges facing the country: slumping productivity and competitiveness, stubborn inequality, serious regional security issues and more. Corruption is unfortunately a culprit behind many of these obstacles.

While the new reforms deserve to be acknowledged, whether they lead to real change will depend on the extent and success of their implementation. While recognising progress, the present review warns of the challenges of implementing such large-scale reforms. Important investments in awareness-raising, capacity-building, and institution-building must soon follow. Key steps include: providing ethics committees with permanent staff and clearer mandates, further refining the Procurement Protocol to make it more feasible, clarifying conflict-of-interest policies, protecting the rights of those who report wrong-doing, and equipping internal controllers for disciplinary investigations and risk management.

To support the Government of Mexico in achieving successful implementation, the review draws on international good practices and lessons learned from lead peer reviewers across the OECD, including Australia, Belgium, Canada, Germany and the United States. The review process has also included a series of workshops on the key elements of strong public sector integrity systems, such as ethics, conflict of interest, control and audit, disciplinary systems, reporting mechanisms and whistle-blower protections. Moreover, the OECD is already working with several subnational governments (Coahuila, Mexico City, and Nuevo León) to support the implementation of Local Anti-corruption Systems.

The letter of the law must now translate into extensive institutional, behavioural and cultural change. While it will take time and doggedness to usher in changes, the new system must not fail. Looking ahead, the OECD remains a partner in supporting implementation and will monitor progress on the achievement of the policy recommendations of this report in 2018.



Angel Gurría
OECD Secretary-General

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Executive summary

Mexico’s newly established National Anti-corruption System (NACS), signed into law on 18 July 2016, has the potential to become a game-changer in the country’s fight against corruption. The package of laws creating the System - eight in total - mark a turning point in Mexico’s approach to anti-corruption policies, and aim to overcome some key shortcomings of the past by: 1) addressing fragmentation in policies and developing a more comprehensive and coherent approach to integrity; 2) avoiding notorious “implementation gaps” by improving co-ordination both across and between levels of government, and particularly by bringing states under the remit of the system; 3) strengthening enforcement mechanisms for investigating and sanctioning integrity breaches by public officials and firms under both administrative and criminal jurisdictions; and 4) reinforcing oversight through greater transparency, expanded auditing powers and greater involvement of civil society.

This review provides an overview of the initiatives planned under this ambitious reform agenda. At the federal level, these include a new governance structure for anti-corruption policy consisting of a NACS Co-ordination Committee, a Citizen Participation Committee, and ethics committees in individual line ministries. Codes of conduct for public officials, as well as the federal manual for internal control and risk management standards, are being revamped across the federal government. An online digital platform comprised of key databases (sanctions, procurement, etc.) will be developed to support better detection and oversight. On a national scale, Mexico’s 32 States will be required to follow suit with their own Local Anti-corruption Systems (LACS) and respective committees. More stringent asset and interest declarations will be required of all officials, and both government employees and firms involved in public sector activities (such as public procurement contracts) will be subject to a new disciplinary regime for integrity violations. Specialised Anti-corruption Prosecutors will be enlisted across the country to prosecute acts of corruption that constitute potential breaches of the criminal code.

In accordance with the OECD’s Recommendations on Integrity, Conflict of Interest and Procurement, the review examined key aspects of Mexico’s integrity system, including the institutional arrangements underpinning the system, policies for instilling integrity values, prevention and management of conflict of interest, internal control, audit and enforcement mechanisms, and integrity and transparency of public procurement. The review found Mexico’s new laws to be essential, given the unfortunately major role that corruption plays in hindering Mexico’s growth, productivity and inclusiveness. However, it also identified some weaknesses and areas for improvement that need to be addressed if current plans are to result in real impact for the economy and society. In total, over 60 concrete proposals for action are included in the review, under four central themes:

- **Strengthening institutional arrangements for coherence and co-operation.** While the governance structure of the NACS, including the LACS, could substantially improve co-ordination across federal government and between levels of government, there is a risk that it will be an exclusively top-down approach,

and therefore fail to attain greater buy-in and genuine ownership from individual organisations and officials. Requiring organisational anti-corruption plans could help address this issue, as would ensuring the integration of integrity considerations into other national strategies, such as the National Development Plan. There is still a great deal of scope to further mainstream integrity and human resources management policies, specifically recruitment, performance evaluation, training and post-employment policies should all be used to promote integrity and better manage conflict of interest.

- **Building a culture of integrity.** New laws and stricter standards are a way of promoting integrity, but experiences from other OECD member countries have shown them to be insufficient for cultivating sustained adherence to integrity values on their own. Greater consultation with staff, more broadly including civil society and public servants in the design of codes of conduct, launching more ambitious awareness-raising initiatives, targeting youth in schools to entrench integrity values early on, and establishing stronger protections for those who report wrong-doing would ensure that standards are kept relevant, up-to-date and, most importantly, respected.
- **Strengthening the lines of defence against corruption.** Managers, internal controllers and auditors are on the front line in the fight against corruption. While the new reforms update and strengthen risk management and internal control policies, they should be buttressed by stronger professionalisation and capacity building to foster genuine commitment and ensure that they are not seen as simply an administrative burden. Greater professionalisation would make internal control staff more independent and effective through greater job security and stronger skills in auditing and investigation. Likewise, managers would be more inclined to identify and manage risks of fraud and corruption if the right incentives were in place.
- **Enforcing the integrity framework for deterrence and greater trust in government.** The new anti-corruption reforms may lose their credibility if corrupt officials and firms are permitted to continue “business as usual” with impunity. The new administrative disciplinary regime streamlines proceedings for serious offences, placing them directly under the jurisdiction of administrative justice tribunals. However, the effectiveness of this approach depends on cases arriving at tribunals in the first place, and on internal control bodies and managers having the capacity to adequately detect and conduct preliminary investigations. Facilitating investigators’ access to the necessary tax and financial information, as well as producing better performance information on the classification of cases and performance of the disciplinary regime, would help bring cases to fruition and hold organisations accountable for effectively applying sanctions.

Chapter 1.

Curbing corruption for more inclusive growth and prosperity in Mexico

Mexico's new anti-corruption reforms, if implemented effectively, can contribute to addressing many of the key social and economic challenges facing the country today. Indeed, greater integrity, transparency and accountability are all inextricably linked with better economic performance, better government performance, and greater well-being and prosperity for society as a whole. The following chapter highlights these key linkages in order to underscore the timeliness and relevance of the NACS in curbing corruption and helping achieve these important goals in Mexico. It examines, for instance, how the NACS can build trust in government to support its ambitious reform agenda, support a more inclusive and productive economy, and tackle the security challenge facing many regions. It concludes with a description of the Integrity Review's analytical framework which forms the foundation for the OECD's main findings and recommendations for improvement.

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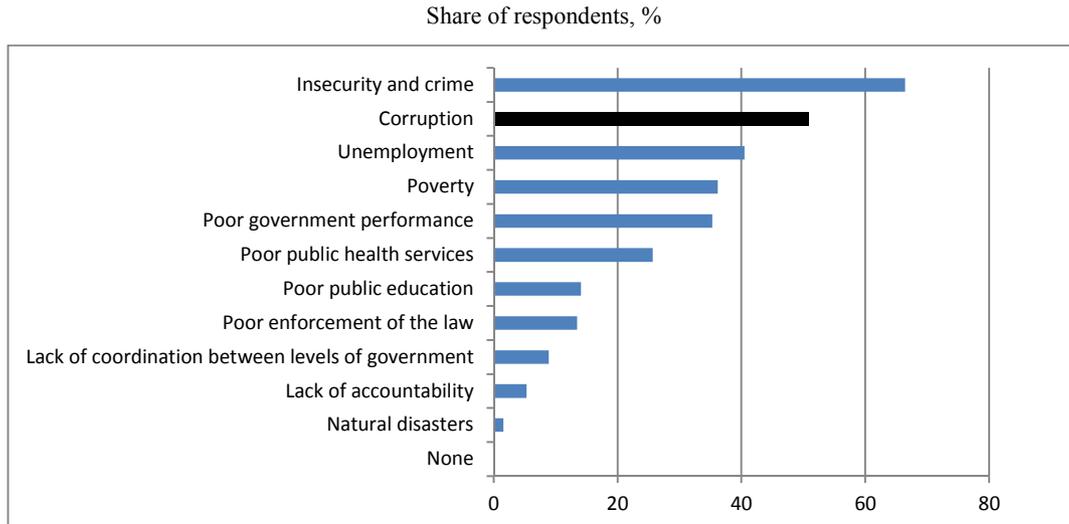
Mexico's newly established National Anti-corruption System (NACS), signed into law by President Peña Nieto on 18 July 2016, has the potential to be a game-changer in the country's fight against corruption.¹ The package of laws creating the system mark a turning point in Mexico's approach to anti-corruption policies and are aimed at overcoming some key shortcomings of the past. Most notably, the NACS aims to take a tougher stance in the fight against corruption by: 1) addressing fragmentation in policies and developing a more comprehensive and coherent approach to integrity; 2) overcoming notorious "implementation gaps" by improving co-ordination both vertically (across federal government) and horizontally (between levels of government), and particularly by bringing states under the remit of the system; 3) strengthening enforcement mechanisms for integrity breaches under both administrative and criminal jurisdictions, and including for private sector actors; and 4) reinforcing oversight by requiring greater transparency, expanded auditing powers and greater involvement of civil society.

The NACS forms part of a series of broader reforms for improved governance in Mexico, and is closely linked with complementary initiatives that have established the National Auditing and National Transparency Systems (NAS and NTS, respectively). Both of these systems aim to support anti-corruption measures in their own right through stronger oversight and transparency.

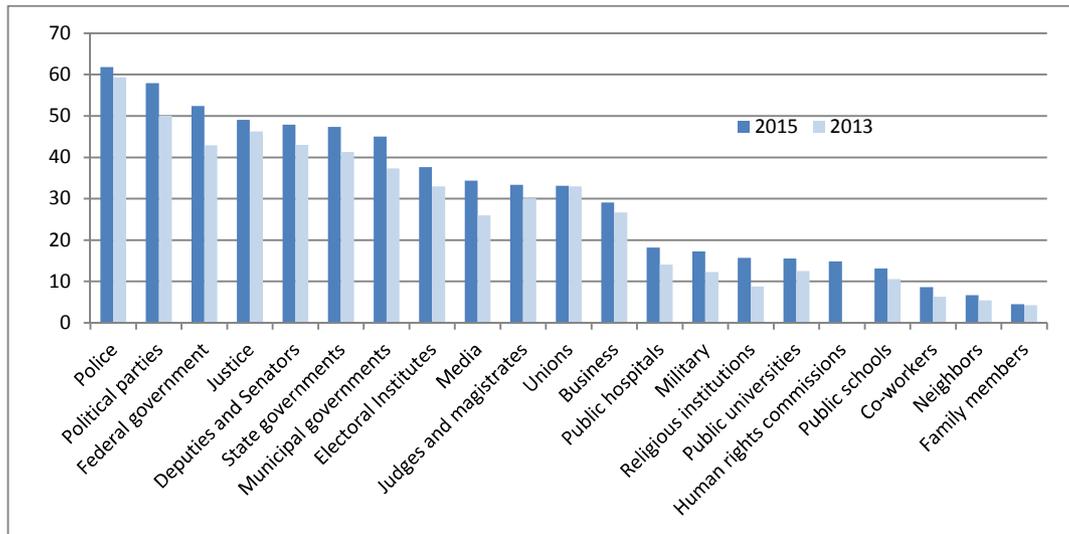
This ambitious package of governance reforms, if implemented effectively, can contribute to addressing many of the key social and economic challenges facing Mexico today. Greater integrity, transparency and accountability are all inextricably linked with better economic performance, better government performance, and greater well-being and prosperity for society as a whole. The following chapter highlights these key linkages in order to underscore the timeliness and relevance of the NACS in curbing corruption and helping achieve these important goals in Mexico. It examines, for instance, how the NACS can build trust in government to support its ambitious reform agenda, support a more inclusive and productive economy, and tackle the security challenge facing many regions. It concludes with a description of the Integrity Review's analytical framework which forms the foundation for the OECD's main findings and recommendations for improvement.

The NACS' role in restoring confidence in government during a crucial reform period

The NACS reforms are being launched with a sense of urgency amidst growing public concern over corruption. The system's approval follows several scandals that have aggravated already high perceptions of corruption. In Mexican public opinion surveys, for instance, corruption is cited as the second most important problem, with just over half of the population (51%) citing this issue as worrisome in their state of residence (Figure 1.1). This marks a slight increase from 2013, where 49% of surveyed citizens aged 18 or older reported that they believed corruption was a major issue in their state. The scandals have also had an impact on perceptions of corruption in government. While perceived corruption increased across the board for several institutions, between 2013 and 2015, distrust in the federal government and municipal governments increased by 22% and 21% respectively (Figure 1.1).

Figure 1.1. Top rated problems by Mexican citizens, 2015

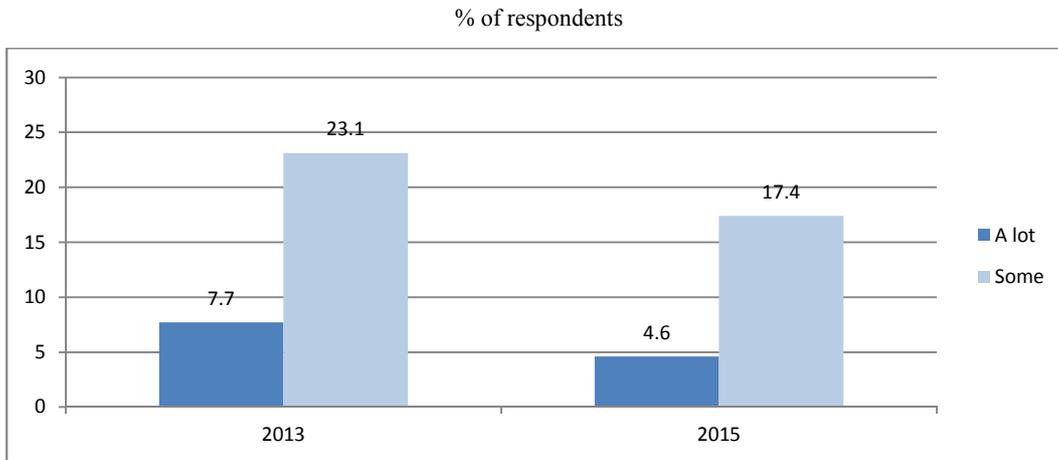
Source: INEGI (2016a), *National Survey on the Quality and Impact of Government*, www.inegi.org.mx/est/contenidos/proyectos/encuestas/hogares/especiales/encig/ (accessed August 2016).

Figure 1.2. Share of respondents who believe corruption is “very frequent”, according to institution/sector, 2015

Source: INEGI (2016a), *National Survey on the Quality and Impact of Government*, www.inegi.org.mx/est/contenidos/proyectos/encuestas/hogares/especiales/encig/ (accessed August 2016).

Moreover, Mexican citizens are concerned that public sector corruption is worsening over time. Between 2013 and 2015, the share of surveyed respondents noting that they believed public sector corruption had “much” improved over the past two years dropped from 23 to 17%. Those responding that the fight against corruption in public institutions had progressed “somewhat” decreased from 8 to 5% (Figure 1.3).

Figure 1.3. Responses to “How much do you believe progress against corruption in public institutions has been made in the last two years?” 2013 and 2015

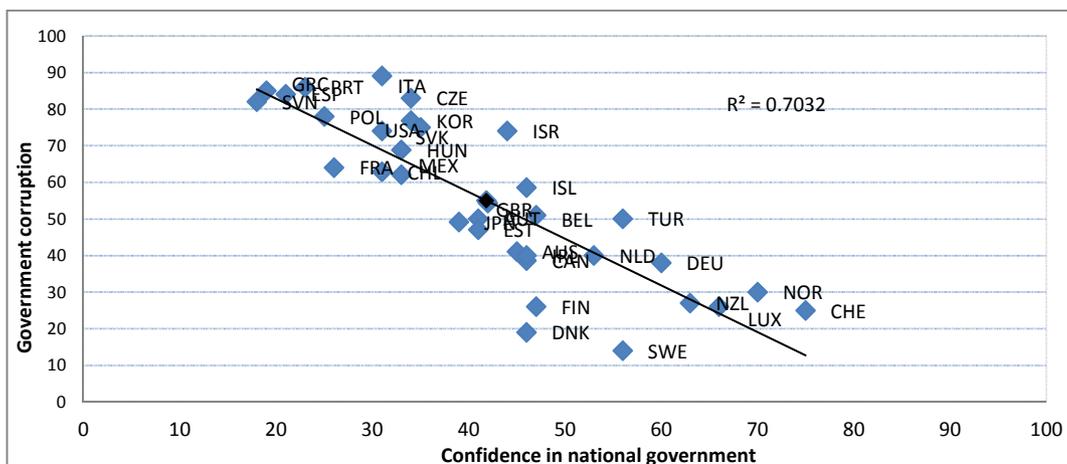


Note: Responses for “a lot” and “some”. (Other options “a little”, “none”, “unknown”, not shown.)

Source: Latinobarometro, 2013 and 2015 waves. Database accessed December 2016: www.latinobarometro.org/lat.jsp.

This trend is concerning given the link between perceptions of corruption and distrust in government. Corruption costs governments dearly in lost legitimacy and credibility. Low trust in government can, in turn, have dire consequences for the ability of elected leaders and institutions to govern, including their capacities to effectively counter corruption itself. Figure 1.4 below demonstrates the strong relationship between perceived corruption and confidence in national governments. Some studies focusing specifically on Mexico have found that a 10% increase in perceived corruption is tantamount to a 16% decline in institutional trust (Morris and Klesner, 2010).

Figure 1.4. Strong relationship between confidence in national government and perception of government corruption, 2014



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.

Source: OECD (2015a), *Government at a Glance 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2015-en.

Trust in government is also proven to increase compliance with regulations and reforms (OECD, 2013). As such, restoring the public’s trust in Mexico is critical given the important economic and social challenges facing the country. Trusted and legitimate institutions are needed to gather consensus and lead reforms forward, particularly those recently put in place under the auspices of the Pact for Mexico (“*Pacto por México*”, see summary below in Table 1.1). However, without trust, government institutions will face an uphill battle in implementing this ambitious reform agenda.

Table 1.1. Corruption threatens packed reform agenda in Mexico

The government’s package of structural reforms since 2012

Structural reform (<i>Pacto reforms in italics</i>)	Purpose of the reform
Reforms with implementation well advanced	
<i>Tax policy reform</i>	Raise more revenue and plug tax loopholes.
<i>Financial sector liberalisation</i>	Provide more access to credit at a lower cost and improve competition in the banking sector.
<i>Telecom deregulation</i>	Protect consumer interest and reduce the cost of telecom services.
<i>Election system reform</i>	Require re-election among all mayors and parliamentarians by 2018.
<i>Competition policy and regulatory reform</i>	Strengthen competition policy and improve the regulatory environment.
<i>Energy market openness</i>	Open the oil & gas sector to private operators; liberalise the electricity sector.
Reforms with gaps in implementation	
<i>Labour market reform and tackling informality</i>	Ease hiring rules, reduce uncertainty; improve incentives to join the formal sector.
<i>Education quality reform</i>	Substantially revamp the education system, introducing teacher exams and institutional reforms.
<i>Transparency reforms</i>	Increasing proactive disclosure of information.
<i>Anti-corruption and transparency reform</i>	Reduce corruption and improve public governance.
<i>Judicial process reform</i>	Improve the efficiency of the criminal justice system.
<i>Innovation system reform</i>	Boost research and development and infrastructure; develop more clusters and special economic zones.
Reforms that have not advanced enough	
<i>Agricultural transformation</i>	Increase the efficiency of agriculture, relax rules on land.
<i>Unemployment insurance, pensions and social benefits</i>	To reduce unemployment risk and boost the incomes of the elderly poor.
<i>Health system reform</i>	Integrate and expand the health system.

Source: OECD (2017), *OECD Economic Surveys: Mexico 2017*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-mex-2017-en.

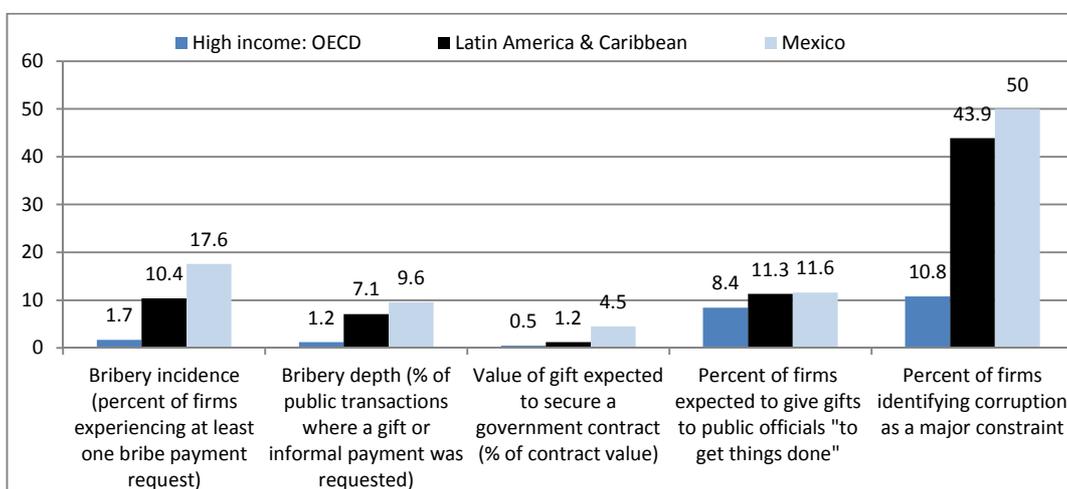
The NACS for more productive and inclusive growth

Beyond the impact of corruption on the legitimacy and capacity of the state to effectively govern, corruption in Mexico also comes at a high economic price by increasing the costs of doing business, deterring investment, and hindering productivity. The Mexican Institute for Competitiveness’ (IMCO) annual 2015 Competitiveness Report,

for instance, estimates that corruption costs the national economy as much as 5% of its GDP (IMCO, 2015). Other estimates place the losses nearer 9 to 10% of GDP (Casar, 2015).

By raising the costs of doing business through bribes or gifts, corruption cuts into profits and acts as a disincentive for investment. According to the World Bank's Enterprise Survey from 2010, for instance, Mexican firms reported that bribes paid amounted to about 4.5% of the value of the total contracts. Not surprisingly then, 50% of firms surveyed in Mexico identified corruption as a major constraint to doing business, compared to 11% on average in the OECD (Figure 1.5). More recent surveys by Mexico's National Statistics Office (*Instituto Nacional de Estadística y Geografía*, INEGI) (see Figure 1.6 further on) demonstrate that this problem has persisted since 2010, with "proceedings for starting a business" listed as one of the top incidences of corruption (22 339 incidences per 100 000 inhabitants).

Figure 1.5. Reported corruption by Mexican firms, share of firms reporting corruption, 2010



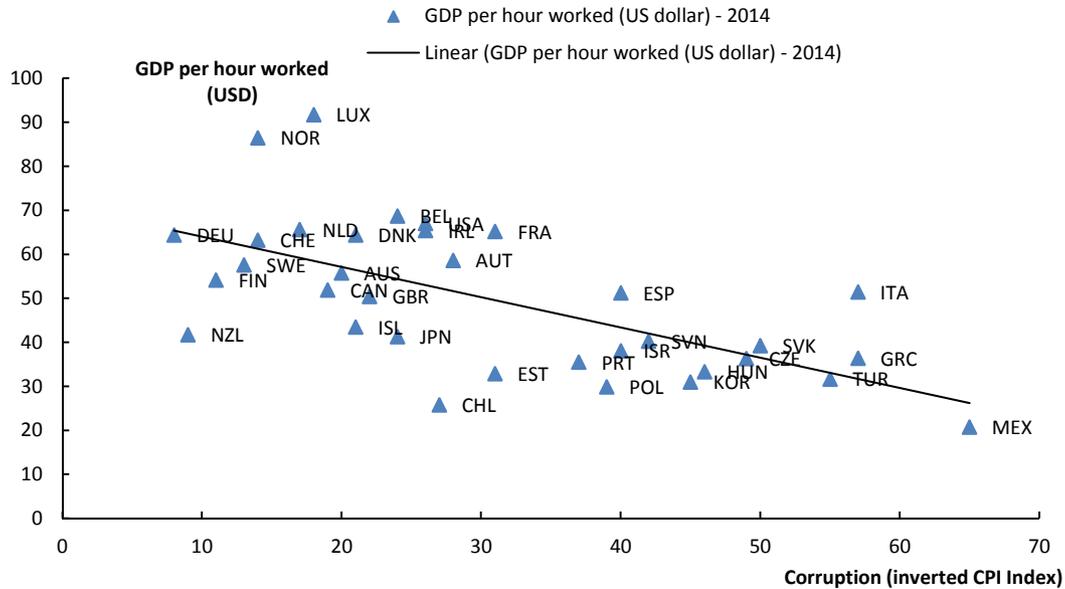
Note: Data for Mexico refer to 2010.

Source: World Bank (2016), World Bank Enterprise Survey Database, www.enterprisesurveys.org/ (accessed December 2016).

Corruption also decreases both public and private sector productivity by adversely impacting the efficient allocation of resources. Undue influence and corrupt practices can lead to decision-making processes and policies being captured, eluded or bent in favour of narrow interests imposing harm upon others, which results in waste and/or misallocations that divert resources from the innovation and capital investment that underpins productivity gains over time. Furthermore, corruption can hinder productivity by promoting informality. If corruption leads companies to avoid the official economy (because of high levels of corruption) then it indirectly leads to credit constraints and a low-productivity trap. Production in the informal sector is inefficient because firms limit their size to below the optimal level and use backward technologies, all to avoid detection. With data from 69 countries, Lambsdorff (2003) shows that an increase in corruption perception by one point, as measured by the Corruption Perception Index, lowers productivity, as measured by the ratio of GDP to the capital stock, by 2%. As a country with the lowest productivity in the OECD in terms of GDP per hour worked

(Figure 1.6), addressing corruption should be amongst the top priorities for more productive growth (OECD 2016a).

Figure 1.6. Corruption and productivity in OECD countries



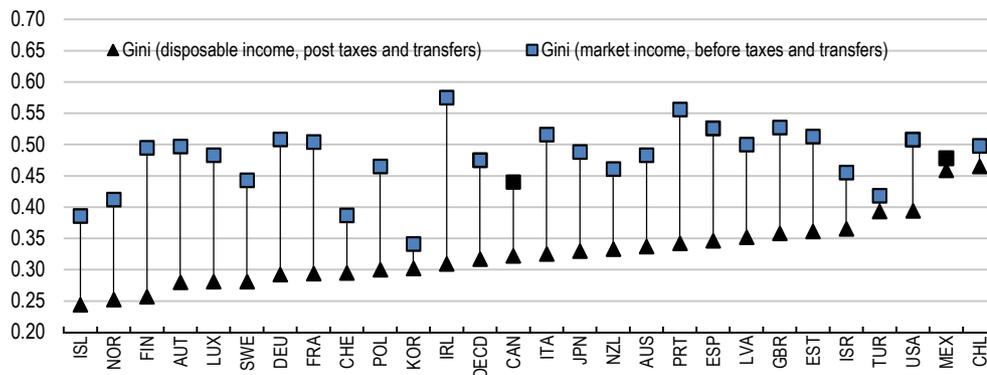
Note: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Source: OECD (2016a), Investing in Integrity for Productivity, OECD Publishing, Paris.

Corruption also plays a role in inequality, a stubborn challenge in Mexico which strongly limits both economic growth and well-being. An inclusive state is one that supports growth while ensuring that no person is left behind, and that levels the playing field to provide opportunities for everyone to reach their maximum potential (OECD, 2017a). However, corruption and undue influence of special interests throughout the policy cycle reduce the responsiveness and effectiveness of these policies (OECD 2017b), especially on marginalised groups. Corruption also lowers government revenue (for example, through informality which lowers tax revenues) and reduces the efficiency of public spending, which diverts resources from public policies. It also limits fair and equal access to public services (such as education and health), which provide opportunities for social and economic mobility. In Mexico, inequality is among the highest in the OECD (see Figure 1.7), and the government must use every policy lever possible, including anti-corruption policies, to tackle this important issue.

Figure 1.7. Capture and corruption aggravate and sustain inequalities in Mexico (Gini coefficient)

E. Low impact of taxes & transfers on reducing inequality



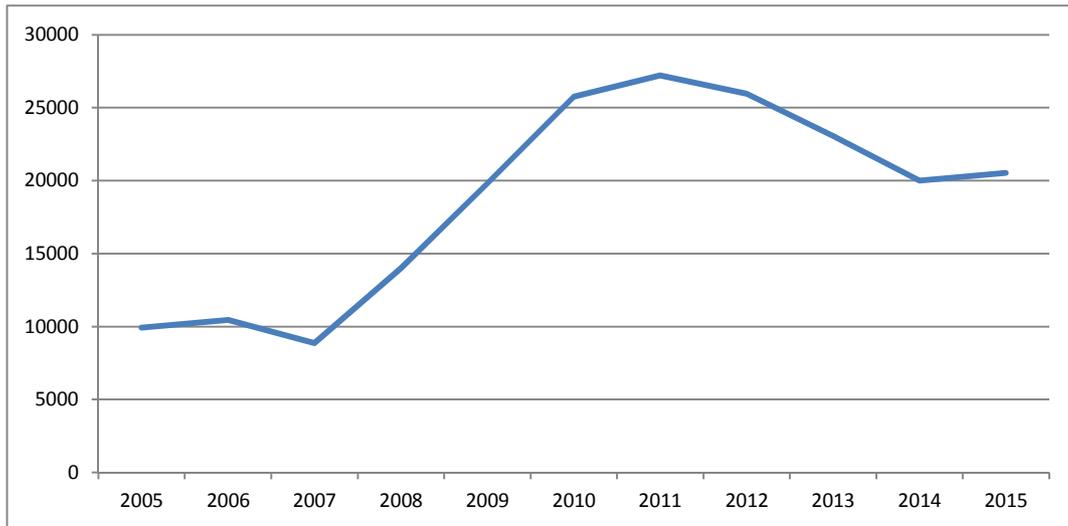
Note: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Source: OECD (2015b), *OECD Economic Surveys: Mexico 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/eco_surveys-mex-2015-en.

The NACS for a safer Mexico and a stronger rule of law

Corruption undermines the rule of law. When corrupt individuals or corporations manage to capture justice institutions, obstruct proceedings and break laws with impunity, trust in justice and law enforcement deteriorate, their legitimacy is lost, and their capacities to effectively enforce regulations decreases. This can incite further corruption from opportunists and criminals alike, feeding into a vicious circle that continues to undermine the rule of law over time.

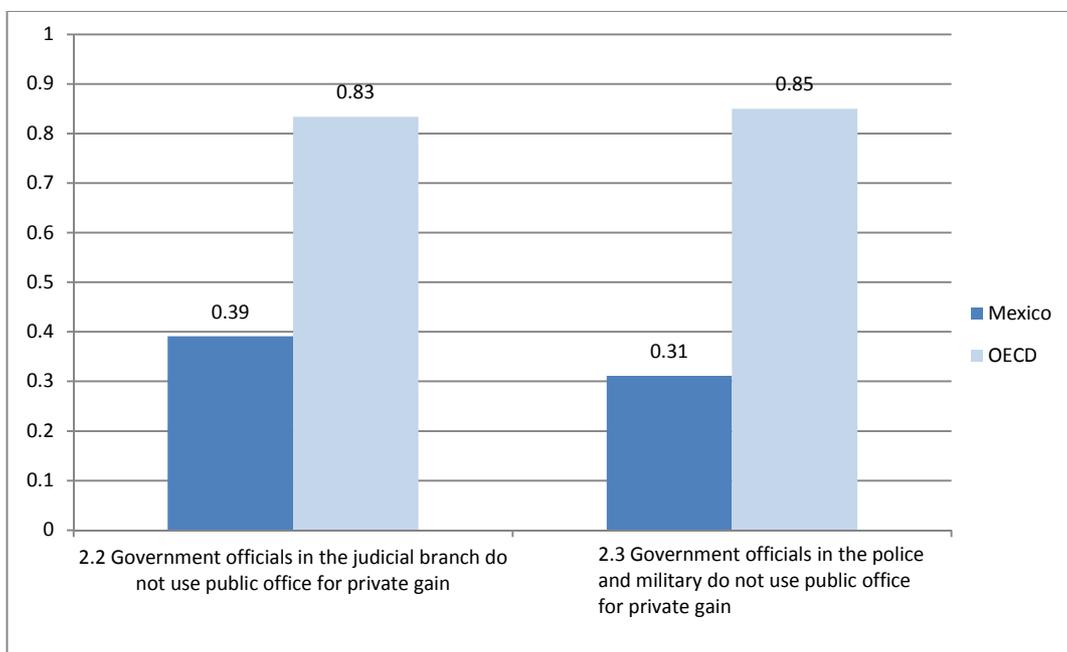
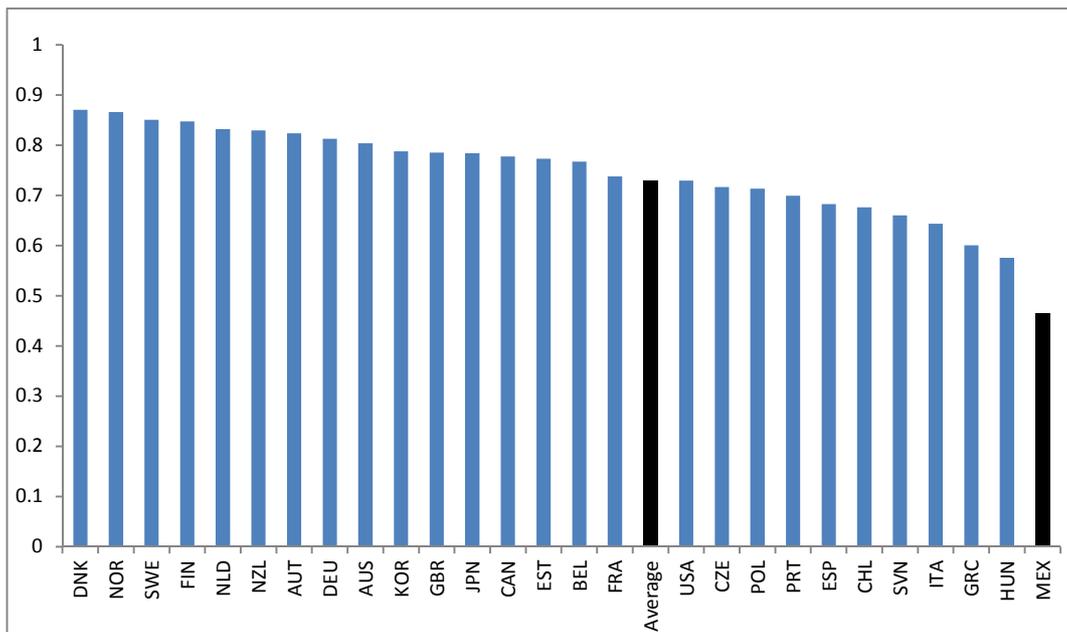
Furthermore, when justice and law enforcement institutions are captured by corruption, the security of citizens and firms is at risk. When corrupted, institutions that are intended to protect individuals and uphold property rights can be negligent, or even outright criminal. In some countries, organised crime cartels target justice and law enforcement institutions as a means of: 1) obtaining information on investigations, operations or competitors; 2) attaining protection for continued illegal activities; 3) obstructing investigations and justice proceedings against them; and 4) to become directly engaged in criminal activities, running drug or prostitution rings (Center for the Study of Democracy, 2010). Corruption of justice in Mexico is a growing concern. Increases in violence over the past 10 years (Figure 1.8 below) have been attributed at least partly to a growing presence of organised crime, which thrives in areas with more corrupt and weaker justice institutions. Between 2005 and 2010 the number of homicides doubled.

Figure 1.8. Homicides, 2005-2015

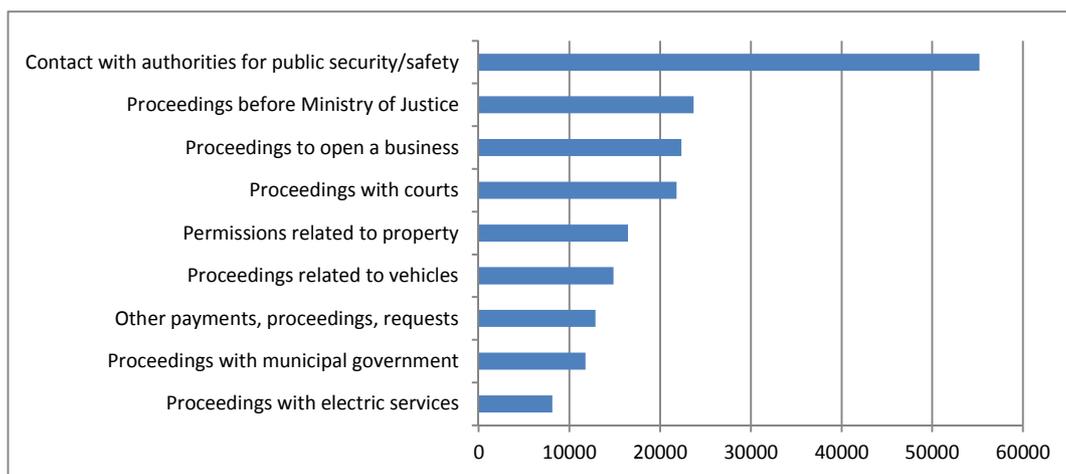
Source: INEGI (2016b), Mortality Statistics Database, www.inegi.org.mx/est/lista_cubos/consulta.aspx?p=adm&c=4 (accessed October 2016).

The World Justice Project publishes a biennial index that benchmarks countries on the strength of their rule of law. Figure 1.9 below ranks countries according to their final score, with higher scores reflecting a stronger rule of law. Mexico ranks lowest amongst OECD member countries for which data are available (0.47 compared to the sample average of 0.73). Dimension 2 of the index specifically examines the absence of corruption, including the use of public office for private gain by justice officials, police and military. Here, Mexico ranks well below the sample average (Figure 1.9, second chart.) This supports data from INEGI (see Figure 1.10), which demonstrates that citizens report corruption most commonly in their dealings with police, Ministry of Justice and the courts. Earlier in the section (Figure 1.2), opinion polls showed that citizens distrust the police the most.

Figure 1.9. Aggregated World Just Project Rule of Law Index scores, index scores for corruption in judiciary, police, and military, 2015



Source: WJP (2016), World Justice Project online database, <http://data.worldjusticeproject.org/>, (accessed September 2016).

Figure 1.10. Corruption-prone proceedings in Mexico, experiences with corruption, 2015

Source: INEGI (2016a), National Survey on the Quality and Impact of Government, www.inegi.org.mx/est/contenidos/proyectos/encuestas/hogares/especiales/enci/ (accessed August 2016).

The review's analytical framework for assessing public sector integrity

The previous section underscored what is at stake in Mexico with the passing of the NACS and what matters most for the country in getting the NACS reforms right: the legitimacy of government institutions, a stronger economy, and greater security for all. With a view to supporting this process and providing recommendations for ongoing reform and improvement, the OECD Integrity Review assesses the strengths and weaknesses of NACS and the implications for public sector integrity (i.e. integrity practices for the public administration). In line with the recently approved *OECD Recommendation of the Council on Public Integrity* (see overview in Figure 1.10 below), the review specifically examines key dimensions of Mexico's public integrity system and its implementation, including:

- **The coherence and comprehensiveness of the public integrity system:** the review framework will assess: 1) political and managerial commitment to strengthening integrity; 2) institutional responsibilities for the public integrity system; 3) the application of a strategic risk-based approach; and 4) the standards of conduct in place. As such, Chapter 2 describes the new institutional architecture created by the national anti-corruption system, and how adequately it covers the key elements of strong public integrity systems. Recommended improvements for policies and institutional arrangements concerning specifically ethical standards and codes of conduct, conflict of interest, risk management, internal control and disciplinary regime are discussed in the respective chapters (3-7).
- **The extent to which Mexico's new public integrity reforms serve to cultivate a culture of integrity,** specifically by: 1) promoting a whole-of-society approach to fighting corruption; 2) investing in integrity leadership; 3) promoting a merit-based professional public service; 4) providing information, training, guidance and advice for public officials; and 5) supporting open organisational cultures responsive to public integrity concerns. Chapters 2 and 3, for instance, will examine the extent to which the NACS engages and includes non-governmental

stakeholders in the fight against corruption. They also touch on the linkages of integrity policies with human resources management practices (particularly recruitment, performance assessment, capacity building and training.) Chapter 4 examines how government can work to build integrity norms throughout society, and Chapter 5 discusses how whistleblower protections and reporting mechanisms can contribute to an organisational culture that supports integrity standards.

- **The effectiveness of accountability mechanisms for integrity:** this key pillar of the review’s analytical framework addresses: 1) the application of a control and risk management framework; 2) the existence of effective enforcement responses to integrity violations; 3) strong external oversight and control; and 4) transparency and stakeholder engagement at all stages of the policy cycle. Chapters 5-7 largely cover these areas.

Figure 1.11. 2017 OECD Recommendation on Public Integrity and analytical framework for the integrity review



Source: OECD elaboration. OECD 2017 Recommendation of the Council on Public Integrity. www.oecd.org/gov/ethics/recommendation-public-integrity.htm.

The review also includes a sectoral focus on public procurement, which constitutes one of the largest areas of government spending and is considered a high-risk government activity for fraud and corruption. According to the OECD’s Government at a Glance database, public procurement spending in Mexico amounts to an estimated 21% of total general government expenditures, or just over 5% of the country’s GDP (OECD 2015a).

The size of such expenditures, as well as the close interactions between the private and public sectors, make public procurement vulnerable to waste and fraud. As such, the review's final chapter (8) assesses the strengths and weaknesses of the public procurement framework and the extent to which it identifies and ultimately manages these integrity risks.

Note

- 1 The majority of reforms, however, do not enter into force until July 2017.

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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).

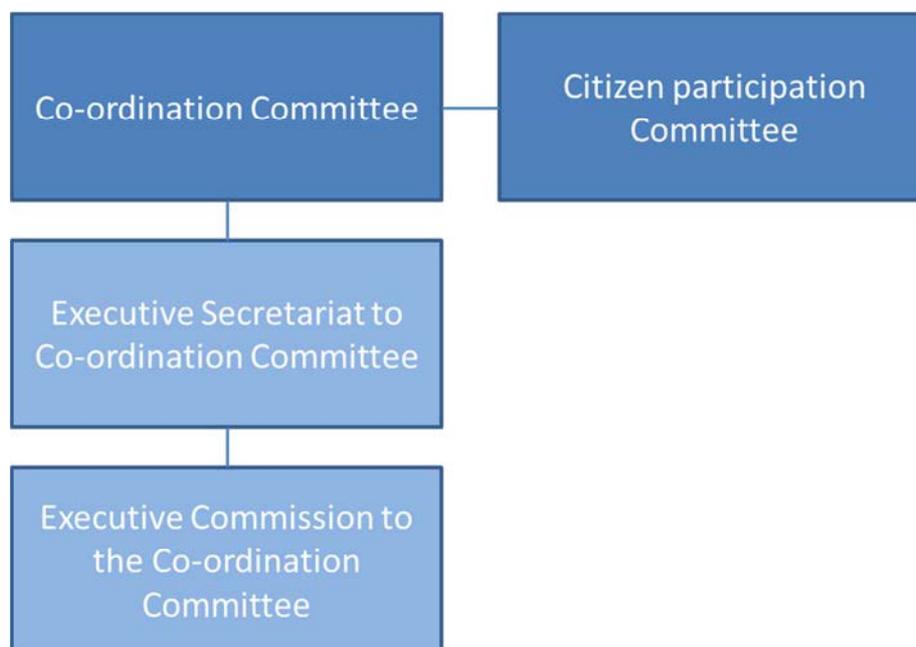
On 27 May 2015, Mexico's Federal Official Gazette published the decree by which several provisions of the Constitution were amended, added or repealed (specifically, Articles 22, 28, 41, 73, 74, 76, 79, 104, 108, 109, 113, 114, 116 and 122). This reform first enshrined the National Anti-corruption System 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:

- **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 (*Auditoría 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



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

NACS entities	Lead/Members	Summary of objectives
Co-ordination Committee	<p>Presided over by the President of Citizen Participation Committee</p> <p>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.</p>	<p>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.</p>

Table 2.1. Organisation and activities of national and local anti-corruption systems (cont.)

NACS entities	Lead/Members	Summary of objectives
Executive Secretariat to Co-ordination Committee	Governing Board (<i>Organo de gobierno</i>) led by the President of the Citizens Committee and comprised of members of the Co-ordination Committee Technical Secretary (<i>Secretario Tecnico</i>) elected by Governing Board members and tasked with managing the Executive Secretariat	Provides technical support to the organisation of the Co-ordination committee, oversees the development and use of the national digital platform.
Executive Commission to the Co-ordination Committee	Technical Secretary and Citizen Participation Committee (with exception of this Committee's President)	Provides technical support in the design and implementation of Co-ordination Committee activities and responsibilities, including annual report and co-ordination with local systems.
Citizen Participation Committee	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".	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.).
Local anti-corruption systems	Should mirror the structure of the federal NACS with analogous governance structure and procedures.	Responsibilities and activities should mirror those of the federal NACS.

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:

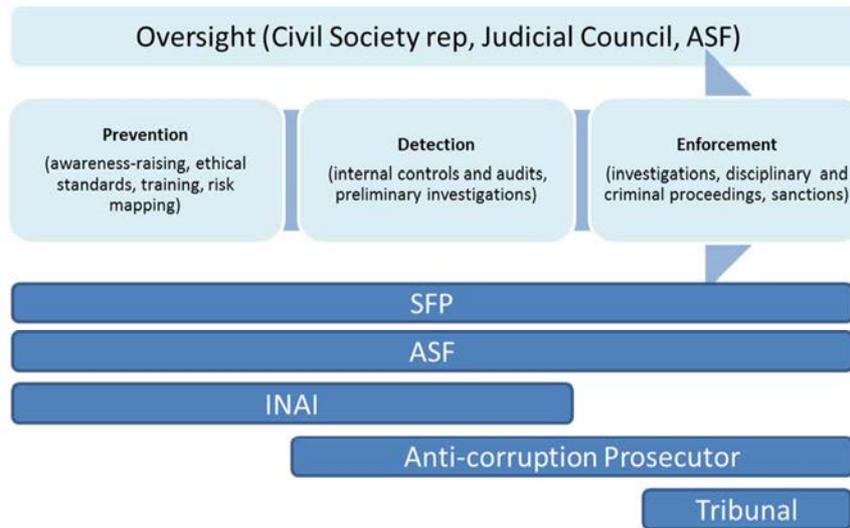
1. Database of assets, conflict- of-interest, and tax declarations, as per the new General Law of Administrative Responsibilities.
2. Database of public officials involved in public procurement contracts.
3. Database of sanctioned public officials and individuals.
4. Information and communications system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



Source: OECD elaboration.

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 co-ordinate 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)

Members with vote (10)	Members with voice but without vote (11)
<ul style="list-style-type: none"> • President of the Congress (<i>Congreso de la República</i>) • President of the Judiciary (<i>Poder Judicial</i>) • President of the Cabinet Office (<i>Presidencia del Consejo de Ministros, PCM</i>) • Minister of Justice and Human Rights (<i>Ministerio de Justicia y Derechos Humanos</i>) • President of the Constitutional Court (<i>Tribunal Constitucional</i>) • President of the National Council of the Judiciary (<i>Consejo Nacional de la Magistratura</i>) • Attorney General (<i>Fiscalía de la Nación</i>) • President of the National Assembly of Regional Governments (<i>Asamblea Nacional de Gobiernos Regionales</i>) • President of the Association of Municipalities (<i>Asociación de Municipalidades</i>) • Executive Secretary of the National Agreement (<i>Acuerdo Nacional</i>) 	<ul style="list-style-type: none"> • Comptroller General (Contraloría General de la República, CGR) • Ombudsman (Defensoría del Pueblo) • Executive Director of the Supervisory Body of Public Contracting (Organismo Supervisor de las Contrataciones del Estado, OSCE) • President of the National Assembly of Deans (Asamblea Nacional de Rectores) • President of the National Council for Public Ethics (Consejo Nacional para la Ética Pública, Proética) • President of the National Confederation of Private Business Entities (Confederación Nacional de Instituciones Empresariales Privadas) • Representative of the labour unions of Peru • Representative from the Catholic church • Representative from the Evangelic church • Executive Director of the Peruvian Press Council (Consejo Prensa Peruana) • General Co-ordinator of CAN (Coordinador General de la CAN)

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



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

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

- *The National Open Government Strategy* (Plan de Acción Nacional de la Alianza para el Gobierno Abierto en México).
- *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

Initiative	Description	Status as of December 2016
1 New formats/requirements for asset and conflict of interest disclosure	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.	Deadline for submission of declarations according to new criteria was May 2016 via DeclaraNet, an online portal. See Chapter 3 of this review
2 Creation of Office for Ethics and Prevention of Conflict of Interest	A Unit within the SFP charged with developing and implementing ethics and conflict of interest policies in the federal public administration.	Unit established in November 2015. See Chapter 3 of this review
3 Code of Conduct and Integrity Rules	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.	Published August 2015, codes in line ministries currently being developed. See Chapter 3 of this review
4 Protocol for public procurement officials in their interactions with the private sector	Specific code of conduct for public procurement officers concerning their interactions with potential suppliers.	Published but unknown how this is being monitored or implemented. See Chapter 8 of this review
5 Registry of public officials taking part in procurement activities	Database of public procurement officials at the federal level.	Registry prepared but unknown how this is being monitored or implemented. See Chapter 8 of this review

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

Initiative	Description	Status as of December 2016
6. One-stop-shop electronic portal for public services (<i>Ventanilla Unica</i>)	Reducing opportunities for corruption in public services by electronic service delivery options.	Status unknown.
7. List of sanctioned service providers	Database of sanctioned public officials.	Database online. See Chapter 6 of this review
8. Greater co-operation with private sector	Agreements with private sector representatives.	Four agreements were signed with private sector organisations, such as Chambers of Commerce, but no concrete initiatives included for co-operation. See Chapters 2-4 and 8 of this review

Source: SFP (2016), SFP website, www.gob.mx/sfp/acciones-y-programas/acciones-ejecutivas-para-prevenir-la-corrupcion-y-evitar-posibles-conflictos-de-interes (accessed December 2016).

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 Institucional*, 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.

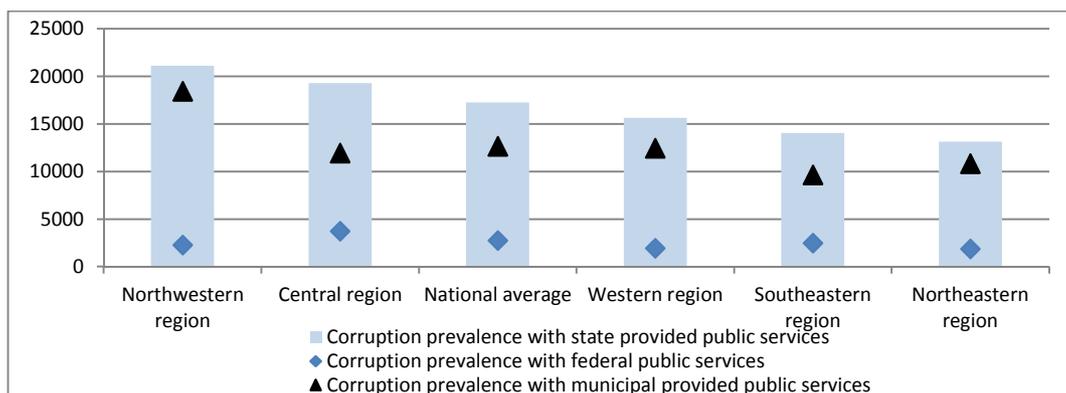
Supporting the implementation of action plan initiatives

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 Potosí and Tamaulipas).

Source: INEGI (2015), Encuesta Nacional de Calidad e Impacto Gubernamental, www.beta.inegi.org.mx/proyectos/enchogares/regulares/encig/2015/.

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.

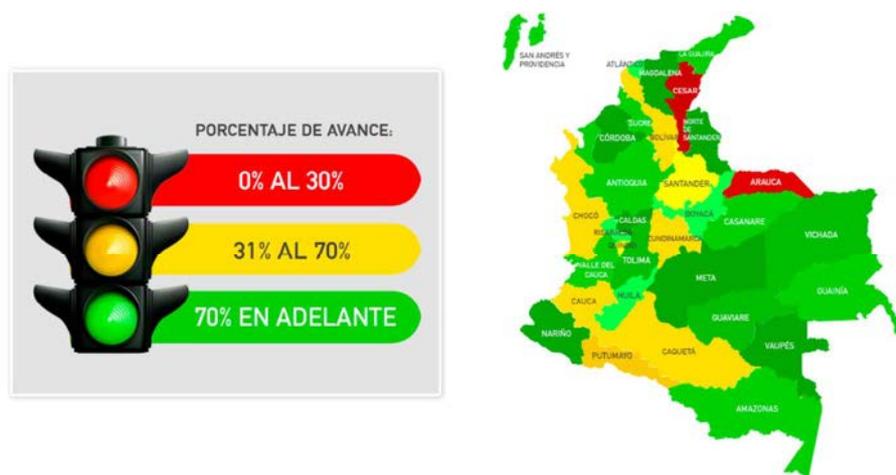
The SCJN also declared that while the laws passed by the states of Chihuahua and Veracruz for the Anti-Corruption Prosecutors were unconstitutional, they could not remove nor invalidate the appointed prosecutors from their posts. Nevertheless, by virtue of these laws being unconstitutional, all acts 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.

Source: <http://expansion.mx/nacional/2016/09/05/las-leyes-anticorrupcion-de-chihuahua-y-veracruz-son-inconstitucionales-scn>.

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 Moralización*) 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



Source: Anti corruption Observatory (2016), Colombia’s Anti corruption Observatory website, www.anticorrupcion.gov.co/Paginas/indicador-comisiones-regionales-moralizacion.aspx (accessed October 2016).

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

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

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.

Table 2.5. Annual budget of Peru's High-level Anti-corruption Commission (CAN), 2012-2015

Year	Budget (Nuevo Soles)	Budget (EUR, 07.10.2015)
2012	S/. 491 473	131 035
2013	S/. 1 149 984	318 051
2014	S/. 1 303 196	360 425
2015	S/. 1 110 033	307 002

Table 2.6. Annual budget of Colombia's *Comisión de Moralización*

Year	Budget (Colombian pesos)	Budget (EUR, 07.10.2015)
2012	\$ 659 019 500	204 378
2013	\$ 2 178 790 085	675 695
2014	\$ 752 316 880	233 265
2015	\$ 910 000 000	282 171

Sources: OECD (2017), *OECD Integrity Review of Peru: Enhancing Public Sector Integrity for Inclusive Growth*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264271029-en>.

OECD (forthcoming), *OECD Integrity Review of Colombia*, OECD Publishing, Paris

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.

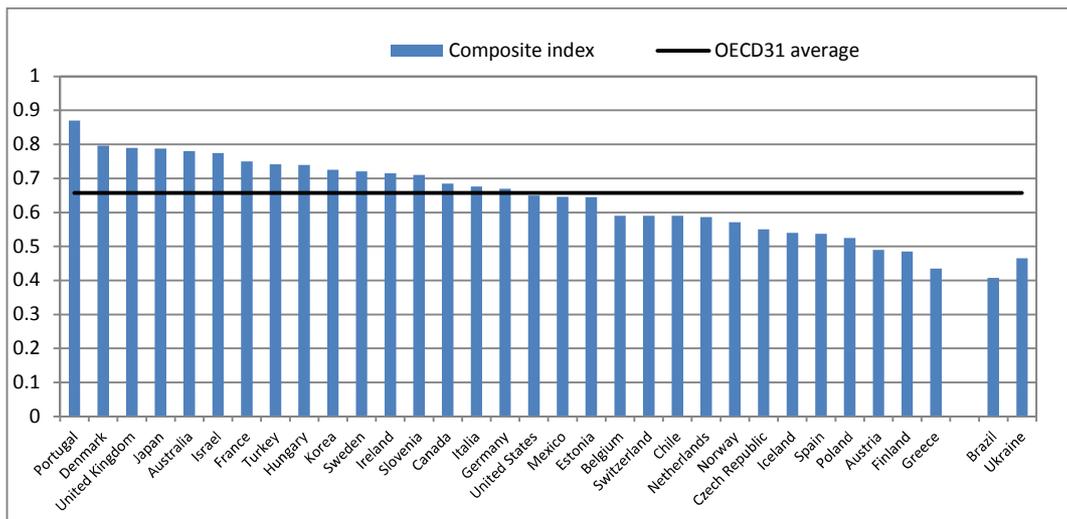
The same is true more broadly across public sector institutions in the federal, state and municipal governments. The Technical Secretariat may therefore consider specifically monitoring the quality and quantity of human resources for anti-corruption efforts across government as part of its annual report 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.

Source: OECD (2011), *Government at a Glance 2011*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2011-en.

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.

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Further reading

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Chapter 3.

Cultivating a culture of integrity: Instilling integrity values and managing conflict-of-interest

While a rules-based approach is a necessary foundation of any public sector integrity system, this aspect alone is insufficient, since integrity values must be internalised by individuals and socialised in organisations to ultimately create a “culture of integrity” in government. This is an important shift that must be made in Mexico if new reforms are to succeed. This chapter presents a summary of proposals for improvement based on the analysis of the current Mexican policies for promoting ethics and managing conflict-of-interest situations in the public administration. The first section provides recommendations to strengthen the policy framework currently implemented by the Ministry of Public Administration (Secretaría de la Función Pública, SFP), i.e. the Ethics Code, the codes of conduct at the organisational level, the Integrity Rules, and the conflict-of-interest guidelines. Section two elaborates proposals on how to maximise the utility of declarations and ensure consistency across line ministries and organisations in verifying and auditing submissions. The third section examines how to better mainstream new policies throughout the administration, and more specifically into human resource management (HRM). The final section reflects on how Mexico could make the shift towards a culture of integrity by reinforcing its guidance on resolving ethical dilemmas and conflict-of-interest situations. Emphasis throughout the chapter is placed on the federal administration, with the understanding that as members of national anti-corruption systems (NACS), local integrity systems will follow suit at state and local levels. Therefore, many of the recommendations are applicable beyond the federal level.

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: Making the shift towards a values-based approach

Public integrity “refers to the consistent alignment of, and adherence to, shared values, principles and norms for upholding and prioritising the public interest in the public sector” (OECD, 2017). Fostering integrity therefore relates to encouraging desired behaviour over undesired behaviour, including – but not limited to – corrupt practices. Several approaches can be taken to create these desired behaviours, including a compliance/rules-based approach and a values-based approach. A compliance-based approach includes attention to prevention through establishing enforceable standards, often found in laws, regulations, and codes of conduct, as well as providing education, training, and counselling on these standards. This approach ultimately provides for a range of enforcement mechanisms based on the severity of the misconduct. A values-based approach is often aimed at inspiring integrity through raising awareness of ethics, public-sector values, and the public interest, and adherence to codes of ethics or guiding principles.

International experiences show that integrity policies are most successful when these two approaches are combined and well-balanced, with the exact relative importance, as well as the actual shape of both approaches, depending on the social, political and administrative context and on the history of the organisation concerned. Following interviews and focus groups with key government representatives, the review finds that a better balance must be struck in Mexico to create a “culture of integrity”, shifting away from an overwhelming rules-based approach. As such, this chapter examines how Mexico’s federal public sector could strive towards cultivating a culture of integrity by reinforcing its current rules-based approach at the same time as promoting a greater internalisation of values and ethical behaviour founded on intrinsic motivation.

There are four new initiatives directly or indirectly concerning the conduct of public officials and the promotion of public ethics figures in the new Mexican agenda:

1. The Ethics Code, the code of conduct, and the Integrity Rules (*Código de Ética, Código de Conducta y Reglas de Integridad*), with federal ministries and entities required to update their own codes according to the functions of each one.
2. The creation within the Ministry of Public Administration (SFP) of a Specialised Ethics and Conflict of Interest Prevention Unit (*Unidad Especializada en Ética y Prevención de Conflictos de Interés*, UEEPCI).
3. The implementation at the entity level of Ethics and Conflict-of-interest Prevention Committees (*Comités de Ética y de Prevención de Conflictos de Interés*, CEPCI).
4. The implementation of new policies concerning asset declarations and conflict of interest as per the General Law on Administrative Responsibilities (*Ley General de Responsabilidades Administrativas*, LGRA).

These initiatives will be described in detail in the chapter with a view to supporting more effective and consistent implementation throughout the Mexican public sector.

Strengthening the legal and policy framework for managing ethics and conflict-of-interest

The SFP’s new Ethics Code, Code of Conduct and Integrity Rules provide a comprehensive legal framework for all public officials at the federal level; however, Mexico could consider streamlining the Ethics Code and providing complementary guidance in plain language.

Public sector ethic codes articulate the boundaries and expectations of behaviour. They should clearly outline the core values associated with being a public official and provide clear markers as to what behaviour is expected and prohibited. Of particular importance is a definition of what constitutes a conflict-of-interest, and the provision of guidance to public officials in such situations. Realistic knowledge on what circumstances and relationships can lead to a conflict-of-interest situation should provide the basis for the development of a regulatory framework to manage conflict-of-interest situations in a coherent and consistent approach across the public sector. Of key importance is the understanding and recognition that interests are inevitable for all; and this is something that cannot be forbidden, but rather must be properly identified and managed.

Conceptually, a distinction usually refers to both the contents of a code and the way in which it is enforced (OECD, 2009a):

- A “code of conduct” is a typical instrument of a rules-based approach to integrity management. It starts from the assumption that people are essentially self-interested and that they will only behave with integrity when this coincides with their self-interest. Hence, a preferably detailed code of conduct will describe, as specifically and unambiguously as possible, which behaviour is expected. Such a code of conduct will also establish strict procedures to enforce the code, with systematic monitoring and strict punishment of those who break the rules.
- A “code of ethics” is rooted in the values-based approach. It focuses on general values, rather than on specific guidelines for behaviour, thus putting more trust in the organisational members’ capacities for independent moral reasoning. Rather than telling what to do, the organisation provides its members with a general framework that identifies the general values and provides support, training and coaching for the application of these values in daily real-life situations.

In general, most codes find themselves somewhere between both conditions, and may therefore choose a hybrid. This is also the case for the Mexican approach that involves both general principles and values, and a set of desired and undesired behaviours (Box 3.1). Recently, the federal Government of Mexico has replaced its previous ethics code (*Código de Ética de la Administración Pública Federal*, DOF 31/julio/2002) and Integrity Rules (*Lineamientos de integridad y comportamiento ético, a través de Comités de Ética*, DOF 6/marzo/2012) with the new Ethics Code and Rules of Integrity (*Código de Ética y Reglas de Integridad*, DOF 20/08/2015). All public entities at the federal level are required to update their own organisations’ codes accordingly. Even though the new Ethics Code does not explicitly define its scope, it seems clear that, in line with Article 108 of the Political Constitution and Article 16 and 49 of the forthcoming General Law on Administrative Responsibilities (LGRA), the Ethics Code is applicable to all public officials.

Box 3.1. The new Mexican Ethics Code and Rules of Integrity

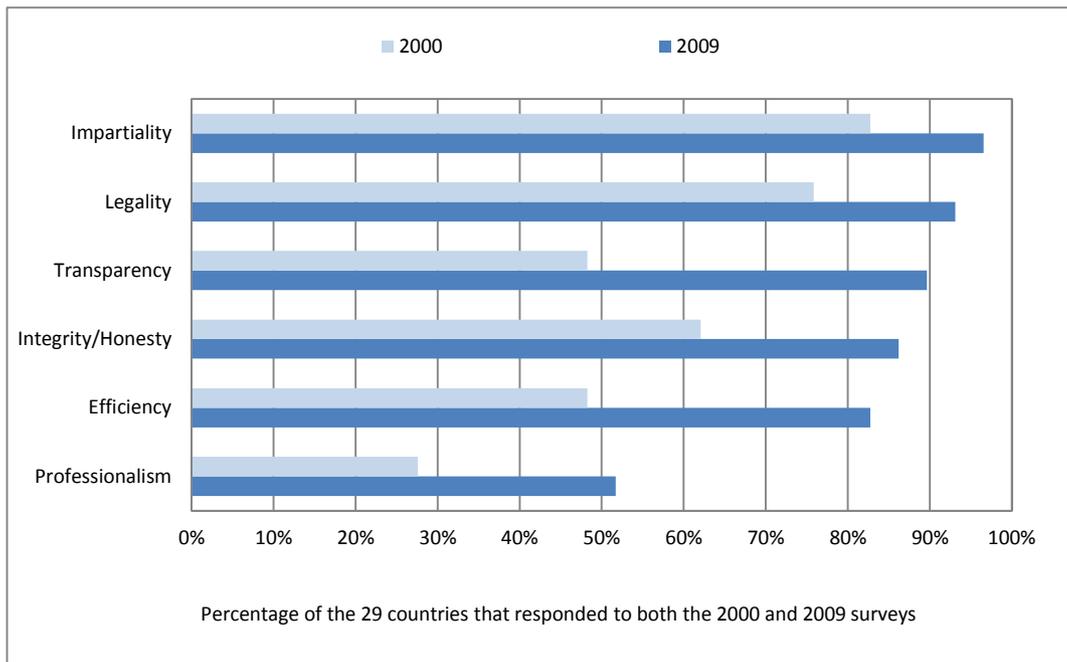
The Mexican Ethics Code follows the constitutionally defined principles of legality, honesty, loyalty, impartiality, and efficiency, as well as a set of additional values, which are: public interest, respect, respect for human rights, equality and non-discrimination, gender equity, culture and environment, integrity, co-operation, leadership, transparency, and accountability.

The Integrity Rules in turn, are aimed at complementing the Ethics Code by setting specific desired and undesired conducts in 13 specific domains:

1. Public behaviour
2. Public information
3. Public contracting, licensing, permits, authorisations and concessions
4. Governmental programmes
5. Public procedures and services
6. Human resources
7. Administration of public properties
8. Evaluation processes
9. Internal control
10. Administrative procedures
11. Permanent performance with integrity
12. Co-operation with integrity.
13. Decent behaviour.

Source: Ministry of Public Administration Ethics Code and Rules of Integrity, February 2017, www.gob.mx/cms/uploads/attachment/file/188655/ReglasdeIntegridadParaEjercicioFuncionPublica.pdf

While updating these two instruments was a bold step forward, it was noted during the review that greater clarity could be achieved around these new standards. Figure 3.1 displays frequently stated core values of the public service in OECD countries, showing a high degree of consistency with the core principles contained in the Mexican constitution. However, streamlining the code by reducing the number of values listed could enhance clarity and avoid confusion amongst public servants. The values of respect, respect for human rights, equality and non-discrimination and gender equality outlined in the additional values introduced by the Mexican code seem to be both repetitive and could be directly derived from the constitutional value of impartiality. Also, the value of public interest is already included in the definition of the constitutional value of loyalty, i.e. to always satisfy the general interest, and there seems to be an overlap between the additional value of integrity and the constitutional values of legality and honesty. Therefore, Mexico could consider narrowing down the additional values laid out in Article 1 of the Ethics Code.

Figure 3.1. Frequently stated core public service values (2000 and 2009)

Note: Time series data are not available for the Slovak Republic.

Source: OECD (2009b), *Government at a Glance 2009*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264075061-en>.

The 13 domains of the Integrity Rules, which are explicitly not meant to be exhaustive, are helpful to better understand what is concretely expected from public officials in specific situations considered as risk areas. Nevertheless, as a guide it might be too brief and lack concrete examples or situations; at the same time the list may be too long for an Ethics Code.

Therefore, the SFP may wish to consider removing the Integrity Rules from the Ethics Code and developing, based and building on these rules, a more comprehensive manual or guide in plain language and with sets of examples for the federal public administration and for public officials at all levels. In elaborating this manual or guide, Mexico could consider international good practice, such as from Australia, where guidance is provided on managing challenging ethical situations that arise in practice (Box 3.2).

Box 3.2. Guiding public officials in facing ethical dilemmas in Australia

The Australian Government developed and implemented strategies to enhance ethics and accountability in the Australian Public Service (APS), such as the Lobbyists Code of Conduct, the register of “third parties”, the Ministerial Advisers’ Code, and the work on whistleblowing and freedom of information.

To support the implementation of the ethics and integrity regime, the Australian Public Service Commission has enhanced its guidance on APS values and code of conduct issues. This includes integrating ethics training into learning and development activities at all levels.

To help public servants in their decision-making process when facing ethical dilemmas and choices, the Australian Public Service Commission developed a decision-making model. The model follows the acronym “reflect”:

REFLECT:

1. REcognise a potential issue or problem

Public officials should ask themselves:

- Do I have a gut feeling that something is not right or that this is a risky situation?
- Is this a right vs right or a right vs wrong issue?
- Recognise the situation as one that involves tensions between APS Values or the APS and their personal values.

2. Find relevant information

- What was the trigger and circumstances?
- Identify the relevant legislation, guidance, policies (APS-wide and agency-specific).
- Identify the rights and responsibilities of relevant stakeholders.
- Identify any precedent decisions.

3. Linger at the “fork in the road”

- Talk it through, use intuition (emotional intelligence and rational processes), analysis, listen and reflect.

4. Evaluate the options

- Discard unrealistic options.
- Apply the accountability test: public scrutiny, independent review.
- Be able to explain your reasons/decision.

5. Come to a decision

- Come to a decision, act on it and make a record if necessary.

6. Take time to reflect

- How did it turn out for all concerned?
- Learn from your decision.
- If you had to do it all over again, would you do it differently?

Source: Office of the Merit Protection Commissioner, “Ethical Decision Making” (2009); <http://www.apsc.gov.au/publications-and-media/current-publications/values-and-conduct>.

To ensure the credibility and legitimacy of public sector values, Mexico should guarantee that breaches of the Ethics Code and of the Rules of Integrity are effectively sanctioned under the General Law on Administrative Responsibility.

When stipulating desired and undesired behaviour, it is important that public servants have clarity regarding what happens in case of violations. Violations of the Ethics Code and the Rules on Integrity, and possible sanctions, should be both clear and effectively communicated.

With the General Law on Administrative Responsibilities (LGRA), which will enter force in July 2017, Mexico made a positive step towards ensuring that the Ethics Code and the Integrity Rules are supported by an enforcement mechanism. Articles 16 and 49 clearly lay out the liability for sanctions under the Code of Ethics.

To ensure that sanctions are effectively applied, it will be of utmost importance to ensure that the organisational codes of conduct are drafted in a way that clearly lay out their link to the Ethics Code and the LGRA. Public officials must be aware of the responsibilities that come with their code of conduct. Administered sanctions in relation with the Ethics Code and the Integrity Rules, and the organisational codes of conduct, should be reported to the Ethics Unit of SFP to be analysed, publicised and to ensure that sanctions are adequate and consistent throughout ministries and entities.

Such steps would be relevant since effective control and visible sanctions are important to generate credibility. An overview of what characterises successful codes in the private sector concludes that blatant impunity of violations of codes can generate cynicism and may lead to a culture of corruption in an organisation (Stevens, 2008).

The SFP's new Guidelines on Preventing and Managing Conflict of Interest address a previous policy gap, and Mexico should therefore ensure that they are revised considering the General Law on Administrative Responsibility, and are disseminated and used effectively.

Ensuring that conflicts of interest are identified and managed adequately is one of the first steps towards safeguarding integrity and trust in the public sector. The growing synergies between the public and private sectors have meant greater opportunities for horizontal movement and ancillary work. This has raised the possibility of conflicts of interest between public duties and private interests, and may be detrimental to employer/employee confidence. To ensure a public service based on integrity, a strong culture of ethical behaviour, facilitated through an ethics law or code, is imperative and operates as the backbone to managing conflict-of-interest situations. Managing conflict of interest is an inherent part of the wider ethics framework and intrinsic to the integrity of government.

In June 2016, the newly created Specialised Ethics and Conflict of Interest Prevention Unit (UEEPCI) in the SFP issued a guide to identify and prevent conduct that could constitute a conflict of interest for public officials: the Guidelines on Preventing and Managing Conflict of Interest (*Guía para identificar y prevenir conductas que puedan constituir conflictos de interés de los servidores públicos*). This guide is an important step forward, considering that during the workshops carried out in Mexico in the context of this review, experts from the Mexican public administration noted a lack of clarity regarding the concept of conflict of interest. Up until these guidelines, the only reference to procedures for managing a conflict of interest was in the Federal Law on Responsibilities, which stipulated that managers should be notified.

The new guidelines are based on international standards and good practices, but will need to be updated according to the forthcoming LGRA. The SFP should ensure that the guidelines become a living document that is regularly updated and effectively disseminated and used throughout the public administration (see recommendations below in the section on building a culture of integrity).

Box 3.3. The difference between a principles-based versus rules-based approach to conflict-of-interest management

	Principles-based approach e.g. United Kingdom	Rules-based approach e.g. United States
Responsibility	Dispersed across government.	Office of Government Ethics.
Authority	No specific conflict of interest legislation. Local guidance. Companies Act applies to directors. Management code specifies some "rules".	Enforceable conflict-of-interest prohibitions defined in statute with criminal or civil penalties.
Other standards	Behavioural and ethical standards defined in codes of conduct and "Nolan principles".	Civil restrictions for certain outside activities. Administrative standards of conduct.
Disclosure requirements	Devolved, voluntary disclosure system for civil servants. MPs' financial interests are declared and published. Information on senior civil servants and ministerial hospitality, gifts, travel and external meetings is published.	Central mandatory financial disclosure systems: Public reporting is required for all senior officials. Other employees make confidential financial disclosures.

Sources: National Audit Office (2015), Conflicts of Interest: Report by the Comptroller and Auditor General, National Audit Office, London, www.nao.org.uk/wp-content/uploads/2015/01/Conflicts-of-interest.pdf.

US Office of Government Ethics (accessed 2016), available at: www.oge.gov/web/oge.nsf/Financial%20Conflicts%20of%20Interest.

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Maximising the utility of tax, asset and interest declarations without adversely affecting the engagement of public servants

The new General Law on Administrative Responsibilities has brought Mexico in line with (and even beyond) disclosure requirements in OECD member and partner countries, with the goal of restoring citizens' trust in government. Going forward, however, the Co-ordination Committee must clearly communicate that the onus remains on individual officials and managers to proactively report and resolve conflict-of-interest situations as they arise.

Mexico's new General Law on Administrative Responsibilities contains provisions related to the disclosure of both financial and non-financial interests. Specifically, Chapter 3 of the law, which will come into effect in July 2017, requires that all public officials submit three types of disclosure form: tax, asset and interest (see Table 3.1

below). Disclosures should pertain to the public official in question (the “*declarante*”), as well as to the official’s immediate family members (spouse or common-law partner, and any of the official’s dependents). As stated in Chapter 2, all three declaration forms are required to be published, to some extent, on the NACS digital platform. The Co-ordination Committee is charged with determining, according to national transparency and privacy laws, the extent of the information to be made publicly available. Internal control bodies in individual line ministries and organisations will be responsible for collecting and assessing the information collected via the three forms. The LGRA requires that tax authorities co-operate with internal control bodies to provide proof of the filed tax declaration.

Currently, Articles 35 and 47 the LGRA provide a general description of the specific information that should be disclosed in asset and interest declarations, however, it delegates authority for the design of the forms to the NACS Co-ordination Committee. Tax authorities continue to be responsible for tax declaration forms, as per Mexican tax law. Although the detailed format to be adopted for the forms remains to be seen, it is anticipated that the Co-ordination Committee may choose to mirror the recently updated guidelines established by the Ministry of Public Administration for federal public servants following a 2015 Ministerial Order on the format of declarations (*ACUERDO por el que se dan a conocer los formatos que deberán utilizarse para presentar las declaraciones de situación patrimonial* *DOF April 29, 2015*). Since May 2015, before the NACS was formally approved, federal public servants have been subject to the standards indicated below in Table 3.1. As of July 2017, however, these same federal public servants will be required to follow the guidelines established by the NACS Co-ordination Committee.

Table 3.1. Summary of disclosure requirements under the LGRA and the Ministerial Order of SFP

Disclosure form	LGRA requirements for all public officials (to come into effect July 2017)	Current practice for federal public servants as per SFP guidelines (Ministerial Order of May 2015)
Asset declaration (<i>declaración de situación patrimonial</i>)	Article 33 of the LGRA requires public officials to submit the declaration: 1) upon joining the public service for the first time or re-joining if more than 60 days have passed since having left (<i>declaración inicial</i>); 2) in May of each year to report any modifications (<i>declaración de modificación patrimonial</i>); and 3) within 60 days of leaving the public service (<i>declaración de conclusión</i>).	Currently, the declarations for federal public officials, in addition to basic information such as address, education, and past work experience, require disclosure of income, fixed and non-fixed assets including property, real estate, construction, vehicles, jewellery and other valuables, investments, and debts.
Interest declaration (<i>declaración de intereses</i>)	Interest declarations must be filed according to the same conditions as asset declarations and require information on any potential conflict of interest (defined in the LGRA’s Article 3 as “the possible effect of personal, family or business interests on the impartial and objective performance of public servants”).	Interest declaration forms require disclosure of any paid or non-paid outside positions, as well as membership in foundations or voluntary associations. The form also requests submissions of shareholdings as well as any contracts which bring (or may bring) revenues.

Table 3.1. Summary of disclosure requirements under the LGRA and the Ministerial Order of SFP (cont.)

Disclosure form	LGRA requirements for all public officials (to come into effect July 2017)	Current practice for federal public servants as per SFP guidelines (Ministerial Order of May 2015)
Tax declaration (<i>delcaración anual de impuestos</i>)	Officials are required to submit their annual tax declarations to the tax administration body (<i>Servicio de Administración Tributaria, SAT</i>), which functions under the auspices of the Ministry of Finance (<i>Secretaría de Hacienda y Crédito Público</i>). Article 27 of the LGRA requires tax authorities to publish annual tax declarations of public officials.	Until now, federal public servants have not been required to share tax declarations.

Source: OECD as per LGRA, Acuerdo of May 2015, and SFP (declaration forms for 2015). *ACUERDO por el que se dan a conocer los formatos que deberán utilizarse para presentar las declaraciones de situación patrimonial DOF April 29, 2015.*

Assuming that the Co-ordination Committee adopts the same level of detail as the 2015 SFP criteria, the type of information requested from Mexican public officials, along with the subsequent levels of transparency, is generally in line with the information requested in other member and partner countries. For comparison purposes, Box 3.4 provides a summary of common information requirements in OECD member and partner countries. Specifically, the receipt of gifts can lead to conflict-of-interest situations, with research showing that even gifts of low monetary value can incite pressure to reciprocate and may therefore influence an officials' objectivity. Currently, accumulated over a year, public officials are not allowed to receive gifts exceeding the value of ten minimum salaries in total. If they receive gifts exceeding such a value, they have a maximum of 15 days to inform the authorities (Article 45 LGRA). Public officials should be guided with respect to the specific channels and procedures for reporting gifts. Annex 3.1 contains OECD standards for reporting on gifts which could be considered in the design of such a policy. With the new LGRA, gifts are prohibited (Article 52 LGRA). This commendable change will require enhanced efforts in awareness raising to ensure that all public officials are aware of the new regulation.

Box 3.4. Common financial and non-financial disclosures in OECD countries

Generally, the following types of information are required to be disclosed in OECD member and partner countries. As in Mexico, these can include financial and non-financial interests:

Financial interests

Reporting of financial interests can permit for the monitoring of wealth accumulation over time and the detection of illicit enrichment. Financial information can also help to identify conflict of interest situations.

- **Income:** officials in OECD countries are commonly asked to report income amounts as well as the source and type (i.e. salaries, fees, interest, dividends, revenue from sale or lease of property, inheritance, hospitalities, travel paid). The exact requirements of income reporting may vary, and public officials may only be required to report income above a certain threshold. The rationale for disclosing income is to indicate potential sources of undue influence (i.e. from outside employment), as well as to monitor over time increases in income that could stem from illicit enrichment. In countries where public officials' salaries are low, this is of particular concern.

Box 3.4. Common financial and non-financial disclosures in OECD countries

(cont.)

- **Gifts:** gifts can be considered a type of income or asset, however, since they are generally minor in value, countries usually only require the reporting of gifts above a certain threshold, although there are exceptions.
- **Assets:** a wide variety of assets are subject to declaration across OECD countries, including: savings, shareholdings and other securities, property, real estate, savings, vehicles/vessels, valuable antiques and art. Reporting of assets permits for comparison with income data in order to assess whether changes in wealth are due to declared legitimate income. However, accurately reporting on the value of assets can be a challenge in some circumstances and difficult to validate. Furthermore, some countries make the distinction between owned assets and those in use (i.e. a house or lodging that has been lent but is not owned).
- **Other financial interests:** in addition to income, gifts and assets, additional financial interests to declare often include: debts, loans, guarantees, insurances, agreements which may result in future income, and pension schemes. When such interests amount to significant values, they can potentially lead to conflict-of-interest situations.

Non-financial interests

While monitoring non-financial interests may not contribute to monitoring for illicit enrichment, they can nonetheless also lead to conflict-of-interest situations. As such, many countries request disclosure of:

- **Previous employment:** relationships or information acquired from past employment could unduly influence public officials' duties in their current post. For instance if the officials' past firm applied for a public procurement tender where the public official had a say in the process, his/her past position could be considered a conflict of interest.
- **Current non-remunerated positions:** board or foundation membership or active membership in political party activities could similarly affect public officials' duties. Even voluntary work could be considered to influence duties in certain situations.

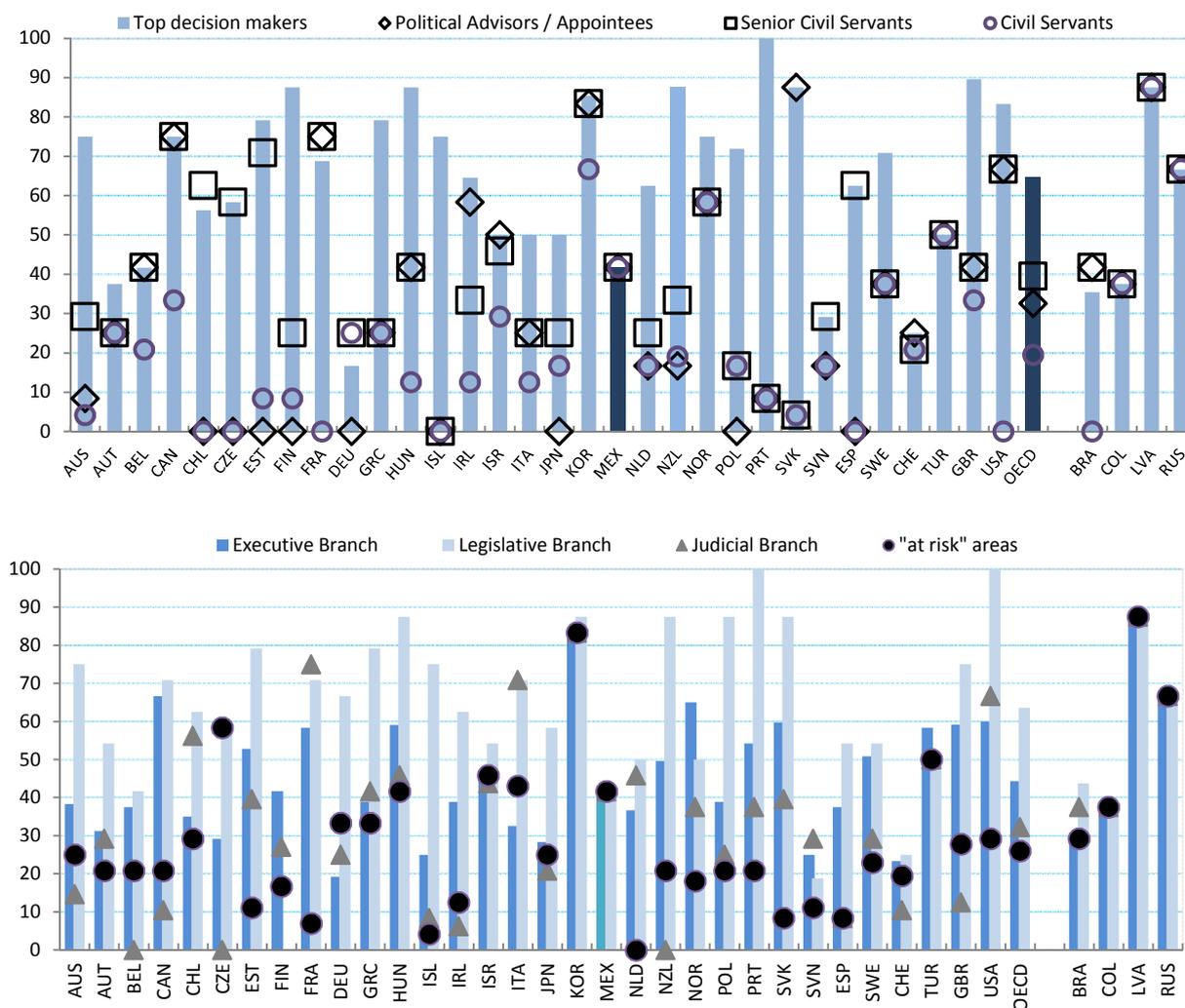
Source: OECD (2011) *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264095281-en>.

Mexico's new policies under the LGRA and 2015 order mark a considerable change from past approaches, where the scope of coverage (both in terms of officials and information) was lower and transparency was more limited. Under the LGRA, the scope of coverage has increased to all levels of government, and to public officials in all three branches of government: the executive, judiciary and legislative. The coverage has also increased given that information for officials' immediate family members is now required. The extent of transparency has also increased, as before the LGRA and SFP order, disclosures were not required to be made publicly available or were voluntary at the discretion of the public official.

In principle, such changes can serve to build greater trust in government by citizens, since the act of public disclosure is a signal to citizens that public sector officials are committed to protecting the public interest and are open to public scrutiny and oversight. If information is accurate and effectively validated, it should allow for the better monitoring of officials' wealth and detection of potential conflict-of-interest situations and illicit enrichment.

It should be noted that the new requirements in Mexico may supersede those of other OECD member countries. The OECD produces an index charting disclosures across member countries specifically looking at disclosure and reporting of assets, liabilities, income source and amount, paid and unpaid outside positions, gifts and previous employment (Figure 3.2). Higher index scores reflect more stringent disclosure requirements and a greater availability of information to the public (i.e. levels of transparency). On average in the OECD, data show that the top decision makers (president/prime minister, ministers), as well as senior civil servants, tend to have greater disclosure obligations. Civil servants often have relatively less stringent requirements. This trend is also reflected when data is analysed by branch of government: legislative branch requirements tend to be greater than those of the executive or judiciary.

Figure 3.2. Disclosure in executive branch of government by position, and disclosure comparison across branches of government 2014



Notes: 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.

Score for Mexico reflects 2014 legislation and has not been adjusted given new reforms.

Source: OECD (2015), *Government at a Glance 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2015-en.

There are arguments in favour of differentiating reporting requirements for political and senior level civil servants. The first is that elected officials are expected to be more transparent so that citizens may make more informed choices when voting in elections. Furthermore, once elected, such information may be necessary to assess any interests that may influence parliamentarians' arguments or voting decisions in the Congress. It could also be argued that, given their decision-making powers, elected officials and senior civil servants are more influential and are at greater risk of capture or corruption. The next section assesses other high-risk factors that may warrant greater attention for declarations.

In Mexico, requirements for all levels of government are universal. This calls into question whether requirements under the new LGRA are following a risk-based approach and are perhaps overly burdensome on officials, as well as whether this can have potentially detrimental effects on the morale of some public servants. During interviews, many highlighted the privacy and security concerns of releasing such information. Moreover, it was interpreted by some officials as creating an organisational culture whereby public servants were presumed to be corrupt. As such, the law may inadvertently have increased the incentive for omissions and false information, and reduced the attractiveness of working in the public sector, making it more difficult for government to recruit or retain top talent. The requirements also call into question the capacity of internal control bodies to effectively detect and resolve integrity breaches.

Furthermore, there may be confusion between the declaration forms and the conflict-of-interest policies since the differences are not clearly articulated under new policies. Declaration forms consist of the declaration of a pre-determined set of financial and non-financial information that could constitute a current conflict-of-interest situation (real or apparent), or that could lead to a conflict of interest in the future (potential conflict of interest.) Conflict-of-interest policies concern the official proactively reporting and resolving his/her conflict-of-interest situations as they arise. Declarations do not state how any current conflicts of interest are resolved, as this is carried out through a separate policy in the LGRA, whereby officials must notify their managers and internal control bodies of a conflict and reach a resolution. Based on information in declarations, internal control bodies may identify a real conflict of interest, but will not be able assess whether conflicts of interest are arising at a particular moment in time.

There is a risk, therefore, that, upon reviewing declarations, citizens may report a conflict of interest, when in fact they have been resolved (through recusal, divestiture, etc.), thereby taking valuable time away from all involved and unnecessarily casting doubt on officials. Moreover, internal control bodies may find declarations useful for detecting illicit enrichment, but less so for identifying conflicts of interest.

The Co-ordination Committee should temper expectations concerning declarations and focus on risk-based verifications and audits (next section) to maximise the information as much as possible. It should furthermore clearly communicate the conflict of interest policy to all, clarifying that, as per the LGRA, the onus remains on officials and managers to come forward, report, and resolve conflicts of interest, without necessarily waiting to complete declaration forms.

Mexico’s use of electronic means to collect declarations is positive as it can raise compliance with new disclosure requirements and facilitate verification checks. The Co-ordination Committee must further leverage this digital solution to ensure effective, risk-based verifications using integrated databases for a consistent approach across line ministries.

Article 30 of the LGRA requires that asset and interest declarations of Mexican public officials are verified following submission. This is essential, as verifying the completeness and accuracy of officials’ declarations is necessary to maintain the integrity of the declaration system itself, and ensure that it is a useful tool to detect potential and actual conflict-of-interest and integrity breaches. If public officials perceive that data stated in the declarations will most likely never be checked or used, there is a risk that the system will deteriorate into simply a “check box” activity, which undermines confidence in the government’s commitment to the integrity system.

Electronic means of submission is the norm in many OECD countries as it facilitates compliance and allows for better verification and analysis of data submitted. It can reduce the burden on officials as it reduces completion time and allows for information to be saved and/or pre-filled or incorporated from other databases. Argentina switched from paper to electronic submissions in 2000, and as a result the compliance rate on the part of public officials went up 46%. Electronic submissions can also improve various types of verification checks (see Table 3.2 below) by allowing the automatic validation of receipt, triangulation with other databases (if linked), and the automatic notification of “red-flags” (for mistakes, missing information, major changes in assets or income, etc.).

Table 3.2. Types of verification checks on asset and interest declarations

Type of verification check	Description
Basic/preliminary verification	Ensures whether declarations are fully complete or whether there are obvious mistakes (i.e. numerical values are entered, valid addresses, etc.).
Simple verification	Ensures the logical consistency of the information provided on the declaration forms (i.e. arithmetic checks and checks against past years or modifications, and checks that assets are accounted for by declared income). Simple verifications can therefore spot potential or real conflict of interest and can lead to audits.
Audit verification	This most advanced stage of verification may not only cross-check information from past declarations but also against “external” data sources from financial institutions or other public institutions. An auditor may validate the existence/value of assets and assess lifestyle, as well as request proof and testimonies from public officials and other persons.

Source: OECD (2011a) *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264095281-en>.

Mexico’s requirement for electronic submission is a positive element of its declaration policy that is in line with those of other OECD member countries. Article 34 of the LGRA states that asset and interest declarations should be submitted via electronic means to individual line ministries. The use of electronic signature, while initially perhaps complicated to implement, ensures declarations are legally binding.

Given the sheer number of declarations that will be received in Mexico, the use of digital solutions for verification and auditing will be paramount. The universal declaration requirements call in to question the capacity of internal control bodies to effectively monitor and verify the information submitted. Selected declaration

information in Mexico will be made public as per national privacy laws, and this is already one powerful incentive for officials to submit accurate information, since millions of “citizen watchdogs” and non-governmental organisation (NGOs) could conceivably call into question the validity of statements. However, verification will remain largely in the governments’ hands as it may often be necessary to cross-check information submitted against information from tax authorities or financial institutions to which the general public will not have access. Moreover, it is government entities who can invest and develop the specialised skill-sets (i.e. IT, forensic accounting, legal and investigative) to verify and audit declarations, as well as having the onus of resolving conflict of interest situations or bringing formal disciplinary proceedings forward. The LGRA (in Article 33) holds public officials liable for failing to complete declarations or providing false information.

Mexico has adopted a combined approach that is both decentralised and centralised. It is decentralised in the sense that individual internal control bodies in line ministries can collect and hold data, and centralised in the sense that relevant federal entities can access and consolidate data for purposes of the national platform, which may be smaller in scope due to national privacy laws. There is a risk therefore that verification policies and methods may diverge across institutions, and with the Co-ordination Committee, if a standardised approach is not put forward.

To effectively detect illicit enrichment or conflict of interest, internal control bodies should adopt a risk-based approach to verification and leverage digital tools to the fullest extent possible. Ideally, the Co-ordination Committee would establish a set of guidelines for all internal control bodies to ensure a high-quality verification process; while also allowing them the discretion to add additional sectoral validations in response to the particularities of their own organisations. Verification standards should exploit the use of digital solutions as much as possible.

The following proposals could be considered by the Co-ordination Committee:

- **Automatic confirmation of receipt for all declarations.** Declaration databases should be able to indicate missing declaration forms at key deadlines with follow-up by internal control bodies. Organisations could consider automatic notifications (email, text) for failing to meet declaration deadlines and/or linking submission with other HRM processes, such as performance evaluations.
- **Basic verifications on a random basis for a high number of declarations.** Basic checks are relatively easy to carry out since they can be programmed and conducted automatically. Therefore, a large number of declarations could be verified. Through random selection, the incentive is high for officials to submit complete and accurate information since it is likely that the information will be verified.
- **Simple verifications on a risk-based basis.** Many simple verifications could also be programmed automatically, although in a later stage this may require the intervention of a qualified investigator/auditor. As such, a lower number of declarations may be submitted to simple verification checks, and a risk-based approach could be considered. The Co-ordination Committee should therefore conduct a risk assessment that could consider the following:
 - *Definition of high-risk positions:* public procurement officials; tax and customs officials; officials in charge of granting or extending licences, permits, authorisations, and concessions; and financial authorities can be

considered at greater risk for conflict of interest. As mentioned earlier, senior civil servants and elected officials could also be a higher risk. The Co-ordination Committee may wish to establish a defined list of high-risk positions for internal control bodies.

- *Analysis of complaints from citizens and other officials:* both the Co-ordination Committee and internal control bodies may wish to assess and study complaints received in order to identify departments, sectors, regions and officials of higher risk that could warrant verification checks.
- *Risks identified from the declarations themselves:* the Co-ordination Committee may wish to establish automatic verification checks for declarations presenting certain trends, such as: late submissions, increases in wealth, major outside interests, inconsistencies between declarations. ICT systems can be programmed to automatically detect “red flags”, such as those that can be pre-programmed by internal control bodies.

Fully-fledged audits should also be conducted on risk-based basis following simple or basic verifications. The Co-ordination Committee could establish standards and guidelines to help internal control bodies abide by a minimum quality threshold.

It will be critical that the Co-ordination Committee helps to establish information sharing agreements with entities within and outside of government. Internal control bodies may need access to payroll information and information from financial institutions and tax authorities. Rather than each internal control body individually contacting institutions, general agreements could be facilitated from the start.

Strengthening institutional arrangements to ensure the effective mainstreaming of ethics and conflict-of-interest policies throughout the public administration

Mexico could consider transforming the current ethics committees in public sector entities into dedicated units (e.g. integrity contact points) that focus specifically on preventing corruption and promoting a culture of integrity in their respective organisations, rather than on enforcement.

As discussed in the previous section, laws, regulations and written manuals are the foundation on which policies for promoting public ethics and managing conflicts of interests are built. However, even if perfectly drafted, on their own they are insufficient for guaranteeing compliance and eventually enabling a culture of integrity. The institutional arrangements that underpin legal and policy frameworks are a major contributing factor towards ensuring successful implementation by supporting the mainstreaming of integrity and improving co-ordination and co-operation. International experience tends to show that organisations need dedicated and specialised individuals or units that are responsible, and in the end also accountable, for the internal implementation and promotion of these policies. Guidance on ethics and conflicts of interest also needs to be provided on a more personalised and interactive level than just through written materials, especially to respond on an ad hoc basis when public servants are confronted with a specific problem or doubts.

The SFP, as part of its eight-point plan, recently revamped ethics committees in each federal entity, by clarifying their role in the Ethics Code and Integrity Rules. Ethics committees (CEPCI) are the official link and contact point between the UEEPCI in the SFP and the federal entities. Each entity’s CEPCI is headed by the executive secretary

(Official Mayor) as the only permanent member, with ten other members elected for two-year terms by colleagues in the organisation. The composition of the ten elected members is regulated according to different levels of hierarchy. Currently, the responsibilities of CEPCIs evolve around three main issues:

1. Revision, implementation and evaluation of the organisational codes of conduct.
2. Promotion of guidance over integrity policies, including training.
3. Reception and processing of integrity violations (Article 6, DOF 20/08/2015).

Interviews conducted during the OECD's fact-finding mission to Mexico revealed two challenges. First, since being a member of a CEPCI is an additional task and not a full-time position, the capacities and expertise related to integrity policies are inadequate given the scope and importance of the delegated responsibilities. Consequently, the performance and dedication of the CEPCI becomes dependent on the individual motivation of its members; if there is no time, the CEPCI work will always be second priority. Also, the decree on the Ethics Code and the Rules of Integrity is not clear about the organisational location in the organigramme and the budget of the CEPCI, and does not clearly state its relationship with the head of the organisation (i.e. minister), which reflects a potential lack of leadership and support from senior management.

Second, despite the responsibilities related to prevention, ethics committees see their role primarily in enforcement, emphasising their responsibility in hearing and deciding on potential violations of the code. This observation adds to the analysis made previously, which concludes that Mexico's approach to integrity has a relatively strong compliance-based orientation, with scope to improve on the values-based and develop a more preventive approach. The role of the ethics committee may lead to confusion and duplication with the other existing channels available for voicing complaints and reports (see Chapter 7 on disciplinary matters). More importantly, this function poses a conflict between the CEPCI's role in providing guidance, as public officials may feel reluctant to speak about dilemmas and problems they are facing if they are aware of CEPCI's role in detecting and sanctioning integrity violations.

Responsibility for promoting public ethics and providing guidance on managing conflicts of interest should be with dedicated and trained individuals who are held accountable for their work. Mexico should therefore consider dedicating the resources and capacities required to effectively implement integrity policies at the organisational level. To achieve this, the ethics committee could be transformed into a unit that is clearly integrated into the organisational framework, that has dedicated and trained permanent staff, and that has its own budget to implement the activities related to its mandate. The head of the unit should report directly to the head of the entity and to the UEEPCI of the SFP. Depending on the size of the organisation, the unit could consist of one single responsible individual, as with the contact person for integrity in Germany (Box 3.5) or Canada (Box 3.6).

Box 3.5. Germany's contact person for corruption prevention

Germany, at the federal level, has institutionalised units for corruption prevention, as well as a responsible person dedicated to promoting corruption prevention measures within a public entity. The contact person and a deputy have to be formally nominated. The “Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration” defines these contact persons and their tasks as follows:

- A contact person for corruption prevention shall be appointed based on the tasks and size of the agency. One contact person may be responsible for more than one agency. Contact persons may be charged with the following tasks:
 - Serving as a contact person for agency staff and management, if necessary without having to go through official channels, along with private persons.
 - Advising agency management.
 - Keeping staff members informed (e.g. by means of regularly scheduled seminars and presentations).
 - Assisting with training.
 - Monitoring and assessing any indications of corruption.
 - Helping keep the public informed about penalties under public service law and criminal law (preventive effect), while respecting the privacy rights of those concerned.
- If the contact person becomes aware of facts leading to reasonable suspicion that a corruption offence has been committed, he or she shall inform the agency management and make recommendations on conducting an internal investigation, on taking measures to prevent concealment and on informing the law enforcement authorities. The agency management shall take the necessary steps to deal with the matter.
- Contact persons shall not be delegated any authority to carry out disciplinary measures; they shall not lead investigations in disciplinary proceedings for corruption cases.
- Agencies shall provide contact persons promptly and comprehensively with the information needed to perform their duties, particularly with regard to incidents of suspected corruption.
- In carrying out their duties of corruption prevention, contact persons shall be independent of instructions. They shall have the right to report directly to the head of the agency and may not be subject to discrimination as a result of performing their duties.
- Even after completing their term of office, contact persons shall not disclose any information they have gained about staff members’ personal circumstances; they may, however, provide such information to agency management or personnel management if they have a reasonable suspicion that a corruption offence has been committed. Personal data shall be treated in accordance with the principles of personnel records management.

Source: German Federal Ministry of the Interior (n.d.), Rules on Integrity, Federal Ministry of the Interior, Berlin, www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?__blob=publicationFile.

Box 3.6. Canada: Senior officials for public service values and departmental officers for conflict of interest measures

Senior officials for public service values and ethics:

- The senior official for values and ethics supports the deputy head in ensuring that the organisation exemplifies public service values at all levels. The senior official promotes awareness, understanding and the capacity to apply the code amongst employees, and ensures management practices are in place to support values-based leadership.

Departmental officers for conflict of interest and post-employment measures:

- Departmental officers for conflict of interest and post-employment are specialists within their respective organisations who have been identified to advise employees on the conflict of interest and post-employment measures (...) of the Values and Ethics Code.

Source: Treasury Board of Canada Secretariat, www.canada.ca/en/treasury-board-secretariat.html.

Mexico should consider limiting the mandate of ethics committees, or the unit/position that replaces them, to prevention, while leaving the role of receiving and processing complaints and reports to other dedicated units in the organisation (see Chapters 6 and 7 on internal control and administrative disciplinary regime). Guidance should be provided in an environment where public officials can seek advice without fear of reprisal, and the unit responsible for the code of conduct should dedicate time and energy to the updating, implementation and promotion of the code (see recommendations below), and to enabling an organisational culture of integrity.

Currently, the UEEPCI acts as an umbrella unit of these ethics units, and co-ordinates and liaises with CEPCIs across the administration, monitors their work, provides tools and materials, supports with ad hoc guidance, and facilitates training. The SFP could also consider establishing a network between the ethics units where they can exchange good practice, discuss problems and develop capacities.

Box 3.7. The Canadian Conflict of Interest Network

The Canadian Conflict of Interest Network (CCOIN) was established in 1992 to formalise and strengthen contact across the different areas of government on conflict of interest policy. The Commissioners from each of the ten provinces, the three territories and two from the federal government representing the members of the Parliament and the Senate meet annually to disseminate policies and related materials, exchange best practices, and discuss the viability of policies and ideas on ethics issues.

Source: New Brunswick Conflict of Interest Commissioner (2014), *Annual Report Members' conflict of interest Act 2014*, www.gnb.ca/legis/business/currentsession/58/58-1/LegDoc/Eng/July58-1/AnnualReportCOI-e.pdf.

Human resource management is particularly relevant in promoting and ensuring integrity. Under the leadership of the SFP, Mexico could consider institutionalising a closer alignment and stronger collaboration between integrity contact points, as recommended above, and HRM units to ensure an effective mainstreaming of integrity in HRM practices.

Public ethics and the management of conflicts of interest are about directly or indirectly changing the behaviour of an organisation's human resources. Therefore, HRM policies are part of both the problem and the solution regarding promoting integrity in public administration. Generally speaking, factors such as a high-level of politicisation leading to loyalty not to the public but to the party or "patron" in power, a low culture of performance orientation, poor rewards and salaries, low levels of contract security, lack of training and professionalism, a high staff turnover, lack of guidance and a weak tone from the top are impediments to an open organisational culture where advice and counselling can be sought to resolve ethical problems. This can lead to opportunities for and rationalisation of corrupt practices and low levels of integrity. When staff rotation is high, there may be less importance placed on the implementation of a strong ethics culture in the workplace, as employees are not employed long enough to feel engaged with public integrity values and apply these measures in practice.

In Mexico, the Law for the Professional Career Civil Service of 2003 (*Ley del Servicio Profesional de Carrera de la Administración Pública Federal*, SPC) has been a key factor in implementing a merit-based management of the civil service. The SPC sets out the jobs to be included in the law, as well as the respective HRM policies and practices, and is intended to guarantee equal opportunities for access to employment in the federal public administration based on merit and with the purpose of developing public administration for the benefit of society (OECD, 2011b). However, an ongoing challenge in Mexico relates to the lack of homogeneity in the civil service. Employees of the federal government are divided into two categories: unionised affiliation (base) and free appointment (*confianza*). While unionised affiliation is usually reserved for administrative and technical personnel and implies a significant level of stability, free appointment of employees is mostly used for higher positions with shorter-term contracts.

Given the importance of high positions with leadership function in promoting and ensuring a high level of integrity, the division between base and *confianza* could represent an obstacle to effectively promoting a culture of integrity throughout all levels of the federal public administration. Many OECD countries rely on senior civil servants in terms of individual development and special management rules, processes and systems to provide guidance in the form of advice and counsel for public servants to resolve dilemmas at work and potential conflicts of interest. Senior civil servants embody and transmit core public service values, set an example in terms of performance and probity, and communicate the importance of these elements as a means of safeguarding public sector integrity.

The SFP is responsible for the SPC regime in the central federal administration; additionally, every participating ministry and agency is responsible for its operation and has a technical committee responsible for the implementation, operation and evaluation of the system (OECD, 2011b). HRM can help to ensure integrity in public administration by integrating specific integrity measures throughout the main HRM activities (see Table 3.3). Through its role and technical expertise in each of these practices, and by enhancing co-ordination between the respective responsible units in SFP, it can contribute significantly to enhancing a culture of transparency and promoting the rule of law. The

recent restructuring within the SFP that moved the UEEPCI under the unit responsible for HRM policies provides a unique opportunity to further promote the mainstreaming of integrity policies into human resource management policies.

Table 3.3. Mainstreaming integrity throughout HRM practices

HRM practices	Mainstreaming integrity
Human resources planning	Assessing integrity risks of different positions and planning accordingly.
Entry	Background checks, ethical tests, managing potential conflicts of interest arising from previous employments (revolving doors); developing job descriptions with ethical considerations in mind.
Professional development, training and capabilities certification	Tailored trainings on integrity policies.
Performance evaluation	For managers: assessing their management of employees' conflict of interest or ethical dilemmas. For employees: assessing adherence and compliance with integrity policies.
Severance	Monitoring potential conflict of interest arising from nature of next employment (i.e. revolving doors).

Source: OECD elaboration.

Beyond the need for including integrity training in the induction process and professional development policies of the SFP, strategies to mainstream integrity in HRM processes comprise two key areas: recruiting and performance evaluations.

The recruitment process offers the first point of contact between the employer and potential future employees. Ideally, the employer would like to ensure, in addition to the usual criteria, that the candidates conduct themselves with integrity and understand and agree to the ethical principles and values of the public service. Procedures at this stage typically comprise background checks with past employers and of criminal and disciplinary records, but there is also a need to state clearly what is expected from the future public servants in terms of values and behaviour (see Boxes 3.8 and 3.9).

Box 3.8. Recruitment processes and integrity: Experience from Australia

“Filters” can be built into to a recruitment process to ensure that applicants are tailored to the organisation’s requirements. In Australia, for example, one agency analysed disciplinary issues amongst new recruits after 12 months on the job and identified a need to better manage indicators of integrity earlier in the selection process.

As a result, interventions were then instituted at important stages:

- A question and answer survey was included as part of the general information for potential applicants. It asked questions about how people felt about certain working conditions and interactions. Based on an indicative score, potential applicants were then encouraged to proceed to the next stage or encouraged to speak about the role with people who knew them well before proceeding to the next stage. This supported self-filtering by applicants.

Box 3.8. Recruitment processes and integrity: Experience from Australia (cont.)

- As part of the online application, more targeted integrity questions were asked about their background and experiences. For example, questions about dealing with authority, diverse cultures, and financial management. This provided base data for comparative purposes.
- Successful applicants in the technical assessment phase were asked to retake the integrity questions. Experts were asked to identify discrepancies or anomalies between the data sets and individually followed these up with applicants. The delay between administering the questions increased the validity of the data.
- Only those applicants who successfully passed both the technical and the integrity phases were invited to face-to-face interviews, which included a practical role play.

The outcome was a considerable decrease in disciplinary issues and increased retention rates for new recruits.

Source: Input provided by the Australian Merit Commissioner, June 2016.

The regular performance evaluations carried out between the responsible public manager and their personnel offers an important entry point for integrity policies. Mexico could aim at a stronger involvement of public managers with staff responsibility, providing specific training and clear guidelines on how they should exercise judgment when cases are brought to them, how to signal unethical behaviour in discussions with their staff, how to promote a culture of open discussion, and how to resolve situations of conflicts of interest. Performance evaluations can be used as an important anchor point for transmitting values and expectations, although they are usually focussed only on the past objectives and future goals of employees.

During these meetings it could be helpful to explicitly address the subject of public ethics and conflicts of interests, and go beyond evaluating past performance based on technical aspects, setting new goals, and discussing general issues concerning the division of labour, team work etc. If taken seriously, and not as a check box exercise, such regular discussions would provide the opportunity to set the tone at the top. Furthermore, the inclusion of integrity as criteria for the professional development of the public servants could be considered.

Box 3.9. Australia's Independent Selection Advisory Committees (ISAC)

The Merit Protection Commissioner is a statutory office holder responsible for independent reviews of employment actions, promotion decisions, and fee-for-service functions that support merit. The Independent Selection Advisory Committees (ISAC) is one example of a fee-for-service function used to recruit staff in the Australian Public Service (APS). To establish an ISAC, an agency can make a request to the Merit Protection Commissioner.

The overarching role of ISAC is to establish and conduct an impartial assessment of the relative skills and capabilities of candidates. In consultation with the agency, ISAC establishes the best selection methodology to assess candidates. ISAC considers the skills and attributes of candidates relative to the skills and attributes required to successfully perform the duties of the job vacancy. It conducts a staff selection exercise by assessing candidates, preparing reports, and making recommendations to the agency.

Box 3.9. Australia's Independent Selection Advisory Committees (ISAC) (cont.)

An ISAC is an alternative to the traditional Australian Public Service recruitment that reinforces integrity in the workplace. There are various benefits for agencies to use ISACs, including:

- Merit-based recruitment solutions that are streamlined, cost-effective and timely.
- Good workplace relations through transparent, independent, impartial selection processes.
- Cost-savings for agencies by staff placements not subject to promotion reviews.
- Flexible process that accommodates multiple selection methodologies.
- Merit pools of preferred candidates ranked by relative suitability.
- Enable agencies to make staff placements for similar job vacancies over a 12 month period.
- Gain expert knowledge in best practice of staff selection.

When undergoing the staff selection process, ISAC operates under the powers of the Merit Protection Commissioner, and is therefore independent. An ISAC has three members: a convenor nominated by the Merit Protection Commissioner; a person nominated by the agency that requested the ISAC; and a third member who is also nominated by the Merit Protection Commissioner. ISAC works in partnership with the agency. Each member signs a declaration of impartiality and forms an independent judgement about candidates. ISAC then makes recommendations to agencies about the suitability of candidates.

There are specific benefits to using ISAC for small pools of candidates or large bulk rounds across multiple locations and skillsets:

Agency Focus:	ISAC helps to:
Small agencies and specialised roles with a small pool of candidates	<ul style="list-style-type: none"> • Manage perceptions: ISACs ensure process impartiality, integrity and transparency. • Provide insider technical knowledge: ISACs allow for different assessment methods for internal and external candidates. • Balance business as usual outcomes and expertise: ISACs allow agency staff to focus on core business without the loss of APS expertise.
Large bulk rounds across multiple locations and skillsets	<ul style="list-style-type: none"> • Deal with complexity: ISACs simplify the process when many applicants are competing for roles across locations and skill sets. • Provide flexibility: ISACs accommodate a range of selection methods, including assessment centres, online screening and traditional interviews. • Target groups: ISACs allow for ongoing analysis to test for unconscious bias.

Source: Australian Public Service Commission, “Independent Selection Advisory Committees”, www.apsc.gov.au/_data/assets/pdf_file/0013/63130/Isacs-DL-leaflet-PRESS-READY-R1.pdf.

Towards a culture of integrity: Building consensus, raising awareness, and promoting change in behaviour

The ongoing revisions to the Codes of Conduct are a unique opportunity to raise awareness, promote ownership, and create a “culture of integrity” at organisational levels. Mexico could make full use of this chance by designing the revision process in a more participative, bottom-up way.

A special feature of the Mexican integrity system is that it is two-tier, so the general Ethics Code and Rules of Integrity are complemented with more specific codes of conduct developed and issued by each federal entity. Although entities are currently in the process of revising the codes to align to the principles set out in the new Code of Ethics and Rules of Integrity, such a two-tier system has already been in place across the federal administration since 2001, in the context of the National Anti-corruption Programme 2001-2006 (*Programa Nacional de Combate a la Corrupción y Fomento a la Transparencia y el Desarrollo Administrativo*), and the first version of the federal ethics code from 2002 (*Acuerdo por el que se da a conocer el Código de Ética de los Servidores Públicos de la Administración Pública Federal*, No. SP/100/0762/02, DOF 31/07/2002).

In addition to the Ethics Code and a plain language guide or manual, the existing codes of conduct at organisational levels currently being revised provide a unique opportunity to build consensus and ownership, and to provide relevant and clear guidance to all public servants. Mexico’s decision to provide more specific guidelines and codes at organisational levels, while ensuring that they align with the overarching principles of the Ethics Code, is an important step towards ensuring relevant guidance. Just as different organisations are facing different contexts and natures of work, they may also be faced with distinctive ethical dilemmas and specific conflict of interest situations. It is commendable that in March 2016 Mexico issued a guide to the ethics committees on how to elaborate the codes of conduct (*Guía para la elaboración del Código de Conducta propio de cada Comité de Ética y de Prevención de Conflictos de Interés de cada Dependencia o Entidad*); the guide explicitly highlights the importance of using plain and inclusive language.

However, the guide does not provide orientation on the process of how to develop such a code. The speed and process by which entities at the federal level are currently reforming their codes suggest a “check box” exercise aimed at complying with the task, rather than a bottom-up and consultative approach that is based on prior analysis of organisations’ particular integrity risks and that promotes discussions amongst the employees. Elaborating a code at the organisational level in a participative way is an important awareness raising and sensitisation exercise. By involving employees from all levels of the organisation, the sense of ownership of the code and its values are strengthened.

Through acknowledging that the process of elaborating an organisational code is of utmost importance, such guidance would contribute to ensuring an effective mainstreaming of the core values throughout the federal administration. Process matters and the organisational codes of conduct provide a unique opportunity to fine-tune Mexican ethics policies from the bottom-up. By actively involving public servants in an organisation into the elaboration of their code, it is more likely that they will consider them as their own and comply. Guidance from the SFP should ensure that the resultant codes are consistent with the Ethics Code, but it should also concern the process required to elaborate or revise codes. Reportedly, organisational codes in the past have been

developed without consulting public servants of the organisations. The code of conduct could envisage identifying, in a participative process, additional values to the constitutional principles that are considered to be relevant for the specific organisation. Also, concrete examples from the day-to-day relevance of principles and values can best be obtained by asking the employees to contribute based on their experiences. Codes of conduct provide an excellent entry point for tailoring specific guidance and acknowledging the at-risk positions in an organisation, as well as the specificities and realities of the different sectors, organisations, and regions.

The SFP's Specialised Unit for Ethics and Prevention of Conflicts of Interest (UEEPCI) could consider developing a step-by-step guide, or updating the existing guide mentioned above, and include details on how to manage the process of constructing codes of conduct in a participative way. Additionally, if capacities allow, the SFP could carry out training and/or ad hoc advice to public entities during the process. For instance, guidance could be provided on how to design and moderate focus groups amongst employees from different levels of the public entity, or focus groups with the private sector and users in order to get their external view on the institution. Guidance could also be provided on communication strategies, emphasising the importance of using different channels, how to create public (visible) commitment of the authorities and the senior management with the code (e.g. through a public signing of the code by senior management), and dissemination to employees and external stakeholders. Finally, guidance could be provided regarding the monitoring and evaluation measures taken in relation with the codes of conducts. In many organisations, the Ethics Committees (ECs) are asked to develop the codes, therefore earlier consideration to create dedicated integrity units that report to senior management and the SFP would support the process of co-ordination and sharing of good practices around the development of the codes.

Through guidance by SFP to responsible units in the entities, such a process would also develop the internal capacities of these organisations so that direct involvement by the SFP would likely decline over time. In order to learn and elaborate the written guidance, and have clarity concerning the typical requests, challenges and constraints, Mexico could consider piloting the participative elaboration of codes of conduct in two or three key line ministries. These ministries could then, together with SFP, serve as good practice in setting an example and be invited into other entities to help steer the process.

The SFP could consider significantly scaling-up its awareness-raising and training efforts, exploiting various channels and putting emphasis on more tailored and accessible communications strategies.

A code alone cannot guarantee ethical behaviour. It can offer written guidance on expected behaviour by outlining the values and standards to which public officials should aspire. But to be effectively implemented and lead to the desired change in behaviour, a code must be part of a wider organisational strategy that is supported by a strong commitment at the top and accompanied by a strong communication policy, as well as training and awareness raising measures. A clear communication strategy to raise awareness of integrity policies and available tools and guidance ideally makes use of different existing and innovative channels of communication.

From 2009 until the creation of the UEEPCI, the SFP has been offering a comprehensive course called “culture of legality” (*curso de legalidad para servidores públicos*), which covers a range of important issues, including modules on the importance of the rule of law, which aims to promote an understanding of why public servants may

violate the rule of law; and a module aimed at developing capacities for resolving difficult situations. The course was the result of a joint project between the SFP and the National Strategy Information Center (NSIC) in 2009. The UEEPCI is currently analysing and revising the course. In addition, it is delivering training on ethics and conflict-of-interest management to CEPCI, and is exploring options for online training with education institutes. The National Institute of Public Administration (*Instituto Nacional de Administración Pública*, INAP), is offering a course on “Ethics and Values in the Public Administration”, as well as an online course called “Responsibilities of the Public Service, Vocation, Ethics, and Values”.

However, none of these courses are compulsory, and there is no clear strategy regarding eligibility and roll out. Beyond these courses and training, there is no specific training or capacity building on ethics and conflict-of-interest management. The SFP could therefore consider developing a comprehensive integrity capacity building strategy for the public administration. This strategy could encompass a general introduction, which could be compulsory within the induction training, and more specific training tailored to needs or areas, which could be compulsory for specific at-risk areas and senior management.

All new employees, independent of their contractual status, should receive induction training to familiarise themselves with the federal administration, their positions and the related rights and obligations that cover public ethics and conflict-of-interest management. Such induction training is the perfect opportunity to set the tone regarding integrity from the beginning of the working relationship, and can explain the principles and values, and the rules related to public ethics and conflict of interest. The most basic and generic parts of such a training could be implemented through e-learning modules, but organisation-specific induction courses, for instance regarding the organisational codes of conduct that must be implemented in each entity of the federal administration (see below), could also be considered.

Box 3.10. Integrity induction training for public servants in Canada

In the Government of Canada, integrity training for public sector employees is conducted at the Canada School of Public Service. The Treasury Board Secretariat works closely with the school to develop training for employees about values and ethics. The school recently updated the orientation course for public servants on values and ethics, which is part of a mandatory curriculum for new employees. In addition, the course is used by federal departments as a refresher for existing employees to ensure they understand their responsibilities under the Values and Ethics Code for the Public Sector. To ensure accessibility for all public servants, the course is available online.

The course focuses on familiarising public servants with the relevant acts and policies, such as the Values and Ethics Code for the Public Sector, the Public Servants Disclosure Protection Act and the Policy on Conflict of Interest and Post-Employment. Additionally, modules on ethical dilemmas, workplace well-being and harassment prevention are included in the training. Through the five different modules, public servants not only increase their awareness of the relevant policy and legislative frameworks, but also develop the skills to apply this knowledge as a foundation to their everyday duties and activities.

The training course includes a dedicated module on the Values and Ethics Code for the Public Sector. The module highlights the importance of understanding the core values of the federal public sector as a framework for effective decision making and legitimate governance, as well as for preserving public confidence in the integrity of the public sector. The module contains a section on duties and obligations, where the responsibilities for employees, managers/supervisors, and deputy heads/chief executives are provided in detail.

Box 3.10. Integrity induction training for public servants in Canada (cont.)

This section also discusses the Duty of Loyalty to the Government of Canada, stating that there should be a balance between freedom of expression and objectiveness in fulfilling responsibilities, illustrated with an example from social media. At the end of the module there are two questions posed to ensure participants have understood the purpose of the Values and Ethics Code for the Public Sector and the foundation for fulfilling one's responsibilities in the public sector.

An innovative component of the integrity training course is the module on ethical dilemmas. The purpose of the module is to ensure familiarity with the Values and Ethics Code for the Public Sector, and it includes a range of tools to cultivate ethical decision making amongst public servants. The module also informs public servants of the five core values for the Canadian public service: respect for democracy, respect for people, integrity, stewardship and excellence. This prompts them to think about how to apply these values in their everyday role. Key risk areas for unethical conduct, such as bribery, improper use of government property, conflict of interest and mismanagement of public funds, are identified, with descriptions that put the risks into practical, easy to understand language. By posing three different scenario questions and asking participants to select competing public sector values, the module also encourages public servants to think about how conflicts between these values may be resolved.

Source: Treasury Board Secretariat, Canada.

Mexico could consider developing specialised training modules for specific at-risk positions, such as public procurement officials, auditors and customs officials, as well as specific modules aimed at recognising and managing conflicts of interest and resolving ethical dilemmas (see Box 3.11). Mexico could also promote, with guidance from the UEEPCI, organisation-specific induction training related to the codes of conduct of the different entities. Such organisation-specific training could build upon more generic guidance and tools, but make them more context-specific by introducing examples and cases related to the sector and the specific public services provided by the entity.

Box 3.11. Dilemma training in the Flemish Government (Belgium)

In the dilemma training offered by the Agency for Government Employees, public officials are given practical situations in which they face an ethical choice and it is not clear how to best resolve the situation with integrity. The facilitator encourages discussion between the participants about how the situation could be resolved to explore the different choices. As such, it is the debate and not the solution which is most important, as this will help the participants to identify different values that might oppose each other.

In most training courses, the facilitator uses a card system. The rules are explained and participants receive four option cards with the numbers 1, 2, 3 or 4. The dilemma cards are then placed on the table. The dilemma cards describe the situation and give four options on how to resolve the dilemma. In each round, one of the participants reads out the dilemma and options. Each participant indicates their choices with the option cards and explains their motivation behind the choice. Following this, participants discuss the different choices. The facilitator remains neutral, encourages the debate and suggests alternative options of how to look at the dilemma (e.g. sequence of events, boundaries for unacceptable behaviour).

Box 3.11. Dilemma training in the Flemish Government (Belgium) (cont.)

One example of a dilemma situation that could arise would be:

I am a policy officer. The minister needs a briefing within the next hour. I have been working on this matter for the last two weeks and should have already been finished. However, the information is not complete. I am still waiting for a contribution from another department to verify the data. My boss asks me to submit the briefing urgently as the chief of cabinet has already called. What am I doing?

- I send the briefing and do not mention the missing information.
- I send the briefing, but mention that no decisions should be made based on it.
- I do not send the briefing. If anyone asks about it, I will blame the other department.
- I do not send the information and come up with a pretext and the promise that I will send the briefing tomorrow.

Other dilemma situations could cover the themes of conflicts of interest, ethics, loyalty, leadership etc. The training and situations used can be targeted to specific groups or entities.

For example:

You are working in Internal Control and are asked to be a guest lecturer in a training programme organised by the employers of a sector that is within your realm of responsibility. You will be well paid, make some meaningful contacts and learn from the experience.

Source: Website of the Flemish Government, <https://overheid.vlaanderen.be/omgaan-met-integriteitsdilemmas> (in Dutch).

Awareness-raising of the codes should not be limited to public officials; Mexico could consider tailoring specific communication strategies to inform key stakeholders of the institutions about the ethics and conflict of interest regulations to which public officials are committed.

Adopting a code of conduct has a communicational aspect internally within the organisation and externally to society, as it sends a strong signal that the organisation is committed to observing the highest standards of integrity and that ethical behaviour is expected from all employees. Principle 4 of the OECD Recommendation on Public Integrity (OECD, 2017) therefore calls for “communicating public sector values and standards internally in public sector organisations and externally to the private sector, civil society and individuals, and asking these partners to respect those values and standards in their interactions with public officials.”

External communication of the relevant codes of conduct can support key stakeholders in their commitment to integrity. The public administration is not isolated from society, and many ethic violations involve or are solicited by outsiders. The role of external actors, in particular users of public services and the private sector, is critical to maintaining the integrity of government operations. Communication on the code of conduct and ethical values of the public sector can serve as an effective tool to inform users and providers of federal public services about the ethics and codes of conduct. Emphasis should be made on both their rights and their duties to abide by the rules.

A growing trend in OECD member countries is to communicate throughout the private sector the values and ethics that officials must adhere to (see Box 3.12). In Canada, the code of conduct for procurement officials applies to both civil servants and suppliers, and, as a result, suppliers must be made aware of their required conduct under the code. Each public entity in Mexico could consider communicating its code of conduct to the users of their services, providers from the private sector, and other stakeholders of the institution. For example, it could be displayed publicly in waiting rooms and attached to requests for proposals and calls for applications, or mailed to all vendors. As suggested in Chapter 2, this could be conducted through the advisory board of private sector representatives to NACS, or as part of a wider NACS strategy on building integrity in society.

Raising awareness externally about public officials' integrity commitments can also be a useful tool in empowering society to hold public officials to account for their actions and increasing institutional trust. The integrity of society can, in part, be influenced by the perceptions citizens have of the actions of public officials, as public officials who are viewed to be corrupt and untrustworthy can have a negative impact on the wider integrity of society. If, on the other hand, public officials communicate their integrity responsibilities and are held accountable for actively implementing them, they can demonstrate to society that they are trustworthy, which positively influences society's integrity.

Box 3.12. Ethical standards for providers of public services in the United Kingdom

The Committee on Standards in Public Life (CSPL) is an advisory non-departmental body sponsored by the Cabinet Office that has the specific role of advising the Prime Minister on ethical standards across the whole of public life in the United Kingdom. It also monitors and reports on issues relating to the standards of conduct of all public office holders.

In 1995, the CSPL established the Seven Principles of Public Life, with revisions made in 2013. Originally responsible for advising on ethics matters related to the public sector, CSPL terms of reference were clarified in 2013 so that its remit also incorporated all those involved in the delivery of public services. As such, the Seven Principles of Public Life are applicable to all those delivering public services, including third-party providers from the private or voluntary sector. These seven principles serve as the basis for the ethical standards framework for those who both operate in the public sector and with the public sector:

1. Selflessness: holders of public office should act solely in terms of the public interest.
2. Integrity: holders of public office must avoid placing themselves under any obligation to people or organisations that might try to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits to themselves, their family, or their friends. They must declare and resolve any interests and relationships.
3. Objectivity: holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. Accountability: holders of public office are accountable to the public for their decision and actions and must submit themselves to the scrutiny necessary to ensure this.
5. Openness: holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.
6. Honesty: holders of public office should be truthful.

Box 3.12. Ethical standards for providers of public services in the United Kingdom (cont.)

7. Leadership: holders of public office should exhibit these principles in their own behavior. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Following the inclusion of third-party suppliers to its remit, the CSPL carried out research with members of both the public sector and private sector involved in service delivery, with the purpose of understanding their expectations of the ethical principles and standards expected of public service delivery. Five key findings resulted from the CSPL's research:

1. The public wants common ethical standards across all provider types, regardless of sector, supported by a code of conduct.
2. "How" the service is delivered is as important to the public as "what" is delivered, with a focus on personalisation and use-led definition of quality.
3. Public and stakeholder views of what should constitute ethical standards are broadly in line with the Seven Principles of Public Life.
4. Commissioners expect providers to conform to ethical standards, but rarely articulate this.
5. Commissioners want guidance on how to embed ethical standards in the commissioning and procurement process.

Using the evidence base and building on existing mechanisms, the report set out a high level framework required to support these standards and provide the necessary assurance based around:

- Principled leadership and governance.
- A suitable code of conduct.
- A culture of dialogue and challenge.
- Clarity of accountability and transparency.
- Ethical capability.

Following publication of the report, the CPSL has shared its findings with providers of public services, such as the Chartered Institute of Public Finance and Accountancy and the Industry Forum. In addition, the CPSL conducted two seminars with the Business Services Association to discuss practical internal organisational measures for delivering high ethical standards in public services, as well as a workshop with the Whitehall Industry Group on Building an Ethical Culture in Organisations.

In December 2015, CPSL published a guidance document for public service providers, which identifies practical examples of measures commissioners and providers can use to support high ethical standards.

Source: CPSL (2015a), *CSPL Annual Report 2014-2015 and Business Plan 2015-2016*, Committee on Standards in Public Life, London, www.gov.uk/government/uploads/system/uploads/attachment_data/file/447604/CSPL_Annual_Report_2015.pdf.

CPSL (2015b), *Ethical Standards for Providers of Public Services: Guidance*, Committee on Standards in Public Life, London, www.gov.uk/government/uploads/system/uploads/attachment_data/file/481535/6.129_1_CO_LAL_Ethical_standards_of_public_life_report_Interactive_2_.pdf.

CPSL (2014), *Ethical Standards for Providers of Public Services*, Committee on Standards in Public Life, London, www.gov.uk/government/uploads/system/uploads/attachment_data/file/336942/CSPL_EthicalStandards_web.pdf.

Mexico could consider piloting mechanisms based on insights from research in behavioural sciences, and consider scaling-up successful interventions.

The current conventional approach to preventing corruption and fostering integrity is largely based on a traditional rational choice model of individuals maximising their interests through a decision-making process based on a cost-benefit analysis of alternatives, usually through the lens of a principal-agent-client approach and excluding psychological aspects. The policy recommendations therefore usually stress the importance of both increasing the costs and lowering the benefits of undesired behaviour through control and sanctions. They aim to reduce the discretion of decision makers to diminish their scope for misbehaviour, or at least manage arising risks through conflict-of-interest regulations or by providing guidance on expected behaviour through codes of ethics or conduct.

However, there growing discussions regarding a sometimes perceived lack of effectiveness and impact of these traditional measures. As already discussed in the context of the public procurement protocol above, some of the typical policies and measures could backfire, and questions arise around whether the costs of these measures outweigh the supposed benefits (see, for instance, Anechiarico and Jacobs, 1996). Theoretical and empirical research has helped in advancing the understanding of decision making beyond rational choice models. The fields of behavioural economics, psychology and experimental ethics have particularly seen a rise of available experimental evidence, both from the laboratory and the field, which is beginning to form a body of regularities relevant for framing thinking towards innovative and more effective approaches to integrity and anti-corruption (Serra & Wantchekon, 2012; Lambsdorff, 2012 and 2015; Boehm et al., 2015).

Mexico could consider piloting and testing innovative measures; concrete areas could be:

- **Building “moral reminders” into key decision-making processes:** Experiments have shown the importance of “ethical reminders” at the very moment of decision making. While evidence of the impact of ethics training and the existence of codes of conduct is, at best, mixed, small reminders concerning correct behaviour do have a measurable impact on the probability to cheat (Ariely, 2012 and Box 3.13). A concrete policy measure derived from this experimental evidence could be to include, for example, a sentence to be confirmed by a procurement official just before taking the decision on a procurement contract. The sentence could read: “I will take the following decision according to the highest professional and ethical standards”. By signing, the procurement official implicitly links their name to an ethical conduct.

Box 3.13. How to measure cheating

There are possibilities to measure cheating through experimental designs (e.g. Ariely, 2012, or Fischbacher and Föllmi-Heusi, 2012). Before implementing or reforming innovative integrity policies aimed at reducing dishonest behaviour, a country could apply such experimental designs to measure the “cheating baseline” in an organisation or group.

On the one hand, the experiments could inform the country if there are areas where cheating is more common than in others, and consequently focus policies on these areas. On the other hand, the baseline would allow the country to have a concrete indicator to measure whether the piloted policies had the desired impact before considering up-scaling.

Source: Ariely, D. (2012), *The (honest) truth about dishonesty: How we lie to everyone—especially ourselves*, Harper, New York.

Fischbacher, U. and F. Föllmi-Heusi, F. (2012), “Lies in Disguise. An experimental study on cheating”, Research Paper Series Thurgau Institute of Economics and Department of Economics no. 40, University of Konstanz.

- **Addressing social dynamics:** Just as leading by example is important, as stressed above, the example of people behaving dishonestly can influence the behaviour of others. On the one hand, experiments have shown that if it is a member of the same group that misbehaves, this example tends to be followed by others; if it is a member of a rival group, the effect is the opposite and participants behave more honestly than in the control group (Gino et al., 2009). On the other hand, it has been proven that an erosion of ethical behaviour is acceptable to a group when it occurs gradually (Gino and Bazerman, 2009). This suggests that an organisation can slide into corruption without anyone realising what is happening, and, therefore, without anyone denouncing the corruption. From a policy perspective, this suggests that it is preferable to react to undesired behaviour even for small and seemingly negligible actions, as they can be the beginning of a path to more serious and accepted behaviours, creating a vicious circle. Reacting does not necessarily mean strict sanctions, though. It also highlights the importance of making visible “ethical success stories” to foster positive dynamics in the organisation: the “good” should be more visible than the “bad”.
- **Improving working environment:** Experimental results indicate that creating environments that are clean and bright can inhibit, at least to some extent, corrupt behaviour. It has been shown that the mere presence of an aroma associated with “cleanliness” leads to increased prosocial behaviour (Liljenquist et al., 2010). These findings could be used as an additional argument to push for cleaner offices that are more transparent and worker friendly. Anecdotal evidence from Cali in Colombia, seems to confirm this: after re-organising and renovating the offices in the city’s town hall, the public servants were reportedly friendlier, better dressed and more punctual; whether or not this is just a short-term effect would need to be investigated.

To pilot, evaluate, and fine tune such type of measures, it is recommended to use rigorous design and impact evaluation. Such tests provide the evidence base for more effective and focused measures. Rigorous impact evaluations are faced with the problem of the counterfactual: after introducing an intervention and comparing an observed change with the baseline from before the intervention, it is difficult to disentangle how

much of the change is attributable to the intervention alone. As with procedures used in evidence-based medicine, such a causal relationship can be identified using treatment groups and control groups. By randomly assigning the innovative measure to a treatment group and observing changes compared to a control group that hasn't been assigned the measure, it is possible to make more confident claims concerning the expected effectiveness of these measures. Such a procedure needs to be carefully designed from the beginning, and guidance may be required for the random assignment and the identification of adequate indicators; but it doesn't need to cost much and can be implemented relatively easily. The UK Behavioural Insights Team has provided a guide on how to design randomised control trials (BIT, 2013). Policy makers will be able to use a stronger evidence base and can make the case for up-scaling innovative interventions with more confidence regarding the expected results.

Summary of proposals for action

- The SFP could consider streamlining the Ethics Code by reducing the number of values listed.
- The SFP could consider removing the Integrity Rules from the Ethics Code and developing, based and building on these rules, a more comprehensive manual or guide in plain language and with sets of examples for the federal public administration for public officials at all levels.
- Organisational codes of conduct should be drafted in a way that clearly lays out their link to the Ethics Code and the LGRA.
- The Co-ordination Committee should clarify that requirements to submit interest declarations do not absolve officials' responsibilities to proactively report and resolve transparently real, potential and apparent conflict of interest situations as they arise.
- Declaration databases should be interconnected to facilitate the validation and auditing of information provided.
- Validation and auditing of declarations should be conducted on a risk-based basis.
- Administered sanctions in relation with the Ethics Code, Codes of Conduct and the Integrity Rules, and the organisational codes of conduct, should be reported to the Ethics Unit of the SFP in order to be analysed and publicised, and to ensure that sanctions are adequate and consistent throughout ministries.
- The guidelines for managing conflicts of interest will need to be updated according to the forthcoming General Law on Administrative Responsibility.
- The Co-ordination Committee should ensure clarity between interest declarations and conflict-of-interest policy.
- The Co-ordination Committee should establish risk-based guidelines for verifying and auditing declarations, leveraging ICT tools and integrated databases as much as possible.
- The SFP should ensure that the guidelines become a living document that is regularly updated and effectively disseminated and used throughout the public administration.

- Mexico could consider transforming the current ethics committees in public sector entities into dedicated units (e.g. integrity contact points) that focus specifically on preventing corruption and promoting a culture of integrity in their respective organisations, rather than on enforcement.
- A network between the ethics committees (or future integrity contact points) could be established to enable the exchange of good practice, discuss problems and develop capacities. The SFP's Specialised Unit for Ethics and Prevention of Conflicts of Interests (UEEPCI), an umbrella unit of these ethic units, could facilitate such a network.
- Mexico could consider institutionalising a closer alignment and stronger collaboration between integrity contact points, as recommended above, and HRM units to ensure an effective mainstreaming of integrity in HRM practices.
- UEEPCI could consider developing a step-by-step guide, or updating the existing guide mentioned above, and include details on how to manage the process of constructing codes of conduct in a participative way.
- The SFP could consider developing a clear integrity capacity building strategy for public administration that encompasses a general introduction, which could be part of induction training, and more specific training tailored to needs or areas.
- Mexico could consider tailoring specific communication strategies to inform key stakeholders of the institutions about the ethics and conflict-of-interest regulations to which public officials are committed.
- Mexico could consider piloting mechanisms based on insights from research in behavioural sciences, and consider scaling-up successful interventions.

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Annex 3.1.

Gifts for officials: Generic law

Definitions

“**Code of ethics**” of a public body means the approved code of ethics of the ministry, department or agency concerned.

“**Current market value**” of a gift means the real market value of the gift on the day it is received.

“**Gift**” includes:

- a) A gift of entertainment, hospitality, travel or other form of benefit of significant value.
- b) A gift of any item of property of significant value, whether of a consumable nature or otherwise, including, for example, display item, watch, clocks, book, furniture, figurine, work of art, jewellery, equipment, clothing, wine/spirits, or personal item containing precious metal or stones.

Meaning of “reportable gift”

1. A “reportable gift” is:
 - a) Any gift made to an official by an organisation, agency or private sector entity.
 - b) Any gift made to an official by a private individual.
 - c) Where the current market value of the gift exceeds the “reportable gift threshold”.*

*Amount of limit to be selected according to policy intention, as determined by regulation.

2. A gift received by an official from a relative, personal friend, or family member in a private capacity and in accordance with normal social custom (such as at a birthday, marriage, religious festival, etc.), or a gift from any source in recognition of service, professional achievement, or retirement), is not a reportable gift. This does not limit the operation of the code of ethics of a public body to the extent the code provides for reporting a gift of a value less than the reportable gift threshold.
3. Where an official receives more than one gift from the same person in any financial year, and the current market value of all the gifts so received exceeds the reportable gift threshold applicable at the end of the year, each of the gifts so received are reportable gifts.

4. If an agency makes more than one gift to the same official, etc. in a financial year, and the current market value of all gifts exceeds the reportable gift threshold, each of the gifts so received are reportable gifts.

Reportable gifts to be dealt with as a physical or material asset

5. A reportable gift received by the official must be dealt with as the public body's accountable asset.
6. A public body may dispose of reportable gifts, after registration, as it determines.

Reportable gift to be declared and accounted for

7. An official who receives a reportable gift must complete a declaration:
 - a) Within 14 days after the gift becomes a reportable gift because it exceeds the "reportable gift threshold".
 - b) For another reportable gift within 14 days after receiving the gift.
8. In the case of reportable gifts, the official must, as soon as practicable:
 - a) Transfer the gift into the control of the official's public body; and by consent, may.
 - b) Pay to the body:
 - i. For gifts that are reportable gifts because they exceed the threshold, an amount equal to the difference between the total current market value of the gifts and the reportable gift threshold for each gift.
 - ii. For any other reportable gift an amount equal to the difference between the current market value of the gift and the reportable gift threshold.
9. Paragraph 1 above does not limit the operation of the code of ethics of a public body to the extent the code provides for reporting the receipt of a reportable gift within a period of less than 14 days.

Register of reportable gifts

10. The public body must keep a register of reportable gifts received by any official of the body.
11. The register must include information about each of the following matters:
 - a) The date the reportable gift was received by the official.
 - b) The persons and circumstances involved in making and receiving the gift.
 - c) A detailed description of the gift, including its current market value and the basis for the valuation.
 - d) The approval for receiving the gift, if relevant, and
 - e) The date the gift was transferred to the control of the body and the present location of the gift, or
 - f) If the official is permitted to retain the gift.

- g) The date and amount of the payment made under paragraph 8 (b), for the gift.
- h) If the gift is disposed of:
 - i. The authority for disposal.
 - ii. The date and method of disposal.
 - iii. The name and location of the beneficiary.
 - iv. The proceeds, if any, arising from the disposal.

Chapter 4.

Towards a whole-of-society approach to integrity in Mexico

The driving impetus behind Mexico's national anti-corruption system (NACS) has been to strengthen the resilience of public institutions and officials against corruption. However, when integrity violations occur amongst citizens and firms, and when society shows a high level of tolerance towards corruption, the impact of strong laws and well-designed institutional arrangements may be limited. Government alone cannot eradicate corruption; the active participation of the whole-of-society in promoting and adopting social norms for integrity is crucial to effectively prevent corruption. Citizens and firms must expect integrity from their government and institutions, as well as from each other. For example, just as government should not seek or accept bribes, neither should citizens or firms accept to pay them. The chapter begins by exploring integrity levels in Mexican society given available data from selected sectors, and provides recommendations to cultivate social norms for integrity through raising awareness, building capacity and eliciting changes in behaviour. The second section of the chapter discusses how to instill integrity norms and values in youth, and details proposals for including integrity and anti-corruption education into the curriculum for primary and secondary students. It also underscores the need to train teachers to effectively deliver the curriculum.

Introduction: Moving from public sector integrity towards public integrity more broadly

Citizens and firms are not only watchdogs of public officials and government institutions; they are also potentially active members of the community who can contribute to promoting integrity more broadly in society. Corruption involves multiple stakeholders, and low integrity in one group can have a reverberating effect on other segments of society. When citizens pay bribes, evade taxes, seek or receive fraudulent social benefits, or exploit public services (such as transport) without paying, they unfairly take government resources and undermine the fabric of society, which is built on institutional and interpersonal trust and respect for rules and norms. Likewise, firms that evade their taxes, collude with each other, offer bribes or illegal political contributions, and seek to influence public policies exclusively in their favour at the expense of the public good reduce competitiveness and create negative economic externalities, as well as undermine the legitimacy of government and trust in markets. Therefore, while “public sector integrity” is certainly important, the shared responsibility of government, citizens, and the private sector to cultivate “public integrity” more broadly is essential.

Table 4.1. Potential integrity breaches occurring across societal interactions

Interactions	Type of potential integrity breach
Citizens and government	Citizens paying bribes for services, tax evasion or cheating on public benefits, etc.
Citizens and other citizens	Breaking laws that harm society as a whole (traffic violations, vandalism in public spaces).
Firms and government	Firms paying bribes for procurement contracts, providing illegal funds to political parties, etc.
Firms and other firms	Collusion/bid-rigging, price fixing, etc.

Source: OECD elaboration.

Taking a whole-of-society approach to fighting corruption, therefore, should be at the heart of a strategic approach to any national anti-corruption strategy. To this end, governments can promote a culture of public integrity by partnering with the private sector, civil society, and individuals, in particular through:

- A country’s public integrity system should explicitly acknowledge the role of the private sector, civil society and individuals in respecting integrity values in their interactions with the public sector and with each other.
- Encouraging the private sector, civil society and individuals to uphold those values as their shared responsibility by:
 - Raising awareness in society of the benefits of integrity and reducing tolerance of violations of public integrity standards.
 - Carrying out, where appropriate, campaigns to promote civic education on public integrity among individuals and particularly in schools (OECD, 2017).

As discussed in Chapter 2, Mexico’s recent anti-corruption reforms have established new governance arrangements that explicitly recognise the important role of civil society and the private sector. A Citizen Participation Committee has been created and presides over the NACS Co-ordination Committee. At this stage, the extent to which these

committees will implement concrete initiatives to disseminate integrity values more broadly remains to be seen.

As a means of informing these committees in this regard, this chapter assesses how NACS and its future action plan could leverage new anti-corruption reforms to instil a culture of integrity more broadly across society. Specifically, it will examine the two dimensions: 1) how Mexico could promote greater ownership and recognition amongst key stakeholder groups about their shared responsibility in nurturing integrity values in society; and 2) how Mexico could raise awareness of the social, economic and political benefits of greater public integrity.

Cultivating a shared sense of responsibility for integrity throughout society: Raising awareness, building capacities and promoting a change in behaviour amongst citizens and firms

Going forward, the NACS Committees should take an active role in communicating to citizens and firms their roles and responsibilities for respecting public integrity through awareness-raising campaigns. The resulting action plan developed by the NACS Committees should clearly identify and assign responsibilities for awareness raising to the relevant government ministries.

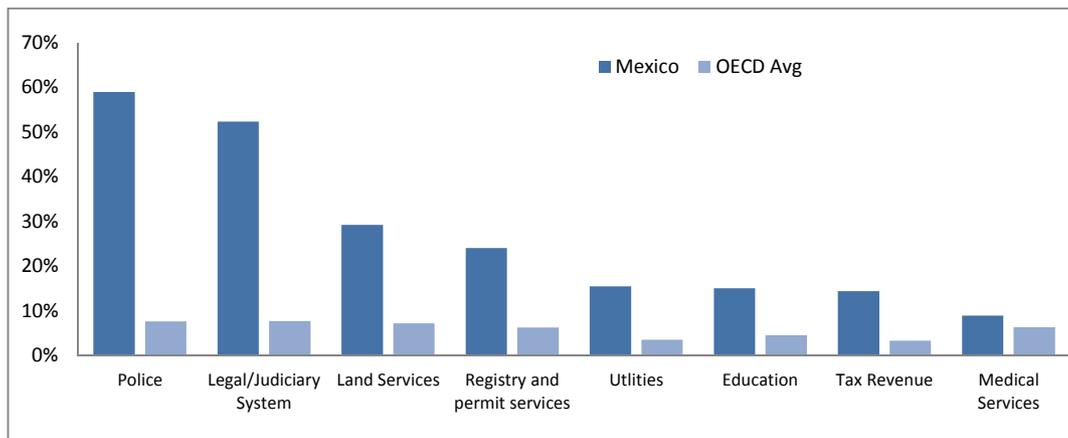
In Mexico, the focus of the NACS has been primarily on strengthening the resilience of government institutions in the fight against corruption. However, clear laws and well-designed institutional arrangements may face an uphill battle in preventing corruption unless citizens and firms also assume responsibility for acting with integrity in their own interactions, both with government and in other settings.

Reversing a culture of acceptance for integrity breaches and corruption violations is necessary for implementing the integrity reforms. When the prevailing social norms are tolerant to corruption, legal and institutional reforms for integrity will not be successful.¹ Gatti et al. (2003) found that social effects – that is, the influence of other people’s behaviour on one’s individual behaviour – play an important role in determining individual attitudes towards corruption. When surrounded by a culture of corruption, evidence has proven that individuals are more tolerant to corruption. In addition, citizens may feel discouraged when attempting to overcome corruption. Thus, when the predominant social norms excuse corruption and rule-breaking behaviour, steps must be taken to communicate and demonstrate the new expected social norms

NACS reforms were buttressed by civil society efforts, which demonstrated a growing intolerance of public sector corruption, and NACS should surely address these concerns. However, it is crucial to recognise that anti-corruption efforts will be more effective when they target the whole-of-society. In Mexico, integrity violations and tolerance of corruption in other (non-governmental) interactions is a pressing concern that must be addressed. For example, according to the 2013 Global Corruption Barometer, 33% of Mexican respondents reported having paid a bribe for one of the following sectors: education, judicial system, medical and health services, police, registry and permit services, utilities, tax, and land services (Transparency International, 2013). When compared to the OECD average, the percentage of citizens reporting bribe paying is significantly higher (see Figure 4.1).

Figure 4.1. Global Corruption Barometer 2013:

Percentage of population reporting paying a bribe per sector in previous 12 months



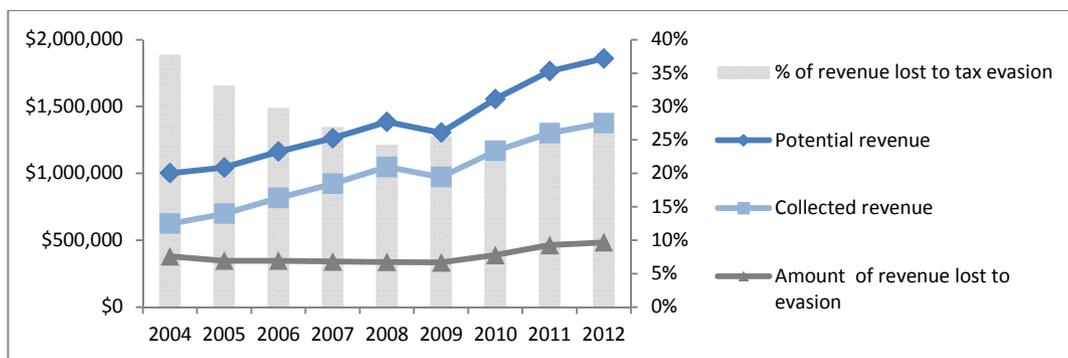
Note: OECD average does not include Sweden.

Sources: Transparency International (2013), *Global Corruption Barometer: Mexico*, Transparency International, Berlin, www.transparency.org/gcb2013/country/?country=mexico.

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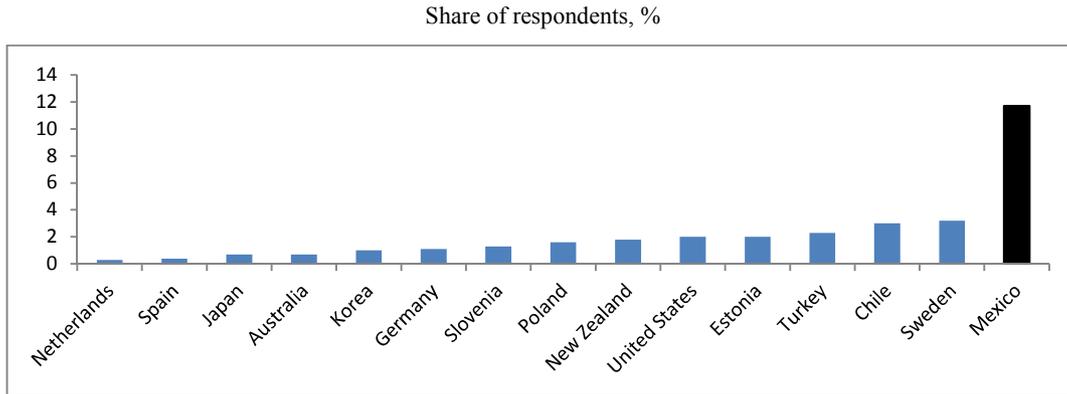
Figure 4.2 shows that tax evasion is also a pressing issue in Mexico: between 2004 and 2012, tax evasion reduced government revenue between 20-38%.

Figure 4.2. Government revenue lost to tax evasion



Source: Instituto Tecnológico y de Estudios Superiores de Monterrey (2013) “*Estudio de Evasión Global de Impuestos*” Resumen Ejecutivo, www.sat.gob.mx/administracion_sat/estudios_evasion_fiscal/Paginas/default.aspx.

“Freeriding” behaviour is another area of concern for public integrity in Mexico. According to the World Values Survey, amongst the OECD member countries surveyed, respondents in Mexico were the most in favour of avoiding a fare on public transport (see Figure 4.3).

Figure 4.3. Always justifiable: Avoiding a fare on public transport

Note: Responses to question “Please tell me for each of the following actions whether you think it can always be justified, never be justified, or something in between: avoiding a fare on public transport”. Responses were scored on a ten-point scale, ranging from “Always Justifiable” to “Never Just”. The above scores show responses for “Always Justifiable” for fifteen OECD member countries. Data not available for Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Greece, Hungary, Iceland, Ireland, Israel, Italy, Korea, Latvia, Luxembourg, Norway, Portugal, Spain, Slovakia, United Kingdom

Source: World Values Survey (2017), *World Values Survey Wave 6 (2010-2014)*, www.worldvaluessurvey.org/WVSDocumentationWV6.jsp (accessed March 2017).

There is a strong perception of citizen apathy towards corruption in Mexico. According to data from the 2012 ENCUP survey, which measures characteristics of civic culture in Mexico, 68% of respondents stated that citizens allow corruption to exist (INE, 2016).

Therefore, a whole-of-society approach that aims to foster a culture of integrity is a crucial component of Mexico’s anti-corruption reforms. To this end, NACS and its future action plan must recognise the vital role that citizens and firms play in countering corruption by including explicit initiatives targeting citizens and the private sector. The Citizen Participation Committee will be essential in facilitating these efforts by providing advice and guidance on the common corruption challenges and integrity violations faced by the population.

The NACS Co-ordination Committee and the Citizens Participation Committee should strongly consider assigning responsibilities in the NACS action plan to the relevant government ministries, including, but not limited to: the Ministry of Public Administration (*Secretaría de la Función Pública* or SFP) the Tax Administration Service (*Servicio de Administración Tributaria*, or SAT), the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social*, or IMSS), the Ministry of Social Development (*Secretaría de Desarrollo Social*, or SEDESOL) and the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes*, or SCT). These ministries could implement awareness campaigns that challenge citizens’ acceptance of a specific norm or series of norms concerning corruption, and educate the public on the skills and tools to reject unethical behaviour. The awareness campaigns could take on a variety of forms, including television commercials, public billboards and social media (Twitter, Facebook, YouTube and LinkedIn). The awareness campaigns should focus on communicating the following: 1) the expected social norms for integrity resulting from the recent anti-corruption reforms; 2) the roles and responsibilities that

citizens and firms have for upholding these social norms; and 3) the collective benefits of upholding a culture of public integrity for Mexico as a whole.

Country experiences have documented the benefits of well-designed anti-corruption awareness campaigns on reducing the acceptance of corruption, ranging from reduced levels of integrity violations (see Box 4.1 on the case of Colombia) to reduced tolerance for corruption and citizen mobilisation to take a stand against corruption (see Box 4.3 on the case of Hong Kong's Independent Commission Against Corruption).

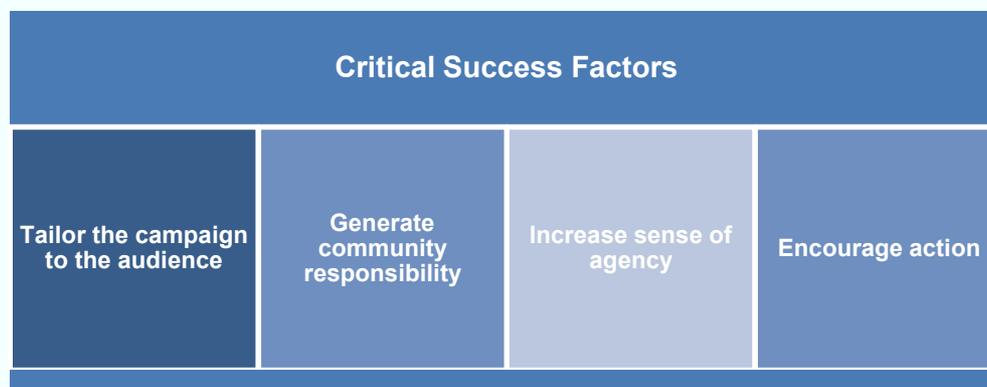
Box 4.1. Changing society's attitude towards rule breaking in Colombia

In 1994, Dr. Antanas Mockus became the Mayor of Bogota, which at the time was known as the murder capital of the world with a notoriously corrupt municipal government.

In an effort to reform his city, Dr. Mockus instituted a series of measures aimed at changing attitudes towards rule breaking. The approach he took was unique as he used mimes to tame the lawbreakers. He hired a group of theatre students who were stationed at traffic intersections around the city wearing white face paint and tights to help enforce the traffic rules. Instead of carrying guns, the mimes carried cards, which had a thumbs-down picture on them. Whenever they caught someone breaking the rules, they would flash the cards, football-referee style. Regular citizens joined in and assisted the theatre students in enforcing the rules through this humorous approach. Within a few months, the fraction of pedestrians obeying traffic signals reportedly jumped from 26% to 75%. From there, Mockus expanded his reform agenda, instituting a broader range of measures to tackle the city's violence, crime and poverty, such as closing down the transit police department, whose employees were notorious bribe takers, and initiating a series of large-scale public works projects to improve service delivery to the city's poor. But it was his efforts to change attitudes that he felt were fundamental to all his forms, noting that the transformation of civic culture was crucial in addressing the issues faced by Bogota.

Source: Fisman, R. and E. Miguel (2008), *Economic Gangsters: Corruption, Violence and the Poverty of Nations*, Princeton University Press.

In designing and implementing awareness campaigns, the relevant government ministries should consider good practices from successful anti-corruption campaigns that demonstrate the need to tailor the campaign to the audience, generate community responsibility, increase a sense of agency and encourage action. Box 4.2 provides an in-depth overview of the key factors to consider when designing an effective behaviour changing campaign.

Box 4.2. Behaviour changing campaigns: Success factors**Figure 4.4. Factors to consider for effective awareness campaigns**

Source: Adapted from Mann (2011).

Lessons learned from existing successful behaviour change campaigns can be leveraged to inform the development of successful anti-corruption campaigns.

Tailor the campaign to the audience:

- Use existing attitudes
- Make the issue publically accessible
- Make the issue culturally specific
- Look at the issue from the target audiences' point of view

Generate community responsibility:

- Make the issue socially unacceptable by framing the issue in moral terms
- Highlight the wider impact of the issue on society and demonstrate the impact on human life

Increase sense of agency:

- Develop a sense of self control, motivation, knowledge and skills
- Offer alternative behaviour

Encourage action:

- Highlight the action that needs to be taken, such as the proper procedures to report corrupt activities

When developing an awareness campaign with an aim to change social norms, it is also important to avoid fear-based campaigns, which can result in people dismissing the message as too extreme, unlikely to happen to them, or too disturbing. Likewise, campaigns that lack a credible voice, that sensationalise the issue and avoid credible and authentic evidence are rarely effective, as recipients do not identify with the issue at hand.

Source: Mann, C. (2011), *Behaviour changing campaigns: success and failure factors*, U4 Expert Answer, U4 Anti-corruption Resource Centre, Bergen, <http://www.u4.no/publications/behaviour-changing-campaigns-success-and-failure-factors/>.

In addition to awareness-raising, the NACS Committees should consider including integrity and anti-corruption training programmes for citizens in the NACS action plan, especially concerning key areas susceptible to fraud or corruption, and clearly identify and assign concrete responsibilities for implementation to the relevant ministries.

Integrity and anti-corruption training programmes are important for raising a sense of shared responsibility for integrity and establishing social norms of integrity. Such programmes go beyond raising awareness, and aim to instil in citizens the commitment, confidence and will to make moral choices and accept their responsibility to address ethical dilemmas as they arise. Integrity and anti-corruption training programmes are generally targeted at specific segments of society, such as members of the private sector or non-profit organisations, and successful programmes have been found to effectively equip learners with the knowledge and skills to uphold integrity, as well as refrain from and report corruption (Integrity Action, 2016). For example, Hong Kong’s Independent Commission against Corruption (ICAC) has engaged in a series of integrity and anti-corruption training programmes, which, when coupled with awareness raising campaigns, have resulted in higher instances of reporting on corruption (see Box 4.3).

As such, it is recommended that NACS Committees assign clear responsibilities to the relevant government ministries responsible for ensuring public sector integrity in the NACS action plan. The SFP, for instance, could develop a series of integrity and anti-corruption training programmes for citizens, civil society organisations and firms. Similar to the culture of legality course offered by the SFP for public officials, the integrity and anti-corruption training programme could include the following modules: 1) corruption and the impact of rule violations on society; 2) promoting an understanding of why citizens/private sector/non-profit organisations may violate the rule of law; 3) public integrity and society’s roles and responsibilities to uphold it; 4) developing capacities for resolving ethical dilemmas; and 5) the roles and responsibilities of public officials regarding integrity, and activities that citizens/private sector/non-profit organisations can undertake to support the integrity of public officials. Training could be offered in two forms, the first being in-class training programmes for citizens/private sector/non-profit organisations. These could be conducted by members of the SFP’s Ethics Unit and tailor-made to the specific business or organisation requesting training. The training could also be offered as an e-learning course available on the digital platform. Both types of training method could encourage stakeholders to enrol and take part by offering incentives for completion, such as a certificate identifying them as a “Citizen for Integrity” or “Business for Integrity” or “NGO for Integrity”. Such certifications could be considered in public procurement criteria or to qualify for national funding and support. While all members of society should be strongly encouraged to take the course, completion should be mandatory for all members of national and local Citizen Participation Committees. Communication of the training programme could be achieved through a series of dedicated awareness campaigns, including television commercials and social media (Twitter, YouTube, Facebook, etc.)

Box 4.3. Mobilising society to fight corruption through civic education and awareness-raising programmes: Hong Kong’s Independent Commission Against Corruption

Since its inception in 1974, Hong Kong’s Independent Commission against Corruption (ICAC) has embraced a three-pronged approach of law enforcement, prevention and community education to fight corruption. The Community Relations Department (CRD) is responsible for promoting integrity in society, and utilises several different methods to educate society, including civic education programmes and awareness-raising campaigns.

Civic education

The CRD offers tailor-made preventive education programmes ranging from training workshops to integrity building programmes for different groups of the community, such as businessmen and professionals. The content of the training workshops cover the following areas: prevention of bribery ordinance, the pitfalls of corruption, ethical decision making at work, and managing staff integrity. The CRD also disseminates anti-corruption messages to students in secondary schools and at tertiary institutions through interactive dramas and discussions on personal and professional ethics. Additionally, the CRD organises regular talks and seminars for the private and non-profit sector to advise them on how to incorporate corruption prevention measures into their operational systems and procedures. Topics range from knowledge on the pitfalls of corruption, risk management, ethical governance and what to do if offered bribes.

Awareness campaigns

The CRD also uses various platforms and techniques to raise awareness about corruption and publicise anti-corruption messages to different segments of society. For instance, anti-corruption messages are disseminated through television and radio advertisements, such as the television drama series “ICAC Investigators”, which has become a household title.

The CRD also communicates its messages through poster campaigns and the internet. For instance, the main website of ICAC provides the public with the latest news of the commission, information on corruption prevention, and access to the ICAC audio-visual products and other publications. The website is also home to the two video channels for ICAC, which includes the complete ICAC TV drama series and training videos on how to prevent corruption. The ICAC Drama, *Weibo*, tweets about integrity-related issues to educate the general public on the evils of corruption, whereas the ICAC smartphone application houses all the latest news and activities of the ICAC, including the integrity videos. The ICAC eBooks Tablet App provides users with access to ICAC e-publications in order to ensure that the general public has access to anti-corruption materials at any time.

In the first year of its operation, the public education campaigns resulted in 3 189 reports of alleged corruption, more than twice the number of reports received by police in the previous year (Panth, 2011). More than thirty years later, the efforts of Hong Kong’s ICAC have produced a situation in which seven in ten citizens are willing to report corruption (Johnston, 2005). As the Hong Kong example demonstrates, preventing corruption was not solely the result of strong institutions and laws. Enhancing society’s participation to hold institutions account, along with continuous, concerted attention and efforts, has led to an environment in which corruption is rejected both by public officials and citizens alike.

Sources: ICAC (2016), *ICAC website*, Independent Commission Against Corruption, Hong Kong, www.icac.org.hk/en/ack/pep/index.html (accessed 17 October 2016).

Panth, S. (2011) *Changing Norms is Key to Fighting Everyday Corruption*, The Communication for Governance and Accountability Programme, World Bank, Washington DC, <http://siteresources.worldbank.org/INTGOVACC/Resources/ChangingNormsAnnexFinal.pdf>.

Johnston, M. (2005) *Syndromes of Corruption: Wealth, Power and Democracy*, Cambridge University Press, Cambridge.

Along with general integrity and anti-corruption training programmes, government entities responsible for delivering services in areas susceptible to fraud and corruption, such as tax collection and distribution of social assistance, could also leverage education programmes to raise awareness of specific responsibilities for public integrity. For example, as shown in Box 4.4, Mexico's SAT has already been actively incorporating civic education programmes for adults to reduce tax evasion.

To build on and scale-up this good practice, the NACS Co-ordination Committee could identify the need to work with other government entities that deal with high-risk areas in the NACS action plan, including, but not limited to, the IMSS, SEDESOL and the SCT, to incorporate integrity and anti-corruption training programmes for citizens in their respective areas. Such programmes should be tailored to the specific high risk areas (unemployment insurance fraud, health insurance fraud and other types of social benefit fraud, freeriding on public transport, etc.), identifying the roles and responsibilities for citizens in respect of that area, and providing citizens with the knowledge and skills to resist corruption. These programmes, which target areas susceptible to citizen noncompliance, will be crucial in informing citizens of the impact of fraudulent behaviour and encouraging public integrity behaviour.

Box 4.4. SAT's role in teaching tax in higher education

In response to high levels of tax evasion, Mexico's Tax Administration Service (*Servicio de Administración Tributaria*, SAT) has been actively educating citizens on their duties and obligations to pay taxes. One such programme has been the introduction of courses on tax in university.

Engaging with and educating future finance and accounting professionals will provide them with the tools they need to interact with the tax administration during their career. This is the basis for SAT's educational strategy, launched in 2004, which aims to produce informed and receptive tax professionals who could play a key role in improving tax awareness and compliance.

To carry out this initiative, a "collaboration agreement" between the Secretariat of Finance and Public Credit and the Secretariat of Public Education was signed. The agreement is to co-ordinate civic education matters through tax education programmes for the public, including promoting programmes that will strengthen a culture of civic participation within the national education system.

This collaboration led to a curriculum that is relevant for university courses at all levels. It was developed as an approach to building professional competence and aims to train professionals to be ethically responsible and socially committed in their careers.

SAT also collaborated with the Mexican Institute of Public Accountants to draw up a Tax Training and Information Guide for the curriculum. The content is divided into units, each with a specific learning objective, and provides learning activities, teaching suggestions and a glossary of frequently used fiscal terms.

The course was piloted at the National Autonomous University of Mexico (UNAM or *Universidad Nacional Autónoma de México*). Once the UNAM technical committee had reviewed the Tax Training and Information Guide to check that the contents conformed to the syllabus, the subject was added to the syllabus for the final semester of each degree course.

Box 4.4. SAT’s role in teaching tax in higher education (cont.)

As soon it was included in the UNAM curricular programme, SAT’s 68 regional offices began to roll out the tax curriculum strategy across the nation, arranging support and collaboration agreements between SAT and educational institutions in various regions. The public and private educational institutes which now offer the course include: the *Instituto Tecnológico de Estudios Superiores* in Monterrey; the *Instituto Mexicano de Contadores Públicos A.C.* (Mexican Institute of Public Accountants) in Acapulco; the *Universidad Popular Autónoma del Estado de Puebla* and the *Benemérita Universidad Autónoma de Puebla*, in Puebla; and the *Universidad del Valle de México*. A partnership with the European Union’s international programme EUROsociAL has supported these projects in Mexico.

The subject was initially designed to be taught on-site, but can now also be accessed through distance learning. It was originally conceived for accounting and administration undergraduates, however it is now available for all university students without requiring any prior tax knowledge.

The National Tax Education Programme involves two sets of public officials working together: 68 SAT officials and 68 public education officials. SAT officials are responsible for supervising the project’s design and operation across the country, and for reaching agreements with universities to include the tax training and information curricula in their study programmes. The role of the public education officials is to teach the tax curriculum at the various universities and institutions. All staff are subject to a permanent review process, as well as training courses to keep teachers up to date with regulatory tax amendments.

Source: OECD (2015), "Mexico: Teaching tax in higher education", in *Building Tax Culture, Compliance and Citizenship: A Global Source Book on Taxpayer Education*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264205154-20-en>.

The NACS Committees could consider including measures to “nudge” individuals and firms to act with integrity in the NACS action plan by piloting initiatives based on research in behavioural sciences and assigning concrete responsibilities to the ministries who will be responsible for implementing the programmes.

The impact of social norms on individuals’ behaviour creates an opportunity to consider using insights from behavioural sciences to influence ethical decision making. Evidence from research in behavioural sciences has found, for example, that factors including demonstrating that most people perform a desired action and using the power of networks, such as enabling collective action, providing mutual support and encouraging behaviours to spread peer to peer, can influence (or “nudge”) a person’s behaviour. Other factors, such as social multiplier effects, where the actions of people around us encourage us to adopt certain option and information cascades, which encompass the distribution of relevant information from trusted sources, can also be leveraged to influence behaviour (OECD, 2016). While the previous chapter focused on potential initiatives targeting public officials, NACS Committees could also consider including measures in the NACS action plan and assigning responsibilities to the relevant ministries for piloting and testing innovative measures in society to inform integrity decision making more generally. Examples from other countries include:

- Including norm messages in letters sent to non-tax payers: experiments have found that individuals are influenced by what others around them are doing. For

instance, the Behavioural Insight Team in the United Kingdom conducted a series of randomised control trials to determine the impact of including social norm messages into letters to non-tax payers. The results of the trials found that including the phrase: “9 out of 10 people pay their tax on time, you are one of the few people who have not yet paid”, increased payment rates to 40.7% (BIT, 2012).

- Building “moral reminders” into key reporting processes: as with using moral reminders to inform ethical decision making, moral reminders, such as requiring a signature boxes at the beginning of a tax declaration or federal reporting form, can help prompt more vigilance against error or false reporting from the onset. For example, in the United States, federal vendors who make sales through the federal supply schedules are required to pay the industrial funding fee, which is calculated based on the fraction of the total sales made. To calculate the fee, vendors must self-report the quantity of their total sales. To increase compliance with self-reporting, the Government Services Administration (GSA) piloted an electronic signature box at the beginning of its online reporting portal. As a result of the pilot, the median self-reported sales amount was USD 445 higher for vendors signing at the top of the form. This translated into an extra USD 1.59 million in Industrial Funding Fee (IFF) paid to the government in a single quarter (Social and Behavioural Sciences Team, n.d.).

It is recommended that the NACS Committees first identify areas where such interventions may be most needed (i.e. tax evasion, social assistance fraud, procurement contracting or freeriding on public services), and assign responsibilities to the relevant ministries to later conduct a series of pilot experiments to ascertain the value of scaling-up and expanding interventions. Drawing on good practice from the UK’s Behavioural Insight Team (see Box 4.5), the pilots should be based on a clear definition of the outcome, should understand the context within which the intervention is conducted, should be tailored to the specific issue at hand, and should be adapted based on the outcomes of the pilots.

Box 4.5. Good practices from the UK Behavioural Insight Team

The Behavioural Insights Team has developed a methodology that draws on the experience of developing major strategies for the UK Government, a rich understanding of the behavioural literature, and the rigorous application of tools for testing “what works”.

The EAST framework, which encourages policy makers to make behavioural interventions **easy, attractive, social, and timely**, is at the heart of this methodology, but it cannot be applied in isolation from a good understanding of the nature and context of the problem.

Therefore, BIT developed a fuller method for developing projects, which has four main stages:

1. Define the outcome: identify exactly what behaviour is to be influenced. Consider how this can be measured reliably and efficiently. Establish how large a change would make the project worthwhile, and over what time period.
2. Understand the context: visit the situations and people involved in the behaviour, and understand the context from their perspective. Use this opportunity to develop new insights and design a sensitive and feasible intervention.

Box 4.5. Good practices from the UK Behavioural Insight Team (cont.)

3. Build your intervention: use the EAST framework to generate your behavioural insights. This is likely to be an iterative process that returns to the two steps above.
4. Test, learn, and adapt: Put the intervention into practice so its effects can be reliably measured. Wherever possible, BIT attempts to use randomised controlled trials to evaluate its interventions. These introduce a control group so you can understand what would have happened if you had done nothing.

Source: BIT (2012), *Applying behavioural insights to reduce fraud, error and debt*, Behavioural Insights Team, London, www.behaviouralinsights.co.uk/wp-content/uploads/2015/07/BIT_FraudErrorDebt_accessible.pdf.

Equipping future generations to act with integrity and fight corruption

While the previous section focused on the various tools Mexico could apply to cultivate integrity in society more broadly, this section will focus exclusively on inspiring a culture of integrity amongst youth. As their country's future, young people are an important element in shaping the attitudes and behaviours towards integrity for the whole-of-society (Wickberg, 2013). To this end, incorporating integrity education into the primary and secondary school curriculum is a key tool, as it equips young people with the knowledge and skills needed to face the challenges of society, including corruption. Inspiring a culture of integrity and respect through education programmes at a young age has been found to increase the rejection of corruption in government and decrease the acceptance of disobeying the law (Ainley et al., 2011). Additionally, educating youth to adopt an attitude against corruption is, in the long term, a more cost-efficient approach to anti-corruption than sanctions and monitoring (Hauk et al., 2002).

The NACS Co-ordination Committee should incorporate the commitment made in the National Development Plan to develop content and didactic tools for ethics education into the NACS action plan and assign responsibilities to the SFP and the SEP for its implementation.

As mentioned in Chapter 2, incorporating a requirement for integrity education into the action plan of the NACS is a good way to mainstream integrity and anti-corruption lessons into the curriculum. As the cases of Hungary and Lithuania demonstrate (see Box 4.6 and Box 4.10, respectively), making integrity education a component of the national anti-corruption strategy can support implementation into the curriculum. In Mexico, there has been progress in identifying the role of education for integrity, as demonstrated by the inclusion of an action item that calls for co-operation between the SFP and the Secretariat of Public Education (*Secretaría de Educación Pública* or SEP) in developing content and didactic tools for ethics education under the national Close and Modern Government (*Programa para un Gobierno Cercano y Moderno*), a component of the National Government Development Plan 2013-2018 (SEGOB, 2013).² This is an important step towards including lessons on integrity and anti-corruption in the curriculum, and in ensuring its prominence as a key tool in the fight against corruption. The NACS Co-ordination Committee should ensure its inclusion in the NACS action plan.

The National School Coexistence Programme (*Programa Nacional de Convivencia Escolar*, PNCE), could be enhanced to include integrity education. To ensure the

prominence of this programme in the fight against corruption, the NACS action plan could make explicit reference to the PNCE as the main curricular tool for teaching integrity values to Mexico’s youth.

Box 4.6. Education for a good state: The case of anti-corruption education in Hungary

In November 2011, the Hungarian government introduced major anti-corruption reforms, and signed a declaration that promised joint and efficient government action against corruption. With this declaration, “signatories made a personal moral commitment to strengthen the ability of the state to resist corruption” (www.corruptionprevention.gov.hu). This involved the adoption of Government Decision No. 1104/2012 (herein referred to as “the Corruption Prevention Programme”), which set out 22 aims to address corruption within the bureaucratic sector and society as a whole, including a specific measure to incorporate integrity values and norms into the school curriculum. As indicated in the Corruption Prevention Programme:

In the field of public education, it is necessary to make sure that certain values and pieces of knowledge in connection with acts of corruption and the forms of behaviour and countermeasures that can be taken against such acts are included in the National Core Curriculum (Government Decision No. 1104/2012).

As such, the government body responsible for the anti-corruption programme, the Ministry of Public Administration and Justice (MPAJ), included anti-corruption education as an element in the wider Corruption Prevention Programme. Given the anti-corruption expertise of officials at MPAJ, they developed the content of the curriculum in concert with an ethics expert in Hungary. The curriculum content was approved by the respective Secretaries of State of the Ministry of Education and Public Administration and Justice. As a result, anti-corruption topics are now included in the ethics curriculum for grades 11 and 12, and strive to give students the “knowledge of the social phenomena of corruption, the application of skills and the ability of individual and collective behaviour against it” (Ethics Curriculum, National Core Curriculum).

Source: Author’s own research.

The SEP should strongly consider scaling-up resources for the current PNCE programme, which integrates integrity values such as respect for the rules into the curriculum, in order to ensure that it is effectively rolled-out in all primary and secondary schools. The PNCE programme should include content that explicitly addresses values for integrity and anti-corruption.

Since the early 2000s, education aimed at cultivating values has been included in Mexico’s national curriculum, the *Educación Básica* (Basic Education). In Mexico’s Education Sector Programme 2001-2006, for instance, one of the objectives was to include the concepts of anti-corruption and respect for the rule of law into the primary and secondary civics education programmes. The resulting programme was the Citizenship Education Programme Towards a Culture of Legality (*Programa de Formación Ciudadana hacia una Cultura de la Legalidad*). The project was piloted across several states in Mexico, and training seminars for teachers to deliver the content were conducted. In the next Education Sector Programme 2007-2012, the pioneering culture of the legality programme was incorporated into the civic education curriculum (SEP, 2013). Called the personal development and coexistence education field (*campo de formación: desarrollo personal y para la convivencia*), the curriculum was delivered to secondary students and focused on developing students’ civic and ethical skills, as well as

raising a citizenry that was capable of dealing with complex social problems in the modern world (SEP, 2013). In line with the decentralisation agreement of the Mexican education system, states incorporated the civics and ethics modules into their respective curriculum. While several states included reference to the negative influences of corruption, the focus of the curriculum was not largely concerned with the development of integrity knowledge, skills, values and attitudes.

Following a series of reforms initiated in 2013, the Education Sector Programme 2013-2018 replaced the Personal Development and Coexistence programme with the pilot programme, Project for School Existence (*Proyecto a Favor de la Convivencia Escolar*, PACE). Under the President's mandate, and aligned with Article 3 of the Constitution and Articles 7 and 8 of the revised General Education Law, this new programme shifts the focus towards ensuring a climate that is optimal for learning by reducing violence and bullying. The 2014-2015 school year marked the first stage of implementation of PACE, with a focus on teachers and students in the third grade of the full-time schools programme. In the 2015-2016 school year, it was extended to an additional selection of pilot schools. During the two year pilot, which took place in over 35 000 schools across Mexico, lessons learned were incorporated into the upgraded version of the programme, the PNCE (SEP, 2016a).

The PNCE is now active in over 50 000 schools across Mexico, with ongoing efforts to reach all schools. The programme includes training for teachers, which focuses on equipping them with the skills to effectively deliver the curriculum in the classroom. It also includes materials for parents, which can be used to support the lessons students are learning in the classroom at home. The materials, including posters, short videos, activity books and teaching companions for students, teachers and parents are available online, which increases access to the resources for all schools. A lack of sufficient funding, however, is undermining full implementation, and it is recommended that SEP continues implementing the programme in all schools across Mexico.

The PNCE aims to cultivate rights and values to help develop a civic culture that is based on respect for diversity, and which promotes social coexistence in a healthy and harmonious way, both within the school and more broadly in society (SEP, 2015a). The core components of the PNCE are: the development of social and emotional skills; the strengthening self-esteem; the assertive management of emotions; appreciation of diversity; respect for the rules; the ability to make agreements and decisions; peaceful resolution of conflicts; and the exercise of values for coexistence (SEP, 2016b).

Within this core component framework, the following six learning blocks have been developed:

1. I know myself and like myself the way I am
2. I recognise and manage my emotions
3. I can live with others and I can respect others
4. The rules of living together in harmony in society
5. Managing and resolving conflicts
6. All families are important

Each of the learning blocks contains a series of activities and reflection questions that aim to provide children with the skills to live together peacefully. Of interest to integrity and anti-corruption, Learning Block 4: The rules of living together in harmony in society,

contains activities that aim to engage students in a critical reflection on the role of rules in society and identify solutions to problems they see in their classroom and school (see Figure 4.5 for the PNCE poster for Learning Block 4 and Tables 4.2 and 4.3 for an overview of the activities for students in grades three and six). Moreover, this learning block involves teaching youth how to engage in a constructive debate when they disagree with the rules.

Figure 4.5. School poster for Learning Block 4: The rules of living together in harmony in society



Table 4.2. The rules of living together in harmony in society: Grade three students

Learning Outcome	Activity
Lesson 1: A world where rules are not followed	
The student will recognise the role of rules and how they foster coexistence.	Students imagine a game in which there are no rules and discuss together what would happen.
Lesson 2: Let's investigate together to live in peace	
The student will identify some problems of coexistence in the school to propose alternatives that contribute to solving them.	Students identify problems in the school and brainstorm solutions to these problems.
Lesson 3: My Voice Counts and So Do Others!	
The student will understand that listening to the opinions of his peers and complying with the rules improves coexistence in the school.	Students to identify problems they see in their school.
Lesson 4: Taking action together	
The student will propose actions that allow to them know and respect the rules to improve school coexistence.	Students organise and participate in a school assembly to jointly identify solutions to these problems.

Source: SEP (2014), PACE: Guía Para El Docente Educación Primaria, Secretaría de Educación Pública, Mexico City.

Table 4.3. The rules of living together in harmony in society: Grade six students

Learning Outcome	Activity
Lesson 1: Our agreements	
The student will recognise the importance of understanding the principles and consequences of not complying with them.	Students discuss the role of rules, their benefits, and consequences for breaking them. Students write in their activity book three classroom rules and identify the consequences of not complying with them. Following this, they organise themselves in groups and choose five of the rules and create a poster for the school mural or newspaper.
Lesson 2: The consequences of my actions	
The student will understand that bad behaviour has consequences.	The students form teams to prepare and present a short play about an attitude in which the rules and consequences of acting are not followed. Students then reflect together on the consequences of not following the rules.
Lesson 3: Design a regulation	
The student will elaborate a regulation to prevent violence and to foster coexistence.	Working together in teams, students propose, debate and present three rules that could help to reduce violence, harassment or aggression amongst peers. Following a class discussion on all the rules, the agreed rules are displayed in the classroom.
Lesson 4: I avoid violence in my community	
The student will implement some actions that will help prevent violence in their community and will foster coexistence.	Students organise into three teams and choose one of the following topics related to violence: The causes of insecurity in their community The types of violence that are manifested where they live The causes that generate violence Once the themes have been chosen, the students develop them and prepare an exhibition about them. They are asked to explain the situation and ways to avoid or overcome the problem by including necessary rules and agreements.

Source: SEP (2016d), *Programa Nacional de Convivencia Escolar : Guía Para el Docente*, www.gob.mx/cms/uploads/attachment/file/155615/PNCE-DOC-6-BAJA.pdf

Understanding the role of rules and their necessity for a successful society is a building block for public integrity. Activities such as those across the various grades in Learning Block Four equip students with the knowledge and skills to constructively identify and solve problems in their community. These are key skills that can be translated into active citizenship as they become adults. Moreover, giving children the skills to think about problems and jointly develop a solution emphasises the value of stakeholder engagement in solving complex societal problems, such as corruption. However, the focus of these activities is on preventing violence in the school system and society; not on corruption prevention. It is not clear the extent to which issues related to corruption are identified as problems by the students, and neither the teaching manual nor student books prompt students to reflect on these issues.

The new programme is based on evidence that successful learning environments encourage norms of respect, tolerance and peaceful coexistence. As such, the focus has shifted from ethics to cultivating a safe environment within which students can learn the values of peaceful coexistence for society. The programme marks a positive step towards creating an environment within which integrity and anti-corruption can be discussed. By working towards an inclusive, peaceful classroom environment where respect and fairness are the norm, children and young people will be more likely to internalise the values of integrity.³ However, in order to effectively reduce tolerance for corruption and

ensure the internalisation of integrity values, it is recommended that the PNCE ensures that there are specific lessons and activities on integrity and anti-corruption. At the secondary level, there should be concrete activities that engage students in discussing, debating and understanding the impact of corruption and integrity violations on the successful functioning of society. The SFP should support the SEP in scaling up the PNCE through the provision of anti-corruption content advice and guidance.

Drawing on international good practice, these lessons and activities should be appropriately tailored to specific age groups, be part of the mandatory curriculum, and be focused on developing the competences (e.g. the knowledge, skills, attitudes and values) to effectively resist corruption. Mexico's youth should be able to recognise occurrences of both corruption and integrity, identify their responsibilities for integrity, understand how to resolve ethical dilemmas, and effectively integrate integrity into their everyday activities. The SEP could consider, for instance, including examples such as the effects of cheating, stealing or misusing school property into the PNCE teacher manual and student books to help students think about the impact of integrity violations on their school community. Box 4.7 provides examples of other themes that could be addressed.

Box 4.7. Teaching youth about integrity: Suggested themes from Integrity Action

Integrity Action's Integrity Education programme recently developed an Integrity Clubs Manual Outline, which aims to develop Young Integrity Builders by equipping them with the skills and knowledge needed to be able to monitor projects and services in their communities using Integrity Action's Community Integrity Building (CIB) approach. The manual outline is meant to act as a working document that can be expanded, modified, and translated to suit any context. While the manual outline aims to inspire and guide youth in the development of youth-led integrity camps, it also serves as an initial guide for school leaders and teachers on what types of themes, questions, and activities to incorporate into an integrity curriculum.

The manual outline identifies seven possible modules that cover a range of themes related to integrity, such as anti-corruption, transparency and accountability, the rights and responsibilities of a good citizen, leadership and inclusion.

For each module, a "food for thought" section introduces the theme and contains a country and community-specific context to spark young people's understanding of the problem. Following this, several topics to discuss with the students are posed, helping learners to further their knowledge on key areas related to the theme. In order to facilitate the application of the knowledge and develop integrity skills, the modules identify suggested activities, such as role playing, essay contests, analysis and discussion of integrity case studies or government legislation.

Source: Integrity Action (2016), *Integrity Clubs Manual Outline*, http://integrityaction.org/sites/default/files/training_materials/IntegrityClubsManualOutline_%20V2%2020%2004%202016.pdf (accessed 21 September 2016).

Lessons should include activities for students to apply their integrity knowledge in an applicable way. This could include in-classroom activities, such as mock ethics trials, or a "human corruption barometer" (see Boxes 4.8 and 4.9 for examples). The curriculum could also include opportunities for students to apply their knowledge in real-life examples, such as field trips to local government offices to "job shadow" anti-corruption staff. For example, in Lithuania (see Box 4.10), students from the integrity course visited the local government's anti-corruption commission and worked with staff to inspect documents and check for signs of wrongdoing in high-risk areas.

Box 4.8. Model student ethics programme in Miami-Dade County public schools

In the United States, where it is the responsibility of the respective states to implement education, the state of Florida has regulated a state-wide requirement to educate students in character education (e.g. values education).

Created in 1996, the Miami-Dade Commission was entrusted with four key responsibilities, including education and community outreach. The commission designed, implemented and funded the Model Ethics Course. After obtaining support from principals, teachers and the school district, the programme was launched in three public high schools in the 2001-2002 school year. Schools in the Miami-Dade district have the option of using the programme as their character education curriculum.

The key objectives of programme are to teach students:

1. The process of resolving ethical dilemmas.
2. Elements of critical and analytical thinking, and how to apply these elements in daily life.
3. The art of negotiation, mediation, conflict resolution and consensus building skills (through mock public hearings).
4. Provide students with the capacity to recognise and to apply different approaches to ethical decision making.

The programme consists of eight modules delivered over the course of eight months. The modules are integrated into the social science/government classes twice a month, meaning that students receive 4 hours per month of instruction, or a total of 32 hours.

The programme is administered by the Outreach and Training Specialists at the Ethics Commission, where the trainers are responsible for preparing the curriculum (e.g. lectures, case studies) for the programme. The course is broken down into two components – a lecture component and a role-playing case study. The beginning of the course is comprised of lectures on various topics, such as problem solving, decision making and the major ethics theories. The second half of the course is comprised of case studies known as mock ethics trials, where students are randomly selected to take on different roles (e.g. the role of the defendant, defence attorney or prosecutor) and debate ethical case studies.

During each programme, five students are randomly selected to serve as members of the Ethics Commission for the entire module. In addition, other students are randomly selected to participate in the case studies, which involve role-playing (public hearing before the Ethics Commission), discussion/debate and a decision being rendered by the Ethics Commission.

Sources: Miami-Dade County Ethics Commission (2014), *Model Student Ethics Programme in Miami-Dade County Public Schools*, <http://ethics.miamidade.gov/training-model-student-ethics.asp>.

Transparency International (2004), “Ethics at School: A Model Programme”, in *Teaching Integrity to Youth: Examples from 11 Countries*, Transparency International, Berlin, www.transparency.org/whatwedo/publication/teaching_integrity_to_youth_examples_from_11_countries.

Box 4.9. Anti-corruption training for Austrian students

Austria's Federal Bureau of Anti-Corruption (BAK) is responsible for conducting anti-corruption training for students aged 14-18 years. The project was piloted in 2012, and is aimed at students in political education in high schools and vocational training schools. The course is not mandatory, and occurs through a series of 8 units of 45 minutes.

The intention of the course is to ensure that students can recognise and prevent corrupt situations and feel secure in their daily professional lives. The desired skills to be acquired include expertise about corruption, including terms like corruption, prevention of corruption, economic crime, compliance and the legal basis to fight corruption; and expertise in values, decisions and actions, such as having the ability to assess the relationship between economic activity and moral values and their role as citizens in preventing and fighting corruption.

The content of the course includes the following elements:

- The definition of the term “corruption”
- Forms of corruption
- Reasons and consequences of corruption
- Models to explain the corruption phenomena
- Corruption prevention
- Institutions and instruments in the fight against corruption

The content is disseminated through a variety of different pedagogical methods, such as a questionnaires, discussions, role plays, audio-visual elements (e.g. a film and PowerPoint presentations), and talks with a corruption investigator.

An innovative element of the training includes a “corruption barometer”. In this method, two sheets of paper are placed on the floor, one reading “corruption” and the other reading “no corruption”. The trainer then reads out possible corruption cases, and students move between the two sheets of paper according to what level of corruption they believe each case to be. They are then asked to justify their decision, and after the exercise, each case is reflected on and discussed in more detail.

The training ends with a hand-out entitled “Information on Corruption”, which includes a test and overview of the material covered. At the end of the course, students are asked to complete a feedback form. The responses from the evaluation are used to inform updates to the training.

Source: Federal Bureau of Anti-Corruption (2013), *Anti-Corruption Training for Students of 14-18 Years*, Presentation to the 4th UNCAC Working Group 26-28 August 2013, www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2013-August-26-28/Presentations/Austria_Meixner_Anti-Corruption_Training_2.pdf.

Box 4.10. Changing attitudes towards corruption through education in Lithuania

Article 10 of Lithuania’s Law on Corruption Prevention stipulates the inclusion of anti-corruption in the curricula of schools of general education. As a result, as part of the Lithuania’s 2002 National Anti-Corruption Programme, anti-corruption education was identified as one of the key priorities. Specifically, the programme committed to: “by various means promoting intolerance of the manifestation of corruption; in view of this, establishing close co-operation with non-governmental organisations and the media, developing and incorporating anti-corruption programmes into the education system”. To this end, the long-term strategy for incorporating anti-corruption curriculum into the school system was “to build public intolerance towards corruption and promote a new national mindset that would influence all areas of Lithuanian life”. Working together with the Modern Didactics Centre (MDC), a centre of excellence for curriculum and teaching methods, and a select group of teachers, the anti-corruption body (the Special Investigation Service or STT) integrated anti-corruption concepts into core subjects such as history, civics and ethics. The project also benefitted from support from Lithuania’s Ministry of Education and Science and Ministry of Foreign Affairs, as well as Transparency International Lithuania, the Open Society Fund Lithuania, and the Royal Danish Embassy.

The working group recognised three key challenges: 1) to find the balance between lecturing on corruption and engaging the students in meaningful dialogues and projects that would make the learning more applicable to their daily lives; 2) to address the problem of cynicism and frustration that could arise amongst students learning about anti-corruption whilst experiencing it as the social norm; and 3) to engage students in such a way as to empower them to see the corruption problem as something they could positively impact.

From 2002 to 2008, the MDC and the STT collaborated to develop several approaches to anti-corruption education. A team of teachers with experience in grades 5-12 helped to develop and implement each strategy on a trial basis. These teachers came from a variety of disciplinary backgrounds and regions in Lithuania in order to ensure a representative sample. Instead of focusing on narrowly-defined anti-corruption concepts, the resulting curriculum incorporated the broader concepts of values and ethics, looking at issues such as fairness, honesty and community impact. The focus of the curriculum was on students learning why corrupt activities were wrong and how ethical behaviour could be applied in their personal lives to address these dilemmas.

Initially implemented in a handful of schools, the reach of the curriculum has expanded, although it is still an optional part of the curriculum. Over the years, the curriculum has expanded from classroom-based learning to engaging students with local anti-corruption non-governmental organisations (NGOs) and municipal governments to apply their knowledge in a tangible way. For example, in one Lithuanian city, students were introduced by the local anti-corruption advisor to areas at risk of corruption within the local administration, and the municipality’s plans to address the risks. The students were then involved in inspecting employee logs, just as a government official would, to check for irregularities and potential areas of abuse of public resources, such as government vehicles and fuel cards.

In a poll that related to the goals of the anti-corruption programme, the Civil Society Institute, an NGO devoted to promoting civic activity, found that high school students were more willing than adults to organise activities in response to problems their society faced. In particular, a study run by the Institute in 2012 found that, on average, 33.6% of students were willing to promote civic activity, compared with 13.6% of adults. These results are promising, as the rise in young people’s attitudes towards engagement in society demonstrates a positive trend forward for changing behaviour in Lithuania.

Sources: Modern Didactics Centre (2004a), *Integrated Programme of Anti-Corruption Education for a School of General Education*, www.sdcentras.lt/antikorupcija/en/bl/bl_prog_en.pdf.

Gainer, M. (2015), *Shaping Values for a New Generation: Anti-Corruption Education in Lithuania, 2002–2006*, http://successfulties.princeton.edu/sites/successfulties/files/MG_NORMS_Lithuania_1.pdf.

Young people could be involved in local citizen participation committees. To this end, action plans for the local anti-corruption system (LACS) could include measures to develop a sub-committee for youth which mirrors the Citizen Participation Committee. These sub-committees could represent the view of youth in developing policies and ensuring that the LACS activities are aligned to address key problem areas. Participation in the committees could be open to any interested secondary school student, with leadership of each committee comprised of five outstanding youth. Determining which five youth should represent the sub-committee could be achieved through a contest that invites those interested to submit an essay, poster or audio-visual presentation on a specific topic related to anti-corruption and integrity in the respective state, with the top five submissions determined through a vote of both members from the sub-committee, as well as members of the Citizen Participation Committee.

The NACS Committees could include measures to develop training programmes for teachers on integrity and anti-corruption into the NACS action plan. The SFP and the SEP should work together to design and deliver the training.

The successful implementation of integrity and anti-corruption lessons and activities is dependent upon teachers who can effectively deliver these lessons in the classroom. Teacher training on anti-corruption and integrity concepts is therefore a crucial component to the curriculum reforms. Teacher training can equip trainee and experienced professionals with the skills, knowledge and confidence to counter contemporary societal challenges, such as corruption and integrity (Starkey, 2013). Training on integrity and anti-corruption can also introduce normative standards to teachers, such as the notion that they have a moral obligation to challenge corruption (Starkey, 2013). Teacher training can take many forms, ranging from courses taken during teacher trainee programmes and professional training, to seminars and resource kits prepared by government institutions and/or civil society actors.

In Mexico, a tradition of teacher training is already in place, with initial preparation for pre-primary and primary teachers mostly provided by special higher education institutions for teacher education, known as teachers colleges (*Escuelas Normales*). Universities also provide initial teacher education for both lower secondary and upper secondary teachers. It is recommended that the SFP and SEP work together to develop a course for teachers to prepare them to teach the integrity and anti-corruption curriculum. This would be included in the teacher training curriculum in both the teachers colleges and education programmes at the university. The course could include modules introducing teachers to the basic concepts of corruption and integrity, as well as strategies for teaching anti-corruption and integrity in schools.

In-service teacher training is also a requirement in Mexico under the Law on Professional Teaching Service, which requires teachers to undergo training and assessment throughout their careers. To this end, SEP offers the continuing education programme (*Modelo de Operación del Programa de Formación Continua para docentes de Educación Básica*). Courses in the continuing education programme are aimed at helping teachers develop the competences and skills identified in their professional profile (SEP, 2016c). The current continuing education programme is comprised of three objectives: 1) improving the professional teaching service; 2) strengthening the school; and 3) adhering to national educational priorities, with seven associated training paths (see Table 4.4). The third objective focuses on training teaching staff in pertinent and socially relevant priority issues, such as inclusion and human rights (SEP, 2016c).

Table 4.4. Continuing education programme for teachers

Objectives of the strategy	Training paths
Improving the professional teaching service	<ul style="list-style-type: none"> Continuing education to achieve the professional profile required. Developing skills for the use of information and communications technology in collaborative work.
Strengthening the school	<ul style="list-style-type: none"> Training for assistant support staff (SATE programme). Development of leadership skills and school management. Skills development for internal evaluation. Mastering the disciplinary content.
Adhering to national school priorities	<ul style="list-style-type: none"> Update on the new educational model and institutional programmes for inclusion and equity.

Source: SEP (2016c), “Modelo de Operación del Programa de Formación Continua para docentes de Educación Básica”, Secretaría de Educación Pública, <http://formacioncontinua.sep.gob.mx/portal/modelo-formacion-continua.html>.

The SFP and SEP could partner to develop a course on integrity and anti-corruption teacher training that would fall under objective three. Similar to those offered in college and university education programmes for trainee teachers, the course could include elements on integrity and anti-corruption as a refresher for teachers, but could also focus on sharing key challenges and good practices on how to effectively disseminate the modules, which methods students are most receptive to, and innovative ways to encourage students to apply their knowledge. Box 4.11 provides an example of the anti-corruption education training programme offered for teachers in Lithuania.

Box 4.11. Preparing teachers to teach anti-corruption in Lithuania

As part of anti-corruption curriculum development in Lithuania, two project objectives were identified to support teachers in integrating anti-corruption content into their lesson plans: 1) to prepare an in-service training programme of anti-corruption education; and 2) to prepare a team of trainers able to consult and train other teachers.

In February 2004, the project team prepared a training course for teachers, as well as an in-service training programme. From March to August 2004, a series of workshops and training seminars were held for teachers, with the following themes addressed:

- Critical thinking methodology for anti-corruption education
- Foundations of adult education
- Principles of strategic planning
- Development of in-service training programme for anti-corruption education

Between September and December 2004, the in-service training programme was prepared and piloted in the regions, with the results of the pilot informing various updates to the programme. The resulting programme, Anti-corruption Education Opportunities for Secondary School, is part of the permanent training offered by the Modern Didactics Centre, a centre of excellence for curriculum and teaching methods. The programme aims to provide teachers with information about corruption and anti-corruption education, and to encourage them to apply elements of anti-corruption education into their lesson planning and extra-curricular activities.

Source: Modern Didactics Centre (2004b), *Education against Corruption*, www.sdcentras.lt/antikorupecija/en/bl.htm.

Summary of proposals for action

- The NACS Committees should ensure that the NACS action plan, once developed, includes anti-corruption awareness campaigns and training that challenge citizens' acceptance of corruption, and educate the public on the skills and tools to reject unethical behaviour. The NACS action plan should clearly assign roles and responsibilities for designing and implementing awareness raising and training to the relevant government ministries.
- The NACS Committees should ensure that the NACS action plan assigns responsibilities for developing and delivering tailored integrity and anti-corruption training programmes for citizens to the ministries responsible for corruption and fraud high-risk areas, including, but not limited to: the Tax Administration Service (*Servicio de Administración Tributaria*), the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social*), the Ministry of Social Development (*Secretaría de Desarrollo Social*) and the Ministry of Communications and Transportation (*Secretaría de Comunicaciones y Transportes*). As the anti-corruption expert, the SFP should be assigned the role of advisor on anti-corruption content for the training programmes in the NACS action plan.
- The NACS Committees could consider including in the NACS action plan measures to partner with select high-risk ministries to pilot initiatives based on research in behavioural sciences aimed at “nudging” ethical behaviour. Ministries could include, but are not limited to: the Tax Administration Service, the Secretariat of Social Development, the Mexican Institute of Social Security and the Secretariat of Communications and Transportation.
- The NACS Co-ordination Committee should incorporate the commitment made in the National Development Plan to develop content and didactic tools for ethics education into the NACS action plan and assign responsibilities to the SFP and SEP for its implementation.
- The SEP should strongly consider scaling-up resources for the current National School Coexistence Programme (*Programa Nacional de Convivencia Escolar*, PNCE), and ensure the programme includes content that explicitly addresses values for integrity and anti-corruption in both the primary and secondary curriculum.
- To engage youth in a practical activity to fight corruption, action plans for the local anti-corruption system (LACS) could include measures to develop a sub-committee for youth which mirrors the Citizen Participation Committee. These sub-committees could represent the view of youth in developing policies and ensuring that LACS activities are aligned to address the key problem areas. Membership of the committee could be open to any interested secondary school student, with leadership of each committee comprised of five outstanding youth.
- The NACS Committees, the SFP, the SEP and leading universities should work together to develop a course for teachers to prepare them to teach the integrity and anti-corruption curriculum. Such training should be taught at teachers colleges and teacher certification programmes.

Notes

- 1 Social norms are shared understandings about actions that are obligatory, permitted, or forbidden within a society (Ostrom, 2000).
- 2 See action item 1.2.5 under Strategy 1.2: Promoting a culture of legality that increases the confidence of Mexicans in government and prevents corruption in the National Development Plan 2013-2018 (SEGOB, 2013).
- 3 A similar study by Gunnarson (2008), which looked at the effect of civic education on improving levels of generalised trust within students in Italy, found that the school environment (e.g. openness of structures, fairness of institutions, or degree of peer conflict) had an effect on students' trust levels.

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Chapter 5.

Protecting whistleblowers in Mexico: Ensuring secure channels and protections for reporting corruption

Effective public sector integrity frameworks aim to incentivise whistleblowers to disclose misconduct by ensuring visible support and positive reinforcement from the organisational hierarchy, clear guidance on reporting procedures, and effective legal protection from retaliation. Such measures are considered paramount for effectively detecting misconduct, safeguarding the public interest and promoting a culture of integrity in the public sector. Mexico recently passed the General Law on Administrative Responsibilities, which will strengthen whistleblower protection when it comes into force in July 2017. This chapter will assess Mexico's new whistleblowing framework by examining the extent to which whistleblowers are protected from reprisals, whether disclosures of misconduct are effectively managed, whether civil servants and the public are aware of the critical role that whistleblowers play in safeguarding the public interest, and how the framework has implemented appropriate measures to monitor its effectiveness on an ongoing basis.

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: Whistleblower protection for detecting corruption and cultivating a culture of integrity

The protection of whistleblowers who disclose misconduct in the civil service should be a core component of any public sector integrity framework. Whistleblowers who report misconduct may be subject to intimidation, harassment, dismissal and violence by public officials, work colleagues, superiors, or any other person acting on their behalf. In many countries, whistleblowing is even associated with treachery or spying (Banisar, 2011; Transparency International, 2013a). This may be due to misguided perceptions that loyalty is owed primarily to managers or the organisation instead of the public interest. Since Mexico has a strong tradition of clientelism in the public sector, Mexican public officials may be vulnerable to similar gaps in the institutional culture, which may deter them from disclosing misconduct that involves their colleagues or superiors.

As the modern public sector is becoming more and more complex, insiders have become a primary source of information in terms of exposing misconduct and promoting accountability (Johnson, 2004). Effective public sector integrity frameworks must therefore aim to incentivise whistleblowers to report misconduct by ensuring visible support and positive reinforcement from the government and the organisational hierarchy, clear guidance on reporting procedures, and effective and comprehensive legal protection from all kinds of retaliation. The right combination of these measures is considered paramount for safeguarding the public interest and promoting a culture of public sector integrity. By sending the message that officials and the public are expected to raise integrity concerns and dilemmas related to misconduct in the public sector, and that reprisals against whistleblowers should not be tolerated, these measures contribute to establishing a culture of integrity in the public sector and beyond that will be key to avoiding reprisals from occurring in the first place.

This chapter will assess the framework for public sector whistleblowers in Mexico. It will examine the extent to which whistleblowers are protected, whether they are aware of the rights and duties to report suspected corruption and misconduct, and whether they are able to securely and effectively report misconduct.

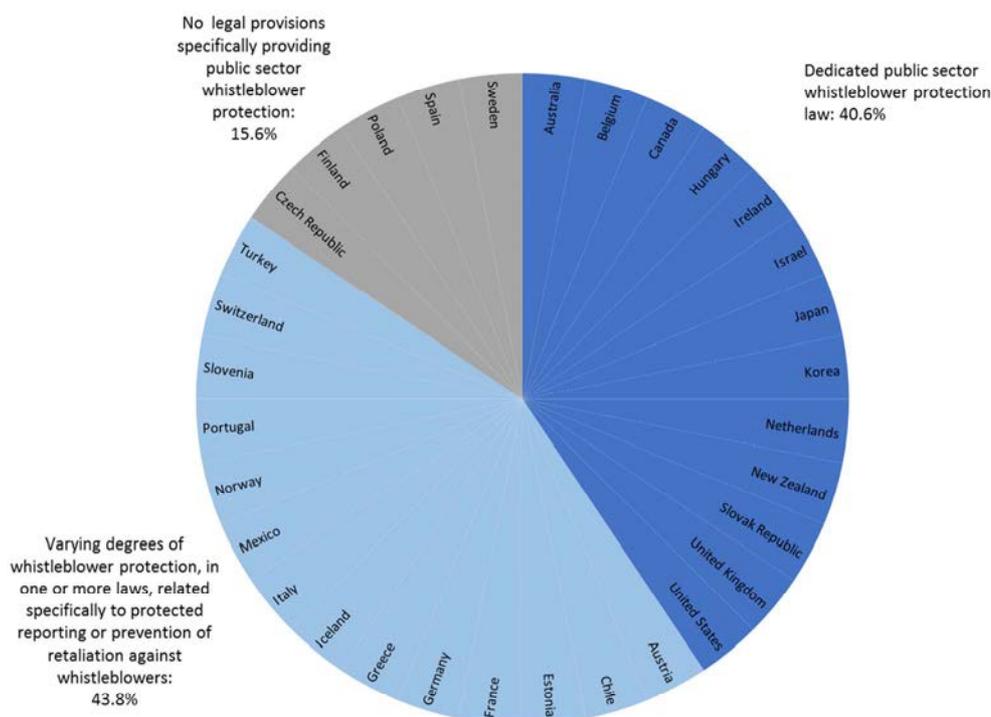
Strengthening whistleblower protection from reprisals

Mexico's recently adopted rules on the reporting of misconduct and the protection of whistleblowers are a positive step forward as they significantly extend the protection of the identity of those who report integrity violations in the public sector. However, Mexico could provide more comprehensive protection to whistleblowers by specifically prohibiting the dismissal, or any other formal or informal work-related sanction, without a cause, if the information reported can reasonably be believed to be true at the time of the disclosure.

The need for effective whistleblower protection as part of a comprehensive public sector integrity framework is recognised in numerous multilateral anti-corruption treaties, such as the 2014 Council of Europe Recommendation of the Committee of Ministers to member states on the protection of whistleblowers, the United Nations Convention Against Corruption, the Inter-American Convention against Corruption, the 1998 OECD Recommendation on Improving Ethical Conduct in the Public Service, and the G20 Anti-Corruption Action Plan for the Protection of Whistleblowers.

As a result, an increasing number of countries have developed their own legal and policy framework to facilitate the reporting of misconduct and protect whistleblowers from reprisals, particularly in the public sector. Whistleblower protection for public servants can originate from a single dedicated law or through provisions in several laws, including anti-corruption laws, competition laws and corporate laws (Figure 5.1).

Figure 5.1. Legal protection for whistleblowers in the public sector



Notes: 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.

The figure presents a grouping of 32 OECD countries in line with the above description and on the basis of their responses to the 2014 OECD Survey on Public Sector Whistleblower Protection. Respondents were asked the following question: “Does your country provide protection of employees from discriminatory or disciplinary action once they have disclosed wrongdoing?” For the purpose of this publication, the answers provided were analysed according as to whether or not countries’ legal frameworks were related specifically to protected reporting or prevention of retaliation against whistleblowers.

Source: OECD (2016), *Committing to Effective Whistleblower Protection*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264252639-en>.

In Mexico, public officials and citizens who disclose misconduct in the public sector are protected by the following:

- Mexico’s new General Law on Administrative Responsibilities (*Ley General de Responsabilidades Administrativas*, LGRA), which will require, when it comes into force in July 2017, investigative authorities of public organisations subject to

the law to adopt anonymous and confidential reporting channels to disclose misconduct and increase the accountability of recipients of disclosures of misconduct.

- The Agreement establishing the new Code of Conduct and Integrity Rules (*Código de Ética y Reglas de Integridad*, DOF 20/08/2015), which establishes rules for reporting breaches of the Code of Ethics or other institutional integrity rules by public servants of the federal government.
- The General Law of the National Anti-Corruption System (*Ley General del Sistema Nacional Anticorrupción*), which provides for a centralised electronic platform through which any citizen can disclose misconduct anonymously.
- Sections 113 and 116 of the General Law on Transparency and Access to Public Information (*Ley General de Transparencia y Acceso a la Información Pública*) provide, which states that whistleblowers' personal data is kept confidential during investigations and disciplinary proceedings.
- To deter the exercise of reprisals, section 219(I) of Mexico's Federal Criminal Code (the scope of which will be further discussed below) states that a crime of intimidation is committed when civil servants, or a person acting on their behalf, uses physical violence or moral aggression to intimidate another person in order to prevent them from reporting, lodging a criminal complaint, or providing information concerning the alleged criminal act.

A strength of Mexico's whistleblowing framework regarding administrative offences is that it applies to the whole public sector, including state-owned enterprises. The LGRA also provides a broad definition of the concept of "whistleblower", which includes any corporation, individual or civil servant who reports to the authorities referenced by the law any acts or omissions that could constitute or that could be linked to administrative offences referenced by sections 91 and 93 of the law. The scope of what constitutes an appropriate disclosure in accordance with the law is clearly defined, which will help public servants and the public to define with certainty what may be disclosed and under which circumstances. Moreover, the framework will implement mechanisms that seek to ensure that the recipients of whistleblower disclosures take the appropriate action warranted by each specific disclosure, including protecting the identity of the whistleblower.

The framework for reporting a breach of the federal government's code of ethics, as well as of institutional integrity rules and codes of conduct, is provided by the Agreement, which states that any person may disclose any alleged breach of the code of ethics or other integrity rules, such as institutional codes of conduct, to the Ministry of Public Administration's (*Secretaría de la Función Pública*, SFP) Ethics and Conflict of Interest Committee. In the LGRA, the concept of "whistleblowers" under the Agreement is not limited to public servants. However, allegations must be accompanied by the testimony of a third party.

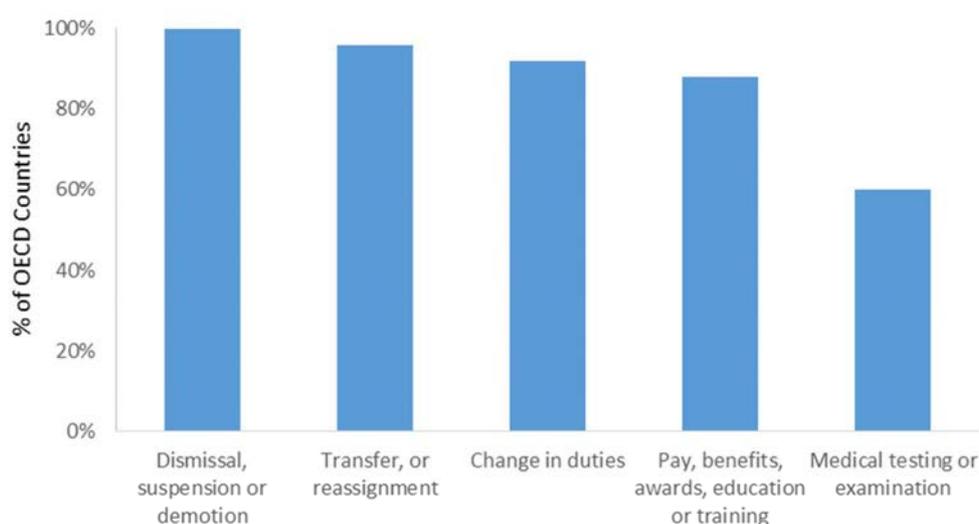
By sending the message that public servants and members of the public are expected to raise integrity concerns and dilemmas, and that reprisals against whistleblowers should not be tolerated, these measures will likely contribute to establishing a culture of integrity in Mexico that will be key to avoiding reprisals from occurring in the first place (ex ante protective measures).

However, there are times when such ex ante measures will not effectively protect whistleblowers. In some cases, it may be impossible to fully protect the identity of whistleblowers and, therefore, ex post protective measures should be available to ensure that whistleblowers have appropriate remedies at their disposal to seek compensation from the individual or organisation that may have exercised reprisals.

Mexico's whistleblowing framework is currently primarily designed to facilitate, or even require, the reporting of misconduct through the protection of identity, but there are few additional protections if the identity of the whistleblower is eventually disclosed.

Comprehensive whistleblower protection includes a number of mechanisms that seek to compensate whistleblowers experiencing reprisals in the workplace, such as dismissal, demotion or suspension; transfer or reassignment; or change in duties. Figure 5.2 outlines the main protection measures against reprisals granted by OECD countries responding to the 2014 whistleblowing survey.

Figure 5.2. Main protective measures against reprisals as adopted by OECD countries



Source: OECD (2014), *OECD Survey on managing Conflict of Interest in the executive branch and Whistleblower Protection*, OECD, Paris, www.oecd.org/gov/ethics/2014-survey-managing-conflict-of-interest.pdf.

These broad protections are considered good international practice. For example, Korea's Protection of Public Interest Whistleblowers (PPIW) Act provides a comprehensive list of the disadvantageous measures whistleblowers should be protected against, including financial or administrative disadvantages, such as the cancellation of a permit or license, or the revocation of a contract (Box. 5.1).

Box 5.1. Comprehensive whistleblower protection in Korea

In Korea, the term “disadvantageous measures” means an action that falls under any of the following items:

- Removal from office, release from office, dismissal or any other unfavourable personnel action equivalent to the loss of status at work.
- Disciplinary action, suspension from office, reduction in pay, demotion, restriction on promotion and any other unfair personnel actions.
- Work reassignment, transfer, denial of duties, rearrangement of duties or any other personnel actions that are against the whistleblower’s will.
- Discrimination in the performance evaluation, peer review, etc. and subsequent discrimination in the payment of wages, bonuses, etc.
- The cancellation of education, training or other self-development opportunities; the restriction or removal of budget, work force or other available resources, the suspension of access to security information or classified information; the cancellation of authorisation to handle security information or classified information; or any other discrimination or measure detrimental to the working conditions of the whistleblower.
- Putting the whistleblower’s name on a black list as well as the release such a blacklist, bullying, the use of violence and abusive language toward the whistleblower, or any other action that causes psychological or physical harm to the whistleblower.
- Unfair audit or inspection of the whistleblower’s work, as well as disclosure of the results of such an audit or inspection.
- The cancellation of a license or permit, or any other action that causes administrative disadvantages to the whistleblower.

Source: Korea’s Act on the Protection of Public Interest Whistleblowers (2011), Act No. 10472, Mar. 29, 2011. Article 2 (6).

Mexico may consider modifying the LGRA or Mexico’s Labour Law, as appropriate, to specifically prohibit the dismissal without a cause of public and private sector whistleblowers, as well as other work-related reprisals, such as demotion, suspension and harassment. This protection may be limited in cases where tribunals have ruled that the whistleblower should have known that the disclosure was false or misleading at the time of the disclosure.

Mexico could consider clarifying in what circumstances preventive measures of protection will be granted. This would include clarifying the meaning of the “reasonable means of protection” (“medidas de protección que resulten razonables”) under the LGRA, ensuring that whistleblowers who do not fall under the definition of “public servants” of the LGRA can benefit from similar protections, where appropriate, and ensuring that preventive measures can be imposed by the Ethics Committee before reprisals take place.

Beyond the protection of whistleblowers’ identity, one of the few protections provided by Mexican law is section 64 of the LGRA, which allows civil servants to request protective measures that are “deemed reasonable” from the organisation

providing the reporting channels, which does not, therefore, protect whistleblowers who are working outside the public sector. Moreover, the lack of precision regarding the protections contemplated under this article leave a lot of uncertainty of the extent and scope of the protection that will be granted. While it is understandable that section 64 has been worded to avoid excluding any measures deemed appropriate in any particular case, this provision would be more effective at enhancing whistleblowers' trust in the system if its overall objective were included in the law, alongside a non-exhaustive list of examples of measures that may be considered under this section.

Greater clarity may also be provided regarding how such reasonable measures apply to both public sector and non-public sector whistleblowers by bringing changes to the LGRA, or to another legislation, as appropriate. This provision could be particularly useful in difficult and potentially hazardous situations when anonymity and confidentiality may not be sufficient, such as when the disclosed misconduct involves senior public officials, political staff or organised crime, or when there are risks that the physical integrity of whistleblowers may be threatened.

Section 7 of the General Guidelines to Promote the Integrity of Public Servants (*Lineamientos generales para propiciar la integridad de los servidores públicos y para implementar acciones permanentes que favorezcan su comportamiento ético, a través de los Comités de Ética y de Prevención de Conflictos de Interés*), included in the Agreement, states that the chairman of the Ethics Committee may determine preventive measures to avoid harassment, assault, intimidation or threats against a person who discloses misconduct. Creating greater certainty about the eligibility and the scope of protective measures and clarifying what measures may be considered by the chairman of the Ethics Committee, as well as the circumstances upon which these measures will be imposed, would enhance the effectiveness of the framework at encouraging disclosures of misconduct.

Mexico could consider shifting the burden of proof to the employer to provide evidence that any sanction exercised against a whistleblower following a disclosure of misconduct is not related to that disclosure.

Whistleblower protection systems may reverse the burden of proof onto the employer to prove that the conduct taken against the employee is unrelated to his or her disclosure of misconduct. This is in response to the difficulties an employee may face in proving that the retaliation was a result of the disclosure, “especially as many forms of reprisals may be very subtle and difficult to establish” (Chêne, 2009, p. 7). In Germany, to qualify for protection provided by the civil code, public servants are charged with the burden of proof and have to demonstrate that their disclosure was legally permissible, that discrimination took place, and that retaliation happened because of their disclosure. In the event that the employer has not explicitly mentioned this as the reason for termination, this type of proof has been almost impossible to provide. To mitigate this, several whistleblower protection systems provide a more flexible approach to burden of proof and assume that retaliation has occurred where adverse action against a whistleblower cannot be clearly justified by management on grounds unrelated to the disclosure.

The system in the United States applies a burden-shifting scheme, whereby a federal employee who is a purported whistleblower must first establish that she or he:

1. Disclosed conduct that meets a specific category of wrongdoing set forth in the law.

2. Made the disclosure to the “right” type of party (depending on the nature of the disclosure, the employee may be limited regarding to whom the report can be made).
3. Had a reasonable belief that the information is evidence of wrongdoing (the employee does not have to be correct, but the belief must be one that could be shared by a disinterested observer with equivalent knowledge and background as the whistleblower).
4. Suffered a personnel action, the agency’s failure to take a personnel action, or the threat to take or not to take a personnel action.
5. Demonstrated that the disclosure was a contributing factor for the personnel action, failure to take a personnel action, or the threat to take or not take a personnel action (in practice, this is largely equivalent to a modest relevance standard).
6. Sought redress through the proper channels.

If the employee establishes each of these elements, the burden shifts to the employer to establish by clear and convincing evidence that it would have taken the same action in the absence of whistleblowing, in which case relief to the whistleblower would not be granted (US Merit Systems Protection Board, 2010). Clear and convincing evidence means that it is substantially more likely than not that the employer would have taken the same action in the absence of whistleblowing.

In Slovenia, the whistleblower protection system maintains that “if a reporting person cites facts in a dispute that give grounds for the assumption that he has been subject to retaliation by the employer due to having filed a report, the burden of proof shall rest with the employer”.

In Norway, when employees submit information that gives reason to believe that they have been retaliated against as a result of having come forward with a protected disclosure, it shall be assumed that such retaliation has taken place unless the employer substantiates otherwise.

Should Mexico decide to modify the LGRA or Mexico’s Labour Law to specifically prohibit the dismissal of whistleblowers as a result of disclosures of misconduct, it could consider strengthening this prohibition by shifting the burden of proof onto the employer if an employee who has made a protected disclosure is subject to any type of sanction.

Mexico may consider providing express civil remedies for civil servants who experience reprisals after disclosing misconduct as defined by the law.

Most whistleblower protection systems include specific remedies that will involve whistleblowers who have suffered reprisals in enforcing prohibitions against the exercise of reprisals, as opposed to leaving enforcement entirely to the enforcement authorities. Measures of this nature may cover all direct, indirect, and future consequences of reprisal.¹ They vary from return to employment after unfair termination, job transfers or compensation, or damages if there was harm that cannot be remedied by injunctions, such as difficulty or impossibility of finding a new job. Such remedies may take into account lost salary and compensatory damages for suffering, such as punitive damages (Banisar, 2011). Canada’s Public Servants Disclosure Protection Act (PSDPA) includes a comprehensive list of remedies (Box 5.2).

Box 5.2. Remedies for public sector whistleblowers in Canada

To provide an appropriate remedy to the complainant, the Tribunal may, by order, require the employer or the appropriate chief executive, or any person acting on their behalf, to take all necessary measures to:

- Permit the complainant to return to his or her duties.
- Reinstatement the complainant or pay compensation to the complainant in lieu of reinstatement if, in the Tribunal's opinion, the relationship of trust between the parties cannot be restored.
- Pay to the complainant compensation in an amount not greater than the amount that, in the Tribunal's opinion, is equivalent to the remuneration that would, but for the reprisal, have been paid to the complainant.
- Rescind any measure or action, including any disciplinary action, and pay compensation to the complainant in an amount not greater than the amount that, in the Tribunal's opinion, is equivalent to any financial or other penalty imposed on the complainant.
- Pay to the complainant an amount equal to any expenses and any other financial losses incurred by the complainant as a direct result of the reprisal.
- Compensate the complainant, by an amount of not more than USD 10 000, for any pain and suffering that the complainant experienced as a result of the reprisal.

Source: Canada's Public Servants Disclosure Protection Act of 2005, 21.7 (1).

Under UK law, courts have ruled that compensation can be provided for suffering, based on the system developed under discrimination law (Banisar, 2011). The total amount of damages awarded under the UK PIDA in 2009 and 2010 was GBP 2.3 million, with the highest award of GBP 800 000 in the case of John Watkinson v. Royal Cornwall Hospitals NHS Trust (PCaW, 2011). The average PIDA award in 2009 and 2010 was GBP 58 000, compared to average awards of GBP 18 584 for race discrimination, GBP 19 499 for sex discrimination and GBP 52 087 for disability discrimination cases (PCaW, 2011).

Allowing whistleblowers to introduce their own recourse before the courts, instead of relying on the availability of resources of public authorities, could contribute to reinforcing the public's trust in the whistleblowing framework, and allow for a more optimal use of enforcement authorities' limited resources. As a result, Mexico could consider providing express civil remedies for civil servants who experience reprisals after disclosing misconduct as defined by the law.

The availability of effective civil remedies may contribute to mitigating the professional marginalisation of whistleblowers by providing an opportunity for rehabilitation by civil courts. Such remedies could also compensate whistleblowers for prospective revenue losses. Combined with effective public awareness-raising campaigns, appropriate civil remedies can significantly contribute to improving public perceptions about whistleblowers, and thus indirectly mitigate professional marginalisation and prospective financial losses.

Mexico should broaden the scope of the criminal prohibition against exercising reprisals on whistleblowers to a broader range of reprisals from a broader range of individuals, and to disclosures that are related to any breach of federal or state laws.

To increase deterrence of the exercise of reprisals against whistleblowers, some OECD countries have implemented criminal prohibitions. Mexico has implemented section 219 of the Federal Criminal Code, which states that a crime of intimidation is committed when a civil servant, or a person acting on their behalf, uses physical violence or moral aggression to intimidate another person in order to prevent them from reporting, lodging a criminal complaint, or providing information concerning the alleged criminal act.

While this provision provides a deterrent effect, its impact could be reinforced by broadening the scope of its application. The scope of the concept of “reprisals” is somewhat too narrow, as it only includes “acts of physical violence or moral aggression” that can intimidate the whistleblower in order to prevent him or her from reporting. However, as discussed above, there are several other ways to intimidate or threaten to exercise reprisals against whistleblowers in the civil service, including, but not limited to, public disclosure of the identity of the whistleblower.

A second limitation to the application of this prohibition is that it applies only to information linked to a criminal complaint or an alleged criminal act. As a result, an employer would not be prohibited from exercising reprisals against an employee who has disclosed misconduct that constitutes a contravention to any law, but that does not constitute a criminal offence.

Reprisals must come from a civil servant or a person acting on his or her behalf in order to be sanctioned under the Federal Criminal Code. As any citizen or corporation may disclose misconduct in the public sector under the LGRA, reprisals against whistleblowers could be exercised by private sector representatives and other citizens. The deterrent effect of section 219 of the Federal Criminal Code should also apply to reprisals exercised by individuals who do not work for the public sector, or to other persons acting on their behalf.

Section 425.1 of Canada’s Criminal Code establishes a criminal prohibition to exercising reprisals against whistleblowers, and does not include such limitations (Box 5.3). It applies to a broad range of reprisals, which include disciplinary measures against an employee, such as demotion and termination, or measures that otherwise adversely affect the employment of a whistleblower, or threaten to do so. It also applies to any employer or person acting on their behalf. Moreover, this section applies to disclosures related to the breach of any federal or provincial laws or regulations, and is therefore not limited to criminal offences.

Box 5.3. Section 425.1 of the Canadian Criminal Code prohibiting reprisals against whistleblowers

425.1 (1) No employer or person acting on behalf of an employer or in a position of authority in respect of an employee of the employer shall take a disciplinary measure against, demote, terminate or otherwise adversely affect the employment of such an employee, or threaten to do so:

(a) with the intent to compel the employee to abstain from providing information to a person whose duties include the enforcement of federal or provincial law, respecting an offence that the employee believes has been or is being committed contrary to this or any other federal or provincial Act or regulation by the employer or an officer or employee of the employer or, if the employer is a corporation, by one or more of its directors; or

(b) with the intent to retaliate against the employee because the employee has provided information referred to in paragraph (a) to a person whose duties include the enforcement of federal or provincial law.

(2) Any one who contravenes subsection (1) is guilty of:

(a) an indictable offence and liable to imprisonment for a term not exceeding five years; or

(b) an offence punishable on summary conviction.

Source: Criminal Code, R.S.C., 1985, c. C-46 <http://laws-lois.justice.gc.ca/eng/acts/C-46/>.

Mexico could consider broadening the scope of the criminal prohibition to exercise reprisals on whistleblowers to a broader range of reprisals from a broader range of individuals, and to disclosures related to any breach of federal or state laws. Mexico could also consider imposing a criminal offence on individuals who unduly disclose or threaten to disclose the identity of a whistleblower, as this can constitute an effective form of reprisal or intimidation.

Mexico could consider imposing sanctions on individuals who exercise reprisals against whistleblowers who have disclosed misconduct in accordance with applicable rules.

As discussed above, the LGRA sanctions public officials responsible for investigating, qualifying and prosecuting administrative offences if they do not carry out their role in accordance with the law. However, it does not provide any sanctions for public officials who exercise reprisals against whistleblowers.

Sections 1h) and 11l) of the Integrity Rules for the Exercise of Public Functions (*Reglas de Integridad para el Ejercicio de la Función Pública*) prohibit the obstruction of disclosures of misconduct by public servants. However, these prohibitions only apply to federal public servants, and it is not clear whether or not the exercise of reprisals following a disclosure of misconduct would be qualified as an “obstruction” to disclosing misconduct.

This stands out from internationally recognised good practice. For instance, Australia’s whistleblower protection system invokes imprisonment for two years, 120 penalty units,² or both, in cases of reprisal against whistleblowers;³ while in Korea, the punishment for retaliation varies depending on the type of reprisal that took place (Box 5.4).

Box 5.4. Sanctions for retaliation in Korea

According to Korea's Protection of Public Interest Whistleblowers Act, any person who falls under any of the following points shall be punished by imprisonment for not more than two years or by a fine not exceeding Korean Won (KRW) 20 million:

- A person who implemented disadvantageous measures described in Article 2, subparagraph 6, item (a) [Removal from office, release from office, dismissal or any other unfavourable personnel action equivalent to the loss of status at work] against a public interest whistleblower.
- A person who did not carry out the decision to take protective measures that had been confirmed by the Commission or by an administrative proceeding.

In addition, any person who falls under any of the following points shall be punished by imprisonment for not more than one year or a fine not exceeding KRW 10 million:

- A person who implemented disadvantageous measures that fall under any of Items (b) through (g) in Article 2, Subparagraph 6 against the public interest whistleblower [(b) disciplinary action, suspension from office, reduction in pay, demotion, restriction on promotion and any other unfair personnel actions; (c) work reassignment, transfer, denial of duties, rearrangement of duties or any other personnel actions that are against the whistleblower's will; (d) discrimination in the performance evaluation, peer review, etc. and subsequent discrimination in the payment of wages, bonuses, etc.; (e) the cancellation of education, training or other self-development opportunities; the restriction or removal of budget, work force or other available resources, the suspension of access to security information or classified information; the cancellation of authorisation to handle security information or classified information; or any other discrimination or measure detrimental to the working conditions of the whistleblower; (f) putting the whistleblower's name on a blacklist as well as the release such a blacklist, bullying, the use of violence and abusive language toward the whistleblower, or any other action that causes psychological or physical harm to the whistleblower; (g) unfair audit or inspection of the whistleblower's work, as well as the disclosure of the results of such an audit or inspection; (h) the cancellation of a license or permit, or any other action that causes administrative disadvantages to the whistleblower].
- A person who obstructed the public interest whistleblowing, etc. or forced the public interest whistleblower to rescind his/her case, etc. in violation of Article 15, Paragraph 2.

Source: Korea's Protection of Public Interest Whistleblowers Act No. 10472 (2011), Chapter V Article 30 (2) and (3).

In certain circumstances, some OECD countries, such as the United States, impose criminal sanctions against employers who retaliate against whistleblowers. The US Federal Criminal Code 18 U.S.C. §1513 (e) states that “whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.”

Mexico could align its sanctions framework in the public sector with other OECD member countries by imposing sanctions on civil servants who threaten to exercise or

exercise reprisals on whistleblowers disclosing misconduct in accordance with the Agreement and the LGRA.

Ensuring complaints are effectively communicated, reviewed and pursued

Mexico could consider better defining and formalising the structures underlying the communication channels for reporting misconduct to ensure public officials and citizens are fully aware of who they can contact if they decide to disclose misconduct, of how their anonymity or confidentiality will be protected, and of the remedies available to them if they experience misconduct.

According to sections 10 and 11 of the LGRA, whistleblowers may report disclosures either to internal control bodies, present in each public organisation, or to national or subnational supreme audit institutions. Section 64 requires recipients of whistleblower disclosures to preserve the confidentiality or anonymity of whistleblowers, and sections 113 and 116 of the General Law on Transparency and Access to Public Information (*Ley General de Transparencia y Acceso a la Información Pública*) provides that whistleblowers' personal data is kept confidential during investigations and disciplinary proceedings. Although Mexico's electronic anti-corruption platform allows for completely anonymous disclosures by not requiring the provision of any personal data, it is unclear how confidentiality mechanisms would function in practice. Mexico's whistleblowing framework also does not specifically detail what would happen to an anonymous whistleblower identified following her or his disclosure, for instance by the nature of the information included in the disclosure. Making the detailed functioning of confidentiality and anonymity mechanisms publicly available facilitates the reporting of misconduct by potentially reinforcing public trust in the system, provided that such mechanisms have been appropriately designed.

Whistleblowers who wish to disclose a breach of the principles provided by the Agreement can also make such disclosures to SFP's Ethics Committee. However, since section 16 of the LGAR provides that a breach to the Code of Ethics (which is included in the Agreement) is a non-serious administrative offence, both the Ethics Committee and the relevant organisation's internal control body may be competent to investigate such an allegation.

If a disclosure is made to an internal control body, it can conduct the preliminary assessment and investigation, and can impose sanctions if the disclosure is related to a non-serious offence, as defined by sections 2, 49 and 50 of the LGRA. If the internal control body comes to the conclusion that the disclosure is related to a serious offence as defined by sections 51 to 64 of the LGRA, it must complete its investigation and submit it to the Administrative Tribunal. If the Tribunal confirms the qualification of a serious offence by the internal control body, it will initiate the procedure to impose appropriate sanctions. If the Tribunal overturns the qualification as a serious offence, the case will be sent back to the internal control body for decision.

If a disclosure is made to a supreme audit institution, it will conduct the investigation only if the disclosure appears to relate to a serious offence. If the disclosure is related to a non-serious offence, the case will be sent to the appropriate internal control body for assessment, investigation and decision. The supreme audit institution will submit serious offence cases to the Administrative Tribunal, in accordance with section 12 of the LGRA.

Such a structure is aligned with international good practices, which recommend that the individual circumstances of each case should determine the most appropriate channel of disclosure (Council of Europe, 2014). As outlined by the United Nations Office on Drugs and Crime (UNODC) Resource Guide on Good Practices in the Protection of Reporting Persons, and the UNODC Technical Guide to the United Nations Convention against Corruption, channels of reporting should not be limited to a choice of either reporting internally within the organisation or directly to external authorities. Instead, both levels should operate concurrently, so that potential whistleblowers can choose where they trust their disclosure will likely have more impact on the organisation's behaviour. Individuals who decide to report should have the option of submitting their disclosure to an external body, if upon disclosing internally they were not provided with an adequate response within a certain timeframe, or if appropriate action was not taken. In addition, potential whistleblowers should have direct access to external review agencies, skipping the internal element of the disclosure process, if they fear and have reason to believe that they would be reprimanded by their organisation's internal mechanism. Despite the assigned paths of disclosure, providing whistleblowers with the chance to decide to whom to disclose, or within which parameters, enables them to do so more willingly and with greater ease.

Internal reporting is a channel that whistleblowers tend to explore first across countries, as “people in the UK, Turkey and South Korea would all prefer to blow the whistle through a formal internal procedure” (Transparency International, 2009). However, while employers should react in a supportive and accountable manner by executing the letter of the law or abiding by organisational policies, this is not always the case. In these scenarios, the whistleblower often fears their employer's indifference or is left with no other choice but to disclose externally to ensure a timely and well received response that will effect change and put an end to the wrongdoing. Opting for external disclosures as the first port of call may be indicative of a closed organisational culture, where management is not responsible or willing to protect its employees (ODAC, 2004).

To provide an increased variety of disclosure channels, and offer whistleblowers the opportunity to discuss potential misconduct with their direct supervisor as they deem appropriate, Mexico could consider formalising a channel for the disclosure of misconduct to supervisors. Organisations could operate on the premise that employees would approach management with disclosures of wrongdoing, questions and advice, and that management would support the individual's courage, follow the measures in place to protect them, and investigate the allegations accordingly. Furthermore, by being receptive to disclosures and encouraging them as a method of detection, management can mitigate the reputational damage that may ensue from the employee disclosing externally.

For example, in Canada, employees have three different options in terms of disclosing misconduct. First, they can make protected disclosures to their supervisors. Second, they can disclose misconduct to their organisation's designated Senior Officer for Disclosure, who receives, records and reviews disclosures of wrongdoing, leads investigations of disclosures, and makes recommendations to the chief executive regarding any corrective measures to be taken in relation to wrongdoing found. Senior Officers for Disclosure also have key leadership roles in providing information and advice to employees and supervisors on the act. (Box 5.5). Third, if employees prefer not to use internal reporting channels, they can disclose externally to the independent Public Sector Integrity Commissioner, who protects the identity of whistleblowers and acts upon allegations of misconduct made by federal civil servants.

Box 5.5. Options for making a protected disclosure of wrongdoing in Canada

What are your options for making a protected disclosure of wrongdoing? Know your options.

Ask yourself...

Who do I feel comfortable approaching if I want to make a disclosure?

Does my organisation have internal policies on how to make an internal disclosure?

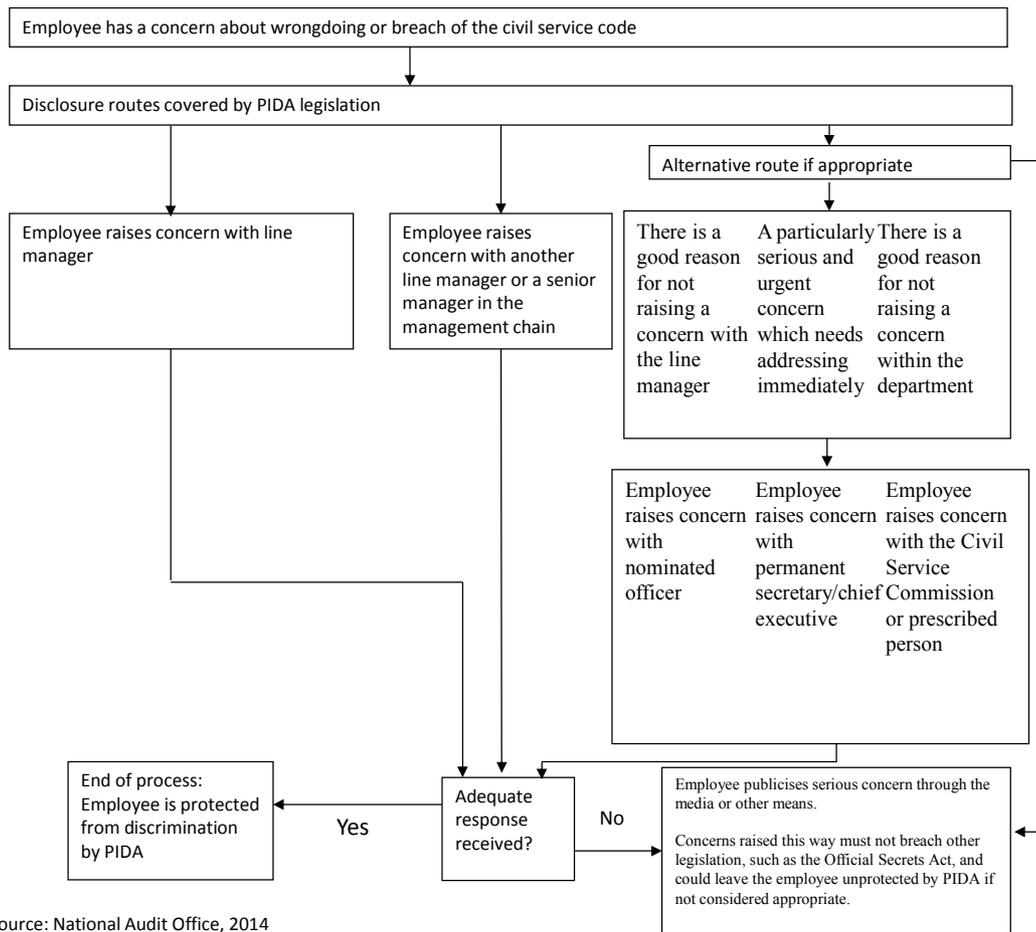
My supervisor/manager	My senior officer	The Office of the Public Sector Integrity Commissioner
I can go directly to my supervisor/manager to make an internal disclosure.	I can find the co-ordinates of my Senior Officer on my organisation's intranet or I can consult the Treasury Board list of Senior Officers (www.tbs-sct.gc.ca). If my organisation has not identified a senior officer, I can make a disclosure to the Office of the Public Sector Integrity Commissioner.	I can go directly to the Office at any time. I do not have to exhaust internal mechanisms before making a disclosure to the Office.

Source: Office of the Public Sector Integrity Commissioner of Canada, "Five Questions about Blowing the Whistle" <http://psic-ispcc.gc.ca/eng/resources/decision-making-guide>.

As in some OECD countries, Mexico could consider following a tiered approach, whereby each tier incrementally requires a higher threshold of conditions to satisfy in order for the whistleblower to be protected. For example, the United Kingdom applies a "tiered" approach, whereby disclosures may be made to one of the following "tiers" of persons:

- Tier 1. Internal disclosures to employers or Ministers of the Crown.
- Tier 2. Regulatory disclosures to prescribed bodies (e.g. the Financial Services Authority or Inland Revenue).
- Tier 3. Wider disclosures to the police, media, members of parliament and non-prescribed regulators (Figure 5.3).

Figure 5.3. Example of a whistleblowing processing the United Kingdom



Source: National Audit Office, 2014

Source: NAO (2014), *Government Whistleblower Policies*, National Audit Office, London, www.nao.org.uk/wp-content/uploads/2014/01/Government-whistleblowing-policies.pdf

Whether Mexico considers administering disclosures through a tiered system or not, channels of disclosure need to be clearly demarcated and facilitate disclosure, as whistleblowers may lack confidence in the system or may not be comfortable or persistent in coming forward. The availability of channels is not sufficient to render a confusing process clear. Instead, the process should be accompanied by an explanation of the steps to follow and the processes to abide by in order to ensure that whistleblowers are well informed regarding whom to disclose to and understand the potential repercussions of disclosure, which can depend on the party that is disclosed to and the subject matter at hand. Information campaigns should include a component that explains appropriate procedures regarding how the anonymity or confidentiality of whistleblowers will be protected.

Mexico could consider better defining and formalising co-ordination mechanisms among the different bodies responsible for handling allegations of misconduct.

As discussed above, while implementing multiple channels for disclosing misconduct is recognised as international good practice to enhance disclosures and maximise the protection of whistleblowers, such mechanisms must be well-coordinated and their functioning must be made understandable to potential users. Otherwise, a variety of uncoordinated bodies responsible for investigating whistleblower allegations, combined with unduly complex and non-transparent reporting channels, run the risk of acting as a disincentive to disclosing misconduct and allow for the duplication of work for investigative authorities, for instance if whistleblowers transfer their allegations to more than one competent body at the same time.

To avoid wasting resources and to promote effectiveness regarding conducting investigations, Mexico may consider implementing appropriate co-ordination mechanisms among the SFP Ethics Committee, internal control bodies responsible for handling whistleblower allegations under the LGRA, and supreme audit institutions. This could increase transparency regarding the functioning of the system and avoid unnecessary duplication of investigation-related work, while protecting the identity of whistleblowers as much as possible. The implementation of co-ordination mechanisms among these bodies may also contribute to ensuring the consistency of the investigation and sanction decision-making processes. Such co-ordination mechanisms may include: sharing information on ongoing investigations, organising regular meetings to discuss ongoing issues and arising operational challenges, and establishing common precedents that will guide decision making and ensure consistency across all investigative bodies.

Mexico could consider implementing mechanisms that hold internal control bodies more responsible for how they handle disclosures, and particularly how they protect the anonymity and confidentiality of whistleblowers.

The LGRA provides innovative mechanisms that seek to hold recipients of whistleblower allegations accountable for how they take action following disclosures of misconduct. As discussed above, it provides clear definitions on what constitutes serious or non-serious administrative offences, which define the discretionary power of public officials responsible for qualifying or prosecuting administrative offences.

Section 91 provides that investigations are launched *ex officio* by internal control bodies or supreme audit institutions once they receive a disclosure of wrongdoing. The exception is for disclosures that fall under one of the exceptions provided by section 101: when there are no losses incurred in terms of public funds, when the correctness of the action by the civil servant is based on a subjective opinion that does not imply a contravention to applicable rules, and when the act or omission was corrected spontaneously by the civil servant.

Before a decision is taken as to whether an offence, or which offence, will be prosecuted within an internal control body, section 10 provides that investigators must submit their case to a supervisory authority (*Autoridad substanciadora*) that will review the investigators' decision. This may promote consistency and help establish guidelines on the investigation and prosecution of administrative offences.

Section 64 provides that public services responsible for investigating, qualifying and prosecuting administrative offences commit the offence of obstruction of justice if they

downplay a serious offence to a non-serious offence, if they do not initiate the appropriate procedure within 30 days of misconduct being disclosed, or if they disclose the identity of a whistleblower against his or her will.

For federal public servants, the Agreement provides that disclosing misconduct anonymously is possible if whistleblowers provide the name of a third party to represent them. However, the confidentiality of whistleblowers, or of third parties, shall be protected only “when necessary” and when they are not public servants.

According to sections 102 to 110 of the LGRA, whistleblowers can participate in reinforcing accountability over public servants who are responsible for handling disclosures of misconduct. These provisions set a specific procedure whereby whistleblowers can appeal a decision made by internal control bodies regarding the investigation, qualification and prosecution of administrative offences, and participate in the proceedings.

These provisions are consistent with international good practices that seek to increase the accountability of recipients of whistleblower allegations by guiding their discretionary power. In the United States, for example, protected disclosures include, among others, gross mismanagement and gross waste of funds. To qualify as “gross” there must be something more than a debateable difference in opinion, and the agency’s ability to accomplish its mission must be implicated. The term “gross mismanagement” is also included in Canada’s system, under paragraph 8(c) of the PSDPA. While not defined therein, the factors that the Office of the Public Sector Integrity Commissioner of Canada considers, independently of one another, when investigating an allegation of gross mismanagement, include:

- Matters of significant importance.
- Serious errors that are not debatable among reasonable people.
- More than *de minimis* wrongdoing or negligence.
- Management action or inaction that creates a substantial risk of significant adverse impact upon the ability of an organisation, office or unit to carry out its mandate.
- The deliberate nature of the wrongdoing.
- The systemic nature of the wrongdoing.

New Zealand’s system outlines the term “serious wrongdoing” in section 3(1) of its Protected Disclosures Act 2000. It refers to the term as including the following:

- An unlawful, corrupt, or irregular use of funds or resources of a public sector organisation.
- An act, omission or course of conduct that constitutes a serious risk to public health or public safety or the environment.
- An act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial.
- An act, omission, or course of conduct that constitutes an offence.

- An act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement, whether the wrongdoing occurs before or after the commencement of this Act.

It is important that the internal control bodies within each government institution are exempt from political interference exercised by political or government officials. Some of the interviews with public officials revealed that they had little trust in internal control bodies, and that they would avoid disclosing misconduct to such bodies as they would fear potential adverse consequences for their careers. Increased scrutiny and accountability over how the identity of whistleblowers is protected will be key to reinforcing trust by civil servants and citizens in internal control bodies in Mexico.

Some of the information gathered during the interviews tended to show that the allocation of human, technical and financial resources may not be sufficient to effectively deal with the number of disclosures made to internal control bodies and to supreme audit institutions, particularly considering that the disclosures made through the electronic platform of the National Anti-Corruption Plan are all channelled to internal control bodies.

Perceptions about internal control bodies must be changed through the establishment of a culture of integrity in internal control bodies, as well as through awareness-raising campaigns that would publicise the reporting channels and the accountability mechanisms that apply to internal control bodies. Insufficient funding may also affect perceptions of the structures underlying the whistleblowing framework. It is thus key to undertake ongoing assessments of decision-making processes and the methods for allocating resources to ensure that these structures are used in an optimal way. To sustainably reinforce accountability in internal control bodies, structures could be subject to spontaneous external audits by supreme audit institutions, these could also cover how internal control bodies will protect the identity of whistleblowers.

Mexico should consider protecting the confidentiality of federal public servants who disclose misconduct under the Agreement.

As discussed above, the Agreement provision that the Ethics Committee must protect the identity of whistleblowers is applicable only when necessary, or when whistleblowers or third parties responsible for representing them are not public servants. There is a great deal of uncertainty as to when the Ethics Committee will consider it necessary to protect the identity of whistleblowers. Moreover, the lack of confidentiality for public servants who disclose misconduct may expose them to reprisals from colleagues or those who are subject to the allegations. Confidentiality is one of the most effective protection measures for whistleblowers, and all should benefit from this, regardless of whether they are a federal public servant or citizen.

Raising awareness amongst public officials of their whistleblower rights and duties to report

To promote the effective implementation of the whistleblowing framework, Mexico could consider promoting a broad communication strategy and undertaking increased awareness efforts through various channels.

The decision to disclose wrongdoing is often difficult for a public official. Assuring them that their concerns are being heard and that they are supported in their choice to come forward is paramount to the integrity of an organisation, and to how whistleblowers are viewed by society as a whole. There are multiple measures organisations can take to encourage the detection and disclosure of wrongdoing. These measures would contribute to an open organisational culture and help to reinforce trust and working relationships, and boost staff morale.

Adopting comprehensive whistleblower laws is just one part of an effective whistleblowing framework, and is insufficient alone for effectively promoting a culture of openness and integrity that is supportive of those who take the risk to disclose wrongdoing in the workplace. Periodic awareness-raising campaigns specifically tailored to each context are key to improving public perceptions about whistleblowers. Awareness-raising campaigns are most effective at establishing positive perceptions about whistleblowers when they are associated with additional concrete measures, such as transparent decision making and meaningful remedies, to show that senior managers and decision makers are committed to “walking the talk”.

As such, an open organisational culture and whistleblower protection legislation should be supported by effective awareness raising, communication, training and evaluation efforts. This starts with communicating the rights and obligations when exposing wrongdoing to public or private sector employees, as outlined in the 1998 Recommendation on Improving Ethical Conduct in the Public Service. Principle 4 of the Recommendation stresses that “public servants need to know what protection will be available to them in cases of exposing wrongdoing”. Even more importantly, officials need to understand how whistleblowers are important for promoting public interest by shedding light on misconduct that harms the effective management and delivery of public services and, ultimately, the fairness of the whole public service. An organisational culture of openness is key as it will contribute to reinforcing most incentives and protection measures for whistleblowers. Comprehensive awareness-raising campaigns will repudiate perceptions that whistleblowing shows a lack of loyalty to the organisation. Well-targeted campaigns show that civil servants’ loyalty belongs first and foremost to the public interest, and not to their managers. In this respect, reporting structures and internal rules should be designed so that civil servants feel that they can be loyal to the politically neutral civil service, and not to public officials appointed by the government of the day. The UK Civil Service Commission suggests including a statement in staff manuals to provide assurance that it is safe to raise concerns (Box 5.6). Mexico may consider similar statements and materials.

Box 5.6. Example of a statement to staff reassuring them to raise concerns

“We encourage everyone who works here to raise any concerns they have. We encourage ‘whistleblowing’ within the organisation to help us put things right if they are going wrong. If you think something is wrong please tell us and give us a chance to properly investigate and consider your concerns. We encourage you to raise concerns and will ensure that you do not suffer a detriment for doing so.”

Source: UK Civil Service Commission (2011), *Whistleblowing and the Civil Service Code*, <http://civilservicecommission.independent.gov.uk/wp-content/uploads/2014/02/Whistleblowing-and-the-Civil-Service-Code.pdf>.

By introducing and implementing such measures, Mexico can facilitate the awareness of whistleblowing and whistleblower protection, which enhances understanding of these mechanisms and constitutes an important mechanism for improving the often negative perceptions linked to the term “whistleblower”. Communicating the importance of whistleblowing from, for example, a public health and safety perspective, can help improve the public’s view of whistleblowers as important safeguards for the public interest. In the United Kingdom, public understanding of the term “whistleblower” has changed considerably since the adoption of the Public Interest Disclosure Act in 1998 (Box 5.7).

Box 5.7. Change of cultural connotations of “whistleblower” and “whistleblowing”: The case of the United Kingdom

In the United Kingdom, a research project commissioned by Public Concern at Work from Cardiff University examined national newspaper reporting on whistleblowing and whistleblowers between 1 January 1997 to 31 December 2009. This includes the period immediately before the introduction of the Public Interest Disclosure Act and tracks how the culture has changed since then. The study found that whistleblowers were overwhelmingly represented in a positive light in the media. Over half (54%) of the newspaper stories represented whistleblowers in a positive light, with only 5% of stories being negative. The remainder (41%) were neutral. Similarly, a study by YouGov found that 72% of workers view the term “whistleblowers” as neutral or positive.

Sources: PCAW (2010), *Where’s whistleblowing now? 10 years of legal protection for whistleblowers*, Public Concern at Work, London, p. 17.

YouGov (2011), YouGov/PCAW Survey Results, YouGov, London, p.8, http://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/aecs67p0bl/YG-Archive-PCAW-whistleblowing-work-concerns-100611.pdf.

In Peru, the High-level Anti-corruption Commission (Comisión de Alto Nivel Anticorrupción, or CAN) launched the campaign “*Yo denuncio la Corrupción*” (I report corruption) in 2013. In parallel, a whistleblower manual was developed with clear and easily understandable information on the specific mechanisms for administrative complaints in government agencies, and the Whistleblower Counseling Centre was implemented to facilitate communication with whistleblowers via e-mail, phone or mail. This initiative provides a free hotline, distribution of leaflets containing basic information, as well as stickers and pins, and an advertisement campaign was launched.

In 2015 and 2016, training and awareness-raising activities were held by relevant authorities at different public entities in order to publicise the scope of the Peruvian Whistleblowing Law.

To boost awareness of the whistleblower mechanisms in the National Anti-Corruption System and the LGRA, Mexico could consider designing a strategic plan to communicate whistleblowing activity and information. This could be similar to efforts in Korea, where the government has been implementing national strategies to raise public awareness of the benefits of whistleblowing and to strengthen protection for whistleblowers.

Mexico could tailor its outreach efforts to those of the US Office of Special Counsel (OSC). The OSC has a certification programme developed under section 5 U.S.C. § 2302(c), which has made efforts on promoting outreach, investigations and training as the three core methods for raising awareness. The OSC offers training to federal agencies and non-federal organisations in each of the areas within its jurisdiction, including reprisal for whistleblowing. To ensure that federal employees understand their whistleblower rights and how to make protected disclosures, agencies must complete the OSC's programme to certify compliance with the Whistleblower Protection Act's notification requirements.

The No Fear Act in the United States requires that agencies provide annual notices and biannual training to federal employees regarding their rights under employment discrimination and whistleblower laws. Title 5 of the U.S. Code makes the head of each agency responsible for: 1) the prevention of prohibited personnel practices; 2) compliance with and enforcement of applicable civil service laws, rules, and regulations and other aspects of personnel management; and 3) ensuring (in consultation with the OSC) that agency employees are informed of the rights and remedies available to them, including how to make a lawful disclosure of information that is specifically required by law or Executive Order to be kept classified (Box 5.8).

Box 5.8. The United States' approach to increasing awareness through the Whistleblower Protection Enhancement Act (WPEA)

Section 5 U.S.C. § 2302(c) of the WPEA stipulates that “the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (...) that agency employees are informed of the rights and remedies available to them under (...), including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures.”

Furthermore, Section 117 of the Act “designates a Whistleblower Protection Ombudsman who shall educate agency employees:

1. About prohibitions on retaliation for protected disclosures.
2. Who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures.”

Source: American Bar Association, Section of Labor and Employment Law, “Congress Strengthens Whistleblower Protections for Federal Employees,” Issue: November-December 2012.

By using open channels of communication and support, and emphasising civil servants' primary obligation to be loyal to the public interest, employers and managers can give employees the confidence to discuss concerns or alleged wrongdoings and help create a workplace guided by the tenets of integrity. Informing employees about their rights and responsibilities, as well as the resources available to them, is crucial for creating an environment of trust, professionalism and collegiality. Clear and effective communication can give employees the confidence to voice their concerns, and highlights the importance not only of coming forward about suspected wrongdoing, but also of defending the tenets of integrity in both the workplace and society.

Mexico can engage with civil society as an effective way of applying awareness raising measures

In addition to awareness raising conducted by governments within OECD countries, a number of non-governmental organisations (NGOs) are active in the field. In the United Kingdom, Public Concern at Work provides independent and confidential advice to workers who are unsure whether or how to raise a public interest concern. It also conducts policy and public education work, and offers training and consultancy to organisations. In the United States, the Government Accountability Project, primarily an organisation of lawyers, defends whistleblowers against retaliation and actively promotes government and corporate accountability. Transparency International conducts advocacy, public awareness and research activities in all regions of the world. It has established Advocacy and Legal Advice Centres in around 50 countries, through which it offers advice to whistleblowers and works to ensure that disclosures are addressed by appropriate authorities. The Whistleblowing International Network, co-founded by Public Concern at Work (PCaW) and the Government Accountability Project (GAP) among others, is another cross-border initiative.

Raising awareness about the processes and safeguards in place to report wrongdoing, and communicating them effectively within an organisation, are necessary elements for the workplace culture to evolve into an open and supportive environment. Training management, meeting with staff regularly, and clearly outlining the steps to follow when disclosing wrongdoing, through promotional materials, public campaigns or staff guidelines, can assure employees of the measures in place to protect them from reprisal. Furthermore, evaluating the processes in place within whistleblower systems enables necessary modifications, which may help streamline and facilitate procedures to better promote and uphold the tenets of integrity.

Conducting evaluations and increasing the use of metrics

Mexico could consider reviewing its whistleblower protection legislation to evaluate the relevance of its objectives, its implementation and its effectiveness.

Mexico could consider periodically reviewing the LGRA, as well as any other additional whistleblower protection laws that may be adopted in the future, to assess whether the mechanisms in place are meeting their intended objectives and the overall spirit of the whistleblowing framework, and whether the law is being adequately implemented. If necessary, the framework can then be amended to reflect the results of the evaluation. Provisions regarding the review of effectiveness, enforcement and impact of whistleblower protection laws have been introduced by a number of OECD countries, such as Australia, Canada, Japan, and the Netherlands. The Japanese Whistleblower

Protection Act specifically outlines that the government must take necessary measures based on the findings of the review. In Canada and Australia, the review is carried out by parliamentary committees and presented before Parliament.

Mexico could consider systematically collecting data and information as another means of evaluating the effectiveness of its whistleblowing system.

In its data collection, Mexico could gather information on: 1) the number and types of disclosures received; 2) the entities receiving most disclosures; 3) the outcomes of cases (i.e. if the disclosure was dismissed, accepted, investigated, and validated, and on what grounds); 4) whether the misconduct came to an end as a result of the disclosure; 5) whether the organisation’s policies were changed as a result of the disclosure if gaps were identified; 6) whether sanctions were exercised against wrongdoers; 7) the scope, frequency and target audience of awareness-raising mechanisms; and 8) the time it takes to process cases (Transparency International, 2013b; Apaza and Chang, 2011; and Miceli and Near, 1992).

This data, in particular information on the outcomes of cases, can be used in the review of a country’s whistleblowing framework in order to assess its impact on public sector organisations. Furthermore, public sector organisations can distribute surveys to review staff awareness, trust and confidence in whistleblowing mechanisms. In the United States, for example, the Merit Systems Protection Board has gathered information by conducting surveys with employees about their experiences as whistleblowers (Banisar, 2011). Such efforts play a key role in assessing the progress, or lack thereof, in implementing effective whistleblower protection systems.

To measure the effectiveness of protective measures for whistleblowers, additional data could be collected on cases where whistleblowers claim to have experienced reprisals. Such data could include: whether allegations of reprisals were investigated, by whom and how reprisals were exercised, whether and how whistleblowers were compensated, the grounds underlying these decisions, the time it takes to compensate whistleblowers, and whether they were employed during the judicial

Summary of proposals for action

Strengthening whistleblower protections in the workplace

- Mexico may protect whistleblowers from reprisals in the workplace, such as by specifically prohibiting the dismissal of whistleblowers without a cause or any other kind of formal or informal sanction exercised in response to the disclosure, if the information reported can reasonably be believed to be true at the time of the disclosure.
- Mexico could consider clarifying under what circumstances preventive measures of protection will be granted. This would include clarifying the meaning of the term “reasonable measures of protection” (“*medidas de protección que resulten razonables*”) under the LGRA, ensuring that whistleblowers who do not fall under the LGRA’s definition of “public servants” can benefit from similar protections, where appropriate, and ensure that preventive measures can be imposed by the Ethics Committee before reprisals take place.

- Mexico could consider shifting the burden of proof onto the employer to provide evidence that any sanction exercised against a whistleblower following a disclosure of misconduct is not related to that disclosure.
- Mexico may consider providing express civil remedies for civil servants who experience reprisals after disclosing misconduct as defined by the law.
- Mexico may broaden the scope of the criminal prohibition to exercise reprisals on whistleblowers to extend its application to a broader range of reprisals from a broader range of individuals, and to disclosures that are related to any breach of federal or state laws.
- Mexico could consider imposing sanctions on individuals who exercise reprisals against whistleblowers who have disclosed misconduct in accordance with the General Law on Administrative Responsibilities.

Ensuring complaints are effectively managed, communicated, reviewed and pursued

- Mexico could consider better defining and formalising the structures underlying the communication channels for reporting misconduct to ensure that public officials and citizens are fully aware of who they can contact if they decide to disclose misconduct, of how their anonymity or confidentiality will be protected, and of the remedies available to them if they experience misconduct.
- Mexico could consider better defining and formalising co-ordination mechanisms among the different bodies responsible for handling allegations of misconduct.
- Mexico could consider implementing mechanisms that hold internal control bodies more responsible for how they handle disclosures, and particularly on how they protect the anonymity and the confidentiality of whistleblowers.
- Mexico should consider protecting the confidentiality of federal public servants who disclose misconduct under the Agreement.

Raise awareness and capacities

- To promote the effective implementation of the whistleblowing framework, Mexico could consider promoting a broad communication strategy and undertaking increased awareness efforts through various channels.
- Mexico could engage with civil society as an effective way of applying awareness-raising measures.

Conduct evaluations and increase the use of metrics

- Mexico could consider reviewing its whistleblower protection legislation to evaluate the relevance of its objectives, its implementation and its effectiveness.
- Mexico could consider systematically collecting data and information as another means of evaluating the effectiveness of its whistleblowing system.

Notes

- 1 See for example the United States' Whistleblower Protection Act, Subchapter III Section 1221(h)(1); the United States' False Claims Act 31 U.S.C. §3730(h).
- 2 In Australia, penalty units are used to describe the payable for fines under commonwealth laws. By multiplying AUS Dollar equivalent of one penalty unit, the fine for an offence is set.
- 3 Australia's Public Interest Disclosure Act, Subdivision B, Part 2 – Section 19.

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Chapter 6.

Strengthening the lines of defence against corruption: Risk management, internal control and audit

Public sector organisations should ensure that their “lines of defence” against fraud and corruption are strong and based on sound risk management, internal controls, and independent assurance (internal audit) activities. This comprehensive approach allows organisations to pre-emptively tackle potential corruption, detect integrity violations when they occur, continually monitor and improve controls over time, and more swiftly adapt to changing contexts and risks. As such, this chapter focuses on these three key elements in Mexico’s federal public administration. The first section assesses Mexico’s Ministry of Public Administration’s risk management process (the Administración de Riesgos Institucional, or ARI). The second section examines the internal control environment and processes put in place by the federal government and line ministries. The third section highlights the importance of an independent internal audit function for consulting senior management and providing assurance over the effectiveness and efficiency of internal control and risk management arrangements within public organisations.

Introduction: Building a system of defence against public sector corruption

A solid internal control framework is the cornerstone of an organisation's defence against corruption, and consists of the policies, structures, procedures, processes, tasks and other tangible and intangible factors that enable an organisation to identify and appropriately respond to internal and external operational, financial, or compliance-related risks. An effective internal control framework should ultimately help the organisation comply with its mandate and any relevant legislation, safeguard an organisation's assets, and facilitate internal and external reporting.

Although senior managers are primarily responsible for implementing internal controls and monitoring their effectiveness, all officials in a public organisation, from the most senior to junior, have a role to play in identifying risks, deficiencies and ensuring that internal controls address and mitigate these in a cost-effective manner. Every staff member should be encouraged to continuously contribute to the development of better systems and procedures that will enhance integrity and improve the organisation's resistance to corruption.

Internal audit is the next pillar of defence against corruption and provides objective assurance that risk management and internal controls are functioning properly. An effective internal audit monitoring and assurance function ensures that internal control deficiencies are identified and communicated in a timely manner to those responsible for taking corrective action. The monitoring process involves establishing a foundation for designing and executing monitoring procedures that are prioritised based on risk, and assessing and reporting the results, including following up on corrective action where necessary.

While risk, control and audit functions are essential in the fight against corruption, they are also necessary ingredients for greater accountability, better management and cost effectiveness. Controls help organisations run more smoothly, reduce costs, and avoid waste. They also help hold officials to account for their actions, and to report to the public and oversight institutions on performance and value-for-money achieved.

Mexico's Ministry of Public Administration (*Secretaría de Función Pública*, SFP) is the federal entity responsible for developing and overseeing policies, standards and tools on internal control, including risk management and internal audit functions in the federal administration. The SFP also establishes policies and frameworks and provides guidance to line ministries in collaboration with the Supreme Audit Institution (*Auditoría Superior de la Federación*, ASF), mainly through the National Auditing System.

Mexico's recent national anti-corruption system (NACS) reforms have placed a strong emphasis on ensuring that a robust internal control system based on solid risk management and internal audit functions is in place across the public sector. As noted in Chapter 2, the inclusion of the SFP and ASF in the NACS Co-ordination Committee demonstrates the high relevance of the control and audit functions in preventing and detecting integrity violations.

This chapter will examine the maturity and integration of internal control functions, as well as the assignment of roles and duties regarding these activities within the three lines of defence model in Mexico's federal public administration, and the extent to which they are based on the principles of risk management, balanced and cost-effective controls, and effective assurance oversight.

Better risk-management: Taking a pre-emptive and cost-effective approach to fighting public sector corruption

The SFP should further emphasise risk management in its internal control policies, ensuring that risk assessments and mitigation activities are more effectively embedded into the strategic and operational activities of public sector organisations through stronger institutional arrangements and capacity-building efforts.

Corruption risk mapping and assessment are key prerequisites towards understanding risk exposure and allowing public organisations to reach informed risk management decisions. This process has to identify risk factors (e.g. why would corruption occur in these specific area of our organisations?), as well as potential corruption schemes (e.g. how would corruption be perpetrated in our organisation?). The evaluation of the probability that the identified corruption risks might occur, and the potential impact of the materialisation of these threats, is essential for prioritising responses and allocating adequate resources.

The assessment of the probability and impact for each corruption risk produces an assessment of inherent corruption risks without taking into consideration existing controls. Therefore, the next methodological step involves mapping existing controls and mitigating strategies for each of these risks. During this step it is very important to assess with the business process owners whether the identified mitigating controls and policies are functioning and having the expected impact on the relevant risks.

The output of this exercise is the identification of the residual risks, which is followed by the decision on the risk treatment action plan. Available options can include reviewing and amending existing controls and introducing new controls. The logical follow up is the development of a corruption risk treatment plan which provides for a detailed implementation plan (allocation of tasks, resource requirements, monitoring and reporting requirements, etc) of the risk mitigation options.

The quest to develop and maintain the right policies and controls to effectively identify and manage corruption risks poses serious challenges. Countries such as the United States, the United Kingdom, Australia, and Colombia have introduced dedicated frameworks for managing corruption risks. Box 6.1 below illustrates some key elements of the Colombian methodological approach to corruption risk management.

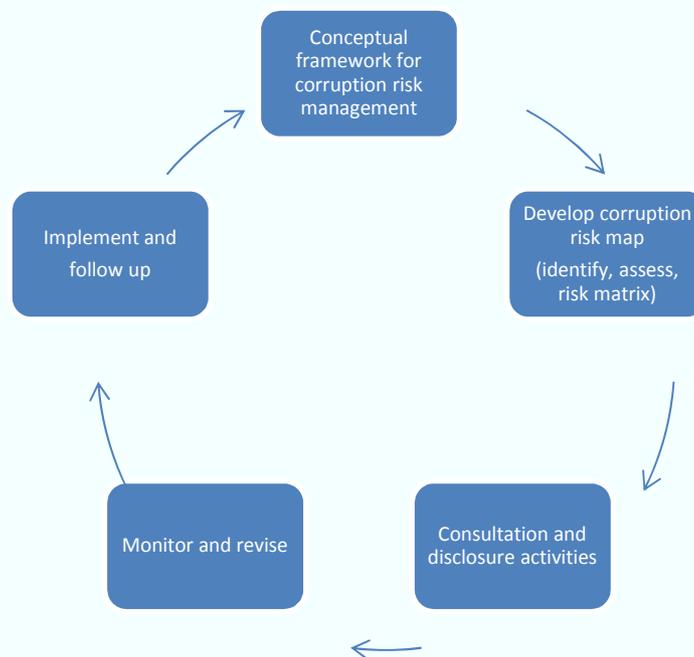
Box 6.1. Corruption risk management: The example of Colombia

The Secretariat of Transparency, together with the Ministry of Public Administration (*Departamento Administrativo de la Funcion Publica*, DAFP), have developed a corruption risk management methodological framework, described in a comprehensive manual updated in 2015.

The methodological approach is based on the risk management process described in the Colombian internal control framework (*Modelo Estándar de Control Interno*, MECI), but highlights the inherent characteristic of corruption risks versus the institutional risks of public organisations. This means that Colombian public organisations have to develop two different risk maps following predetermined and standardised steps and templates. There are positives and negatives to having two separate risk management exercises based on the same methodological model. On one hand, it may be seen as burdensome and bureaucratic, duplicating efforts and wasting valuable resources. On the other hand, it can be argued that it raises awareness among senior management and staff of the importance of having a sound anti-corruption policy with distinct activities from the mainstream managerial and financial control and risk activities.

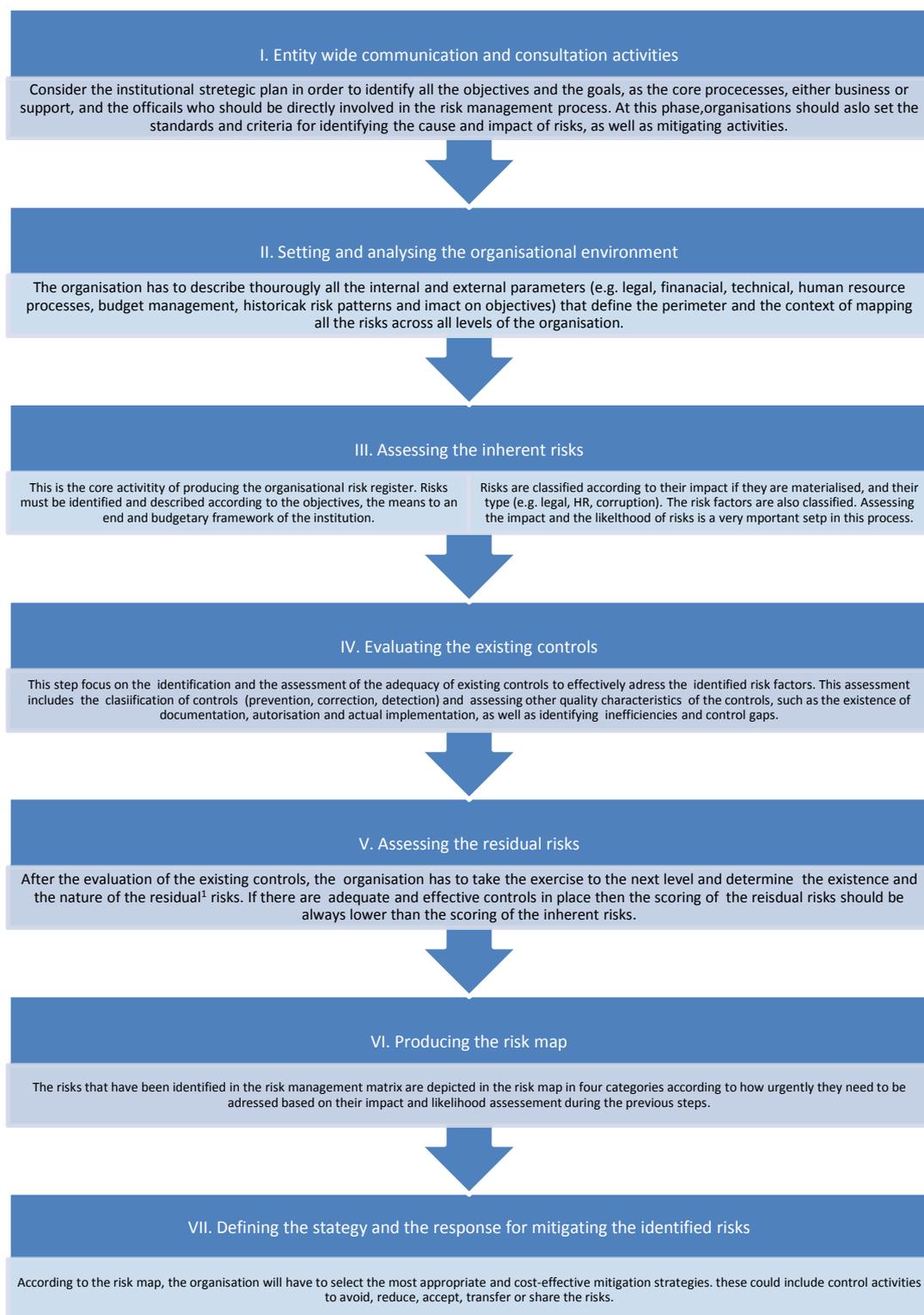
Box 6.1. Corruption risk management: The example of Colombia (cont.)

The following graphic depicts the Colombian methodology for corruption risk management:



Source: Corruption Risk Management Manual, Colombia's Presidency of the Republic, Bogota 2015 <https://www.unicauca.edu.co/versionP/sites/default/files/files/guia-gestion-riesgo-corrupcion-2015.pdf>.

The SFP's methodological and implementation Manual of Internal Control System (*Acuerdo por el que se emiten las Disposiciones y el manual Administrativo de Aplicacion General en material de Control Interno, MAAG-CI*), which was published in the Official Gazette on 2 November 2016, details the risk management methodology and related activities that aim to identify, assess and mitigate corruption risks. Federal public entities have to apply concrete methodological steps in order to produce: 1) the annual risk management matrix (*Matriz de Administration de Riesgos*), which gives a detailed picture of each of the risks; 2) the risk map, which is the graphic illustration of the risk matrix and; 3) the Working Programme of Risk Management (*Programa de Trabajo de Administracion de Riesgos, or PTAR*), which is the implementation action plan. Figure 6.1 depicts the basic steps of the overall risk management exercise:

Figure 6.1. Phasing in the risk management model (ARI) of the SFP

Source: OECD Secretariat based on the Ministry of Public Administration's "Acuerdo por el que se emiten las Disposiciones u el manual Administrativo de Aplicación General en material de Control Interno", November 2016 www.gob.mx/cms/uploads/attachment/file/174036/acuerdo-disposiciones-manual-CI.pdf.

The recently updated manual has several elements that address the weaknesses of the previous manual. Both its structure and content are more aligned with leading international standards (Committee of Sponsoring Organizations [COSO] Internal Control and Enterprise Risk Management Frameworks, ISO 31000, The International Organisation of Supreme Audit Institutions [INTOSAI] guidelines on internal control, etc). For the first time, the policy explicitly recognises how risk management methodology applies to corruption risks. Overall, the approach to corruption risks is the same as for all other types of risks, with some differences, such as:

- In relation to the first methodological step, “entity-wide communication and consultation activities”, the manual states that organisations should focus on processes that are vulnerable to corruption, such as financial and budgetary issues, public procurement, investigations and sanctions.
- Regarding step two on “defining the organisational environment”, the manual states that the focus should be directed to the identification of the root causes for corruption and fraud risks by identifying the weaknesses (internal factors) and threats (external factors) that can affect processes and procedures more prone to corruption schemes.
- “Assessing the residual corruption risks” is a procedural step that details the full range of risks and their degree of probable impact described in the risk assessment exercise. In the case of corruption risks, assessment of the materialisation can only be classified as unacceptable and intolerable because of the impact on reputation, public trust and credibility, and transparency of the institution, while it always results in damaging public financial resources.
- During the process of “selecting the right mitigation strategy”, in the case of corruption risks, the manual underscores that there can only be control activities to avoid or reduce the risk.

As described earlier, the risk matrix forms the basis for the risk map and for developing the programme of work for risk management (*Programa de Trabajo de Administracion de Riesgos*, PTAR), which is endorsed by the head of the entity, the coordinator of internal control and the liaison for risk management. The PTAR is one of the main tools developed by the SFP to complement and assist public organisations in mainstreaming risk management related activities. The PTAR’s primary objective is to monitor and assess the execution of the mitigating strategies and controls, with the aim of addressing the risks. To this end, it includes all the necessary elements describing the risks, the mitigating strategies and the resources needed to implement these activities, as well as implementation monitoring requirements. The progress of the PTAR must be thoroughly documented and communicated to relevant stakeholders within the entity every three months.

According to the relevant provisions of the conceptual framework and the implementation guidelines, all officials in the organisation are responsible for communicating and reporting risks related to the processes in which they are involved. It is important that controls are owned by someone responsible for their operation. The control owner or operator would normally be the person who executes the control on a day-to-day basis, and can be someone other than the risk owner, who remains accountable for the design, application, monitoring and evaluation of controls according to the risk evolution.

The “*Oficialias Mayores*”, or chief administration officers who report directly to ministers, take the lead in the process within federal public entities. There are also specific duties assigned to the head and the senior administration of the organisation that focus on monitoring, reviewing, assessing and approving the proper implementation of the risk management methodology and its outcomes. The internal control co-ordinator (usually the *Oficialia Mayor*) of each ministry and organisation has an important role in the risk management function as they are responsible for:

- Agreeing with the head of the institution the methodological approach, the objectives and the processes to be part of the risk mapping exercise, and communicating these across all entity levels.
- Convening the heads of all administrative units of the institution, the head of the internal control unit (the OIC) and the liaison for risk management to form the working group that will produce the matrix, the map and the PTAR.
- Review the quarterly progress reports of the PTAR and the annual report on risk management, disseminate the matrix, the map and the PTAR across the entity, and provide guidance to those responsible for specific control activities.

Another important actor is the liaison officer for risk management (*Enlace de Administracion de Riesgos*), who links the internal control co-ordinator with all of the administrative and operational areas of the organisation, supports managers and staff throughout the different steps of the process, and reviews and documents input from the areas in order to finalise the expected deliverables and communicate the results to all stakeholders. The head of the internal control unit supports entity staff in the implementation of the recommendations stemming from the risk management process; ensures that the activities included in the PTAR are designed for avoiding, reducing, accepting or transferring the risks; and provides non-binding opinions to the working groups and staff responsible for carrying out the whole exercise.

In this sense, the role of the Committee of Control and Institutional Performance (*Comité de Control y Desempeño Institucional*, COCODI) in effective corruption risk management could be decisive. The head of public organisations have to establish COCODIs, which are organisation-wide committees with a broad scope of competencies. Their mandate entails contributing to institutional risk management, including analysis and monitoring of strategies and control measures identified in the PTAR, as well as prioritising the institutional risks that call for immediate attention with a special focus on corruption risks. COCODIs also have to promote the application of preventive measures to avoid the occurrence of risks. They may work towards treating risk management as an integral part of the management systems since they can link the risk assessment with improvements in organisational performance, which is also one of their core tasks.

Committing adequate and qualified personnel, while taking care of the necessary institutional arrangements, is a crucial issue for the success of anti-corruption policies. The new manual puts the spotlight on corruption risk management, and the SFP should identify a “champion” to highlight the importance of this function. Box 6.3 illustrates the approach of the Australian Crime and Misconduct Commission of Queensland. As such, Mexico could consider introducing a dedicated risk management committee, other than COCODI, in large public organisations. Alternatively a committee could be established that focuses only on fraud and corruption control, while COCODI would focus on business risk management and governance issues. Such an option could be better examined and first piloted in the framework of evaluating the impact and the challenges

related to the new role of the COCODIs, as described in the new manual. The institutional and operational models for audit and risk boards/committees are further elaborated in the section focusing on strengthening independence and the assurance role of the internal audit function. Smaller organisations could appoint a fraud and corruption control co-ordinator/manager with the right training, skills and expertise to undertake this specific task.

Box 6.2. Establishing fraud and corruption risk management “champions”

Depending on the size of the organisation, the fraud and corruption control programme may warrant different levels of response. These may involve establishing one or more of the following:

- risk management committee
- fraud and corruption control committee
- fraud and corruption control co-ordinator and/or manager

The risk management committee

- ensures that the agency maintains effective risk management practices across all its activities
- oversees the development of a systematic and co-ordinated risk-management framework
- monitors the external risk environment
- assesses the impact of any changes on the agency’s risk profile

Fraud and corruption control committee

A larger agency may also establish a fraud and corruption control committee to deal specifically with fraud and corruption issues. This committee should have a broadly based (cross-functional) membership to ensure that it can cover all areas at risk. It should carry a clearly defined responsibility for overseeing the effective implementation of fraud and corruption control measures.

Fraud and corruption control co-ordinator or manager

Change management is more likely to be successful where there is accountability for the commitment of human and financial resources and for the outcomes. Nominating a responsible person, position or small taskforce as a “champion” to drive the programme and bring about change is one of the best ways to ensure success.

Source: Fraud and Corruption Control - Guidelines for best practice, of the Crime and Misconduct Commission of Queensland, Australia, 2005, www.ccc.qld.gov.au/research-and-publications/publications/prevention/fraud-and-corruption/fraud-and-corruption-control-guidelines-for-best-practice-1.pdf/download.

Mexico needs to address its compliance mentality, as risk management has become simply a “tick box” exercise without genuine reflection and action on behalf of organisations. Interviews suggested that the exercises had become a formalistic administrative or bureaucratic requirement that cover superficial risks such as formal roles and responsibilities and compliance with laws and regulations, but that neglect

preventing and detecting actual risks (including fraud and corruption risks). Moreover, exercises were sometimes seen as the responsibility of a specific group of people working in a “silo” approach, detached from the operational units where real risks are present, thus failing to identify the whole range of institutional and corruption risks threatening the achievement of the entity’s objectives.

Therefore, in addition to piloting risk management committees, it would be important for the SFP to accompany its new policy reforms and institutional arrangements with an effective awareness and capacity-building programme around risk management generally, and with a specific module on risk management for fraud and corruption. Such a programme should look beyond the idea of one-off training sessions, the SFP should instead leverage a variety of existing programmes that span an official’s time with the federal public administration. For example, training should be provided as part of induction or orientation programmes, and as part of code of conduct and ethical decision-making training. Furthermore, specialist and specific training for high-risk functions and for different staff groups, such as those responsible for audit, financial functions or investigations, should be provided.

While the manual, and corresponding PTAR, risk map and matrix tools demonstrate progress and more advanced risk management strategies, limitations remain in their full implementation. As such, the SFP could explore ways to closely monitor, assess, and even review if needed, the quality and impact of these tools on the management and operations of the entity to ensure that this exercise has real added value concerning the improvement of service delivery to citizens and the achievement of the entity’s mission and objectives. To this end, the SFP could consider creating an online observatory of organisations’ PTAR exercises, along with the corresponding risk matrices and maps. This online observatory could allow entities to share good practice, learn from the most advanced organisations, and motivate officials to improve their respective risk management activities and tools.

The SFP and line ministries should consider leveraging data analytics to better identify and address integrity risks, and thereby improve the quality of their institutional risk maps and mitigation strategies.

As already highlighted, risk management in the Mexican federal public administration frequently operates as a standalone exercise. This approach does not allow the organisation to fully identify all institutional risks and use structured and unstructured data to better understand the potential impact of a range of risks. By incorporating data analytic practices into the risk management function, organisations can monitor performance through risk sensitivity analysis, model key risk event scenarios, and become more risk intelligent in developing intervention and mitigation strategies. Data analytics is an analytical process by which insights are extracted from operational, financial, and other forms of electronic data internal or external to the organisation. These insights can be historical, real-time, or predictive, and can also be risk focused (e.g. controls effectiveness, fraud, waste, abuse, policy/regulatory noncompliance). Data analytics combines analytic technology and techniques with human interaction to help detect operational risks, improper transactions and integrity breaches such as corruption events, either before they are manifested or after they occur.

Box 6.3. Leveraging data analytics for managing corruption risks

The 2016 Global Fraud Study of the Association of Fraud Examiners (ACFE) report identifies proactive data monitoring/analysis as the most effective tool for anti-corruption control in helping to reduce corruption losses and corruption scheme duration. More specifically, the 36.7% of victim organisations that were using proactive data monitoring and analysis techniques as part of their anti-fraud programme suffered fraud losses that were 54% lower, and detected the fraud in half the time, compared to organisations that did not use this technique.

Furthermore, according to the Institute of Internal Auditor's (IIA) Global Technology Audit Guide (IPPF-Practice Guide), data analysis can help internal auditors meet their auditing objectives relating to the efficiency of risk management arrangements. Analysing data within key organisational processes enables internal audit to:

- Identify instances of fraud, errors, inefficiencies, or noncompliance, with data driven from 100% of relevant transactions and diverse sources.
- Detect changes, vulnerabilities and weaknesses that could expose the organisation to undue or unplanned risk.
- Identify changes in organisational processes and ensure that it is auditing today's risks — not yesterday's.

A number of specific analytical techniques have been proven highly effective in analysing data for wrongdoing and anti-fraud auditing purposes:

- Calculation of statistical parameters (e.g. averages, standard deviations, highest and lowest values) to identify outlying transactions.
- Classification to find patterns and associations among groups of data elements.
- Stratification of numeric values to identify unusual (i.e., excessively high or low) values.
- Digital analysis using Benford's Law to identify statistically unlikely occurrences of specific digits in naturally occurring data sets.
- Joining different data sources to identify inappropriately matching values such as names, addresses, and account numbers in disparate systems.
- Duplicate testing to identify simple and/or complex duplications of organisational transactions such as payments, payroll, claims, or expense report line items.
- Gap testing to identify missing numbers in sequential data.
- Summing of numeric values to check control totals that may have errors.
- Validating data entry dates to identify postings or data entry times that are inappropriate or suspicious.

Sources: ACFE (2016), *Report to the Nations on Occupational Fraud And Abuse: 2016 Global Fraud Study*, Association of Certified Fraud Examiners, Austin, TX.

IIA (2009), *Global Technology Audit Guide, Fraud Prevention and Detection in an Automated World*, Institute of Internal Auditors Research Foundation, Altamonte Springs, FL, www.iaa.org.uk/media/54541/gtag13_fraud_prevention_and_detection_in_an_automated_world.pdf.

When applied to detecting fraud corruption, data analytics processes involve gathering and storing relevant data and mining it for patterns, discrepancies, and anomalies. The findings are then translated into insights that can allow a public organisation to mitigate potential threats before they occur, as well as develop a proactive corruption detection environment. In an era of digitisation and e-government, almost every corrupted act leaves behind a trail of digital fingerprints. Data analytics can enhance traditional rule-based methods to detect wrongdoing. It can also provide evidence to assess the performance of existing controls for constant improvement, since potential perpetrators and corruption schemes are constantly evolving. To this end, purpose-built data analytics is light years ahead of manual sampling. The use of data analytics can allow an organisation to find root issues, identify trends, and provide detailed results.

One of the most commonly used data analytics tools is data mining. Data mining as an analytic process is designed to explore data and to extract information from data sets in order to discover patterns and relations. It can be defined as “the nontrivial extraction of implicit, previously unknown, and potentially useful information from data” (Frawley et al., 1992; Bresfelean et al., 2007), or “the science of extracting useful information from large data sets or databases” (Hand and Mannila, 2001).

Organisations that wish to use data mining tools can purchase mining programmes designed for existing software and hardware platforms, or they can build their own custom mining solution. Risk management practitioners need to be aware of the different kinds of data mining tools available and recommend the purchase of a tool that matches the organisation's needs. This should be considered as early as possible in the project's lifecycle, perhaps even during the feasibility study.

Most data mining tools can be classified into one of three categories:

- **Traditional data mining tools:** Traditional data mining programmes help organisations establish data patterns and trends by using a number of complex algorithms and techniques. Some of these tools are installed on the desktop to monitor the data and highlight trends, while others capture information residing outside of a database. While some may concentrate on one database type, most will be able to handle any data using online analytical processing, or a similar technology.
- **Dashboards:** Installed in computers to monitor information in a database, dashboards reflect data changes and updates onscreen, often in the form of a chart or table. Historical data also can be referenced, enabling the user to see where things have changed (e.g. increase in pharmaceutical expenses from the same period last year). These could be considered as red flags for further analysis/investigation.
- **Text-mining tools:** The third type of data mining tool is sometimes called a text-mining tool because of its ability to mine data from different kinds of text, such as Microsoft Word, Acrobat PDF documents or simple text files. These tools scan content and convert the selected data into a format that is compatible with the tool's database, thus providing users with an easy and convenient way of accessing data without the need to open different applications. Capturing these inputs can provide organisations with a wealth of information that can be mined to discover trends, concepts, and attitudes.

Several OECD countries are moving towards a more advanced use of data analytics for managing corruption risks. Box 6.4 below gives some examples of the United Kingdom's and the United States' use of data analytics for effectively addressing internal and external fraud and corruption risks.

Box 6.4. Data analytics and data sharing for managing fraud and corruption risks in the United Kingdom and United States

The UK example

With the growing sophistication of corruption, many public sector organisations in the United Kingdom are looking to take a more proactive approach to verifying and validating transactions, or to uncovering potential and actual corruption. Common approaches have included: real-time credit reference and other data checks; online verification techniques; data matching with data held by other public and private sector organisations; and predictive/innovative analytics, which involves developing a model to score data for potential fraud and error that can forecast probabilities of fraud and error to an acceptable level of reliability.

The Audit Commission's National Fraud Initiative was launched as the United Kingdom's largest data matching exercise in relation to fraud. The Serious Crime Act of 2007 enabled bodies, other than those with a mandatory requirement to provide data for the National Fraud Initiative, to volunteer to participate by providing data to the Commission. The following list shows how the Department for Work and Pensions, the Driver and Vehicle Licensing Agency and HM Revenue & Customs use data matching to detect evasion acts, and how the British Broadcasting Corporation (BBC) and the National Health Service (NHS) Counter Fraud Service have used data mining for the same purpose:

- The Department for Work and Pensions has a dedicated database and matching service to identify possible fraud and error. It matches data: across benefit systems, between other government departments and Department for Work and Pensions data, for other government departments, for local authorities on housing and council tax benefits, and to tackle internal fraud.
- The Driver and Vehicle Licensing Agency uses data matching to detect vehicle excise duty evasion.
- The HM Revenue & Customs application of data matching has identified people who may have received income from property but have not disclosed this income.
- The BBC uses data mining software tools to match details of licensable places with external commercially available data to identify specific places or segments of the population for targeted enforcement activity.
- The NHS Counter Fraud Service uses data mining and analysis software to examine pharmaceutical and dental data. The software is capable of advanced data analysis that establishes data profiles and highlights anomalies. These can indicate potential fraud for further investigation.

The US example

The US Bureau of Fiscal service has created the Do Not Pay (DNP) Business Centre, which is a multi-functional analytics tool and one-stop data shop.

DNP's mission is to protect the integrity of the government's payment process by assisting agencies in mitigating and eliminating improper payments in a cost-effective manner, while safeguarding the privacy of individuals.

Box 6.4. Data analytics and data sharing for managing fraud and corruption risks in the United Kingdom and United States (cont.)

DNP allows government agencies to check various data sources for pre-award and pre-payment eligibility verification, at the time of payment and any time in the payment lifecycle. It allows them to verify eligibility of a vendor, grantee, loan recipient, or beneficiary. This will help prevent, reduce, and stop improper payments, as well as prevent fraud, waste, and abuse.

- DNP offers a centralised system (the DNP portal) that agencies can use at no cost to isolate and identify the potential for improper payments.
- DNP will benefit the federal agency that enters into a financial transaction with a person or entity.
- DNP is NOT a list of entities or people that should not be paid.
- DNP provides many data sources - in one place - that agencies can use to verify eligibility.
- DNP is committed to providing: quality data, more data sources, continuous system development, cutting edge data analytics, customised agency outreach.

Overview of data source functions:

Data sources	Function
Credit Alert System (CAIVRS) inputs from Department of Justice, Department of Education, Small Business Administration, Department of Housing and Urban Development, Department of Agriculture & Veterans Affairs	Verify whether an individual is a delinquent federal borrower.
Dept. of Health and Human Services' (HHS) List of Excluded Individuals & Entities (LEIE)	Verify whether payments are to entities excluded from participating in federal health care programmes.
General Services Administration's (GSA) System for Award Management (SAM) Entity Registration Records	Verify that a vendor seeking to do business with the federal government has registered, in accordance with the Federal Acquisitions Regulation (FAR).
GSA SAM Exclusion Records	Verify whether payments are to debarred individuals.
Treasury's Office of Foreign Assets Control (OFAC)	Verify whether an individual or entity is prohibited from entering into financial transactions with US financial institutions and the US government.
Social Security Administration's (SSA) Death Master File (DMF)	Verify whether a payee is deceased.
Treasury Offset Programme (TOP) Debt Check	Verify whether payee owes delinquent non-tax debts to federal government (and participating states).

Sources: NAO/HM Treasury (2008), *Good Practice Guide: Tackling External Fraud*, National Audit Office, London.

HM Treasury (2011), *Tackling Internal Fraud*, HM Treasury, London, http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.

US Bureau of the Fiscal Service (2017), Website of Do Not Pay, <http://donotpay.treas.gov/> (accessed March 2017).

Mexico has identified the added value of using information and communication tools to strengthen integrity in the public sector by introducing effective measures to prevent, detect, investigate and reduce corruption events. In this framework, information and communications technology are indispensable for promoting timely access to information and tightening interagency co-operation.

The federal government, in the context of the National Digital Strategy, has engaged in various projects and initiatives related to the use of open data and technology to combat corruption:

- Labora is a platform for civic entrepreneurs that offers cutting-edge tools and connects with a network of world-class companies, mentors and investors to accelerate the impact of their ideas through innovation data.
- Datalab is a federal programme, in collaboration with the National Laboratory of Public Policy to boost the capabilities of use and data analysis for the development, implementation and evaluation of public policy based on evidence.
- Based on a series of surveys, workshops and focus groups with users, the portal Open Government Data of the Republic, datos.gob.mx, was updated to provide a better user experience. Updates include mechanisms for interacting with users to receive notifications of new publications, and reports from citizens so that they can improve the quality and availability of government open data. As part of the new release, the database of who's who in the prices PROFECO was published. This is a database that contains information on the prices of more than 3 000 products of the basic basket in more than 2 000 establishments in 32 states, since 2006 to date.
- The instruction of the President, Enrique Peña Nieto, during the Global Summit of the Alliance for Open Data focused on the implementation of the Open Data Standard for Procurement in the larger project of the government, the new airport of the City of Mexico.
- The implementation of the Open Data Standard Procurement in the shared telecommunications network.
- The announcement of the SFP regarding seven amendments to regulations, including boosting open contracts through amendments to the regulations of the Law of Acquisitions, Leases and Public Sector Services, and the Law on Public Works and Related Services, to incorporate the stages of planning and execution of contracts in Compranet, the public procurement platform.
- The Mexico Open Network is a mechanism of co-operation between the three levels of government to support states and municipalities in the publication and use of open data.
- The creation of a Commission on Transparency and Open Government Anti-Corruption within the National Confederation of Governors (CONAGO), and the signing of the collaboration Network Mexico Open on state-wide data.

As a result of these projects and initiatives, Mexico has positioned itself as a regional leader in the use of open data and technologies as key tools in the fight against corruption, spearheading efforts for the development and adoption of the Principles of Open Data for Anti-Corruption in the G20.

However, despite this progress, the use of data analytics has not been widely introduced in the internal control system, especially the risk management function. The introduction of innovative ICT systems should not be confused with the use of data analysis techniques. As already highlighted, data analytics can be described as the process of inspecting, cleaning, transforming, and modelling data with the goal of highlighting useful information, suggesting conclusions, and supporting decision making. In this sense, innovative oversight tools, such as continuous auditing, is any method used by auditors to perform audit related activities on a more continuous or continual basis. It is the continuum of activities ranging from continuous control assessment to continuous risk assessment. For example, the use of the information system for the Institutional Development and Control Committee (*Comité de Control y Desempeño Institucional*, COCODIs, and *Sistema Informático del COCODIs*, SICOCODIS) for the purposes of the annual evaluation of the effectiveness of the organisation’s internal control system, and the relevant evaluation report of the Offices of Internal Control (*Órganos Interno de Control*, OIC), does not mean that COCODI and/or the OIC are using data analysis tools for their tasks in relation to the risk management function.

The SFP should consider developing a concrete action plan to promote the use of data analytics tools for effective risk management. The interoperability of existing information systems, and the training of risk management practitioners, are considered key priorities for integrating data analytics within risk assessment and mitigating policies.

Internal control: A tool for continual organisational improvement

The SFP’s new Standard Model for Internal Control is a positive step forward in strengthening and harmonising internal control frameworks in the federal administration. However, the priority at this point should be to address the implementation gaps of the past by fostering greater ownership for internal control with operational units, and aggressively scaling-up capacity-building efforts.

Integrity, ethical values and competence of the entity’s people are crucial elements of a healthy internal control environment, which also includes how management assigns authority and responsibility, and organises and develops its employees. The internal control environment consists of formal structural and “soft” behavioural aspects. Formal rules and procedures, such as a code of ethics, human resource processes, accountability arrangements and delegation of duties, are mostly well documented.

The SFP’s System of Institutional Internal Control (SCII), is composed of three basic components:

1. The Standard Model of Internal Control (Modelo Estándar de Control Interno, or MECI).
2. The Institutional Risk Management (Administración de Riesgos Institucionales, ARI).
3. The Institutional Development and Control Committee (Comité de Control y Desempeño Institucional, COCODI).

The SFP is responsible for developing guidance and assistance for OICs, which are located in line ministries and other public sector organisations and are the responsible units for conducting audits and monitoring the implementation of the internal control

framework in government entities. The new MECI, *Modelo Estándar de Control Interno*, introduced by the new “*Acuerdo por el que se emiten las Disposiciones y el Manual Administrativo de Aplicación General en Material de Control Interno*, MAAG-CI” is aligned with the *Marco Integrado de Control Interno en el Sector Público*, known as MICI, developed by Mexico’s Supreme Audit Institution, (*Auditoría Superior de la Federación*, ASF). MECI ensures harmonisation between the criteria of external audit and internal audit. Box 6.5 highlights the main attributes of the new MECI.

Box 6.5. Mexico’s new MECI for federal public sector organisations: Key elements

Internal control is a process affected by an entity’s oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved. These objectives and related risks can be broadly classified into one or more of the following four categories:

- Operations: Effectiveness and efficiency of operations
- Reporting: Reliability of reporting for internal and external use
- Compliance: Compliance with applicable laws and regulations
- Safeguarding: Protection of public resources and prevention of corruption acts

The new MECI is structured around five components and 17 principles depicted in the following table:

Control environment	<ol style="list-style-type: none"> 1. The organisation demonstrates a commitment to integrity and ethical values 2. The board of directors demonstrates independence from management and exercises oversight of the development and performance of internal control. 3. Management establishes, with board oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives 4. The organisation demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives. 5. The organisation holds individuals accountable for their internal control responsibilities in the pursuit of objectives
Risk assessment	<ol style="list-style-type: none"> 6. The organisation specifies objectives with sufficient clarity to enable the identification and assessment of risks relating to objectives. 7. The organisation identifies risks to the achievement of its objectives across the entity and analyses risks as a basis for determining how the risks should be managed. 8. The organisation considers the potential for fraud in assessing risks to the achievement of objectives. 9. The organisation identifies and assesses changes that could significantly impact the system of internal control.
Control activities	<ol style="list-style-type: none"> 10. The organisation selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels. 11. The organisation selects and develops general control activities over technology to support the achievement of objectives. 12. The organisation deploys control activities through policies that establish what is expected and procedures that put policies into action.

Box 6.5. Mexico’s new MECI for federal public sector organisations: Key elements
(cont.)

Information and communication	<p>13. The organisation obtains or generates and uses relevant, quality information to support the functioning of internal control.</p> <p>14. The organisation internally communicates information, including objectives and responsibilities for internal control, necessary to support the functioning of internal control.</p> <p>15. The organisation communicates with external parties regarding matters affecting the functioning of internal control.</p>
Monitoring activities	<p>16. The organisation selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning.</p> <p>17. The organisation evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management and the board of directors, as appropriate.</p>

Source: SFP, Acuerdo por el que se emiten las Disposiciones y el Manual Administrativo de Aplicacion General en Material de Control Interno, MAAG-CI, November 2016, http://dof.gob.mx/nota_detalle.php?codigo=5459569&fecha=03/11/2016.

The new MECI introduces two important changes:

- Codifies 17 principles (with associated points of focus) that support the five components of internal control.
- Introduces for the first time a principle dedicated to managing corruption risks

These 17 principles aim to define the fundamental concepts underpinning each of the five components. They can be seen as guidance towards achieving an effective internal control system and helping practitioners apply informed judgement when evaluating the maturity and degree of implementation of each component. There are inherent interdependencies and linkages among components and the fact that they all have to be present, functioning and operating together with the 17 principles. The evaluation of the system of internal control considers how the principles, and the associated points of focus, are being applied. However, it should be noted that the principles are not meant to be used as a checklist. The points of focus represent important characteristics that are linked to the principles. For example, the first principle linked to the control environments component is: “The organisation demonstrates a commitment to integrity and ethical values”. The four associated points of focus aim to better frame and indicate the core substance of this principle:

- **Sets the tone at the top:** The board of directors and management at all levels of the entity demonstrate through their directives, actions, and behaviour the importance of integrity and ethical values to support the functioning of the system of internal control.
- **Establishes standards of conduct:** The expectations of the board of directors and senior management concerning integrity and ethical values are defined in the entity's standards of conduct and understood at all levels of the organisation and by outsourced service providers and business partners.

- **Evaluates adherence to standards of conduct:** Processes are in place to evaluate the performance of individuals and teams against the entity's expected standards of conduct.
- **Addresses deviations in a timely manner:** Deviations from the entity's expected standards of conduct are identified and remedied in a timely and consistent manner.

The principles should enable the effective operation of the five internal control components and the overall system of internal control. To integrate these principles into the management system, the organisation must understand the intent of the principle and identify practical steps to apply it consistently across the entity. The actual integration and functioning of the principles should be considered during the evaluation of internal control. The new MECI does not prescribe specific controls, as under a principles-based approach it is the manager's responsibility to develop the proper controls that impact or influence the principles through their design and execution across the organisation.

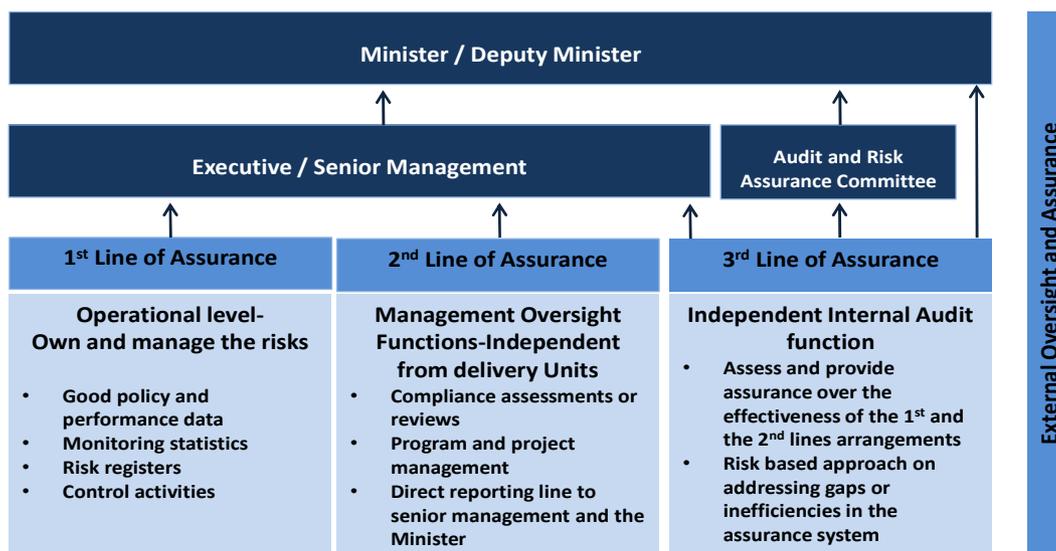
The analysis supported by the answers to the OECD questionnaire, the fact-finding mission in November 2015, and the long-standing co-operation and interaction of the OECD with various public entities in Mexico, underscores the risk of implementing internal control in isolation. In many cases, it seems that internal control and risk management processes are not part of the organisation's overall management system, including the processes for good governance, strategy and planning, monitoring, reporting and strengthening accountability.

More specifically, how an internal control system is implemented appears to remove the main responsibility from where it primarily belongs: line management and staff. One of the main challenges identified in Mexico is that internal control and risk management functions are often seen as an administrative routine, rather than a valuable exercise. The root causes that hinder the mainstreaming of internal control processes and functions may vary widely. As mentioned, the head of the "Oficialia Mayor" is usually appointed as co-ordinator of the internal control system in federal public entities. This option has several advantages, since the head of the Oficialia Mayor reports directly to the head of the organisation (i.e. Minister) and is responsible for overseeing human resources and the financial and equipment resources of the entity. However, in depth implementation requires the input and active involvement of all core business and operational areas to foster greater ownership over controls.

In order to build greater ownership, the role of public organisation managers within the Mexican federal public administration needs to be strengthened in relation to the internal control system. A sound control environment requires correspondence and consistency between authority (empowerment), responsibility and accountability throughout all levels of the public entity. There is no responsibility without authority (authority as a precondition to responsibility), and no responsibility without accountability (accountability as a necessary consequence of responsibility).

Figure 6.2 depicts the allocation of oversight and accountability tasks and functions within public organisations across the three lines of assurance model.

Figure 6.2. The three lines of assurance model



Source: Adapted with inputs from a. Federation of European Risk Management Associations (FERMA)/European Confederation of Institutes of Internal Auditing (ECIIA) Guidance on the 8th European Company Law Directive on Statutory Audit DIRECTIVE 2006/43/EC – Art. 41-2b, 2010, b. Institute of Internal Auditors (IIA): Three Lines of Defence Model, 2013, and c. Assurance Maps Presentation, PIC EU-28 Conference 2015.

The concept of managerial responsibility and accountability is not developed within the Mexican public administration. This largely stems from a weak management culture dominated by hierarchical decision making and a lack of delegation and segregation of duties. However, it is not easy to find the right incentives to motivate individuals in a set administrative and working environment affected by a range of reasons that further complicate the attempt to improve and integrate internal control and risk management into the Mexican administration (e.g. heterogeneous recruitment, employment and compensations regimes; high turnover; limited performance monitoring and evaluation capacity; weak interoperability of ICT systems).

Public managers have key responsibilities in relation to establishing and maintaining sound internal control processes and activities. How the US Office of Management and Budget (OMB) frames the context of managerial responsibility is described in Box 6.6.

Box 6.6. US Office of Management and Budget circular A-123: Management's responsibility for internal control

The circular states the office policy as:

- Management is responsible for establishing and maintaining internal control to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations.
- Management shall consistently apply the internal control standards to meet each of the internal control objectives and to assess internal control effectiveness.
- When assessing the effectiveness of internal control over financial reporting and compliance with financial-related laws and regulations, management must follow the OMB's outlined assessment process.
- Annually, management must provide assurances on internal control in its Performance and Accountability Report, including a separate assurance on internal control over financial reporting, along with a report on identified material weaknesses and corrective actions.

Actions required by the circular indicate agencies and individual federal managers must take systematic and proactive measures to:

- Develop and implement appropriate, cost-effective internal control for results-oriented management.
- Assess the adequacy of internal control in federal programmes and operations.
- Separately assess and document internal control over financial reporting consistent with the process.
- Identify needed improvements.
- Take corresponding corrective action.
- Report annually on internal control through management assurance statements.

Source: United States Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control (Revised 07/15/2016).

Fountain, L. (2012), *Manager's Responsibility for Internal Control*, www.kscpa.org/writable/files/Self-Study/FGE/updated_managers_responsibility_for_internal_control-_article.pdf.

Mexico could consider focusing on policies to create awareness and involvement amongst senior and middle management, as well as general staff. Public servants must be involved in turning the organisation's vision and mission into concrete sub-objectives that are further disseminated across all structural organisational levels, and ideally linked to individual interests and skills. The inclusion of low-level staff can create motivation and enthusiasm and match individual objectives to management plans. Public servants must own internal control and risk management processes in order to close the gap between nominal and actual implementation.

Some concrete instruments could include:

- Using awareness campaigns or events on the importance of integrating internal control and risk management activities into daily business as a tool to influence

public perception and enhance the accountability, and therefore the legitimacy, of public entities.

- Providing regular feedback on the linkages between a sound internal control environment and the achievement of the entity's objectives through periodic messages (e.g. newsletter, videos) from senior management to highlight progress and achievements on improving the actual implementation and integration of the internal control requirements and activities.
- Linking issues such as budget allocation, expenditure limits and staff and payroll ceilings, especially at the regional and municipal level, with progress made in mainstreaming internal control and risk management into daily operations.

As already highlighted, the new implementation manual on internal control "*Acuerdo por el que se emiten las Disposiciones y el Manual Administrativo de Aplicación General en Materia de Control Interno, MAAG-CI*" aims to address some of these challenges by bridging the gap between nominal and actual implementation. The first significant change is the integration of the two internal control conceptual frameworks developed by the SFP and the ASF, respectively: the Standard Model of Internal Control (*Modelo Estándar de Control Interno, MECI*) and the Integrated Framework for Internal Control in the Public Sector (*Marco Integrado de Control Interno en el Sector Público, MICI*). MICI deals with mainstreaming the role of COCODI within management, and operations as a driver for continuous organisational performance improvement.

Most OECD countries view internal control as an integral part of a public organisation's governance systems. This approach is crucial to ensure that public entities can capitalise on opportunities, while offsetting the threats that may hinder the achievement of set objectives. One of the primary purposes of a robust internal control system is to support political and administrative senior management in decision making, while reducing uncertainty and effectively mitigating risks. The main challenge for Mexico seems to lie in avoiding turning internal control and risk management into a stand-alone exercise that is not integrated with the other governance systems. Box 6.7 provides a list of bad and good practice concerning the integration of internal control.

Box 6.7. Bridging the implementation gap



Source: IFAC (2015), *From Bolt-on to Built-in: Managing Risk as an Integral part of Managing an Organisation*, International Federation of Accountants, New York, <https://www.ifac.org/publications-resources/bolt-built>.

There are several concrete actions that could lead to the greater understanding and active involvement of both management and staff regarding internal control arrangements and requirements:

- Human resource procedures for hiring, individual evaluation, selection of top managers and dismissal should reflect and underscore the organisation's mission and ethical values, which are the core foundations of a contemporary internal control system. Although the SFP cannot act alone in this field across the federal administration, it should steer the dialogue and reform initiatives.
- Job descriptions and competency profiles for managerial and high risk positions should encompass concrete tasks and responsibilities in relation to the allocation of internal control functions along the three lines of defence model.
- Communicate at the entity level (e.g. by videos, electronic messages, newsletters) the good practices and individual achievements in integrating and using internal control as a management tool.

Capacity building efforts that the SFP could consider to strengthen its existing training activities, particularly given the opportunity of the introduction of MAAG-CI, include:

- Dilemma training scenarios underpinning the attributes of a sound internal control environment (one of the five components according to the new MECI).
- Workshops on the added value of internal controls in improving management and governance systems, including some especially designed for senior and middle

management. There could be a tailored workshop for *Oficialias Mayores*, given their important co-ordination role.

- Training modules and awareness campaigns focusing on bridging the gap between organisational objectives, daily operations and internal control activities. The members of COCODIs should be actively involved in these training modules, focusing on their new tasks and their core role in linking internal control with management systems and improving the overall governance of federal organisations.

The National Auditing System (NAS) Working Group on Internal Control should use an evidence-based methodology for assessing the maturity and implementation of internal control components and processes within public entities.

Evaluation exercises (self-assessment models), conducted by Mexican public entities with the support of the respective OICs and according to SFP guidelines, have already identified the problems hampering the improvement of the maturity and implementation of internal control components and activities. OICs are responsible for reviewing answers to self-evaluations and the supporting documentation, and providing assurance to management of the quality of internal control processes. This should be the primary role of an internal audit function that acts as a third line of defence/assurance within the overall internal control system. The entire process is supported by a toolkit of analytical criteria (*Crterios para la Evaluación del Órgano Interno de Control al Informe Anual del Estado que Guarda el Sistema de Control Interno Institucional*).

There are serious challenges regarding the credibility and validity of these self-evaluation reports. The process has certain limitations, which the ASF has touched upon in its Studies No 1172 and No 1212 (*Modelo de Evaluacion de Control Interno en la Administracion Publica Estatas*). The ASF has conducted its own evaluation on the results of the self-assessment conducted by Mexican federal entities, and concluded that the application of the methodology, as well as the documentation of the answers provided, vary across entities and need to be further mainstreamed and rigorously monitored.

As a first step, the SFP should consider adopting practical steps to strengthen the credibility and accuracy of the self-assessment exercise, given the opportunity of the new manual and the new MECI. Concrete actions could include: stricter documentation requirements on the rating given by organisations, secondary sampling controls from the competent unit of the SFP, exchange of information and cross checking with assessments undertaken by the ASF, and creating a registry of certified practitioners in internal control self-assessment (CSA) techniques. These CSA techniques aim to enable managers and teams directly involved in business units, functions or processes to participate in assessing the organisation's risk management and control processes. Internal auditors can be involved in a consulting role for gathering relevant information about risks and controls; for focusing audit work on high risk, unusual areas; and to forge greater collaboration with operating managers and work teams. They should not own the process, but rather act as facilitators to help teams in the assessment of risks and controls. The SFP's approach provides for the head of the OIC to review and assess the self-assessment findings before reporting back to the SFP. The above-mentioned steps can increase the credibility of the exercise across all internal and external stakeholders, and help prioritise

and guide corrective actions towards the internal control components and activities that face the most significant challenges.

The SFP may wish to consider the Guidance (FERMA-ECIIA, 2014) on the 8th European Company Law Directive on Statutory Audit (2006/43/EC – Art. 41-2b), which provides a good example of identifying the key points for establishing and implementing a sound system of monitoring the effectiveness of internal control, internal audit and risk management systems (Box 6.8).

Box 6.8. Q&A for providing guidance to senior management and committees on monitoring the effectiveness of internal control, internal audit and risk management systems

1. Who monitors the adequacy of the internal control system? Are there processes to review the adequacy of financial and other key controls for all new systems, projects and activities?

A key part of any effective internal control system is a mechanism to provide feedback on how the systems/processes are working so that shortfalls and areas for improvement can be identified and changes implemented. In the first instance, if there is an internal control department, it will help managers implement sound internal controls. The operation of key controls will then be subject to review by internal and external audit along with other review agencies, both internal and external to the organisation. If no internal control department exists, guidance may be sought from risk management or internal audit.

2. Are arrangements in place to assess periodically the effectiveness of the organisation's control framework?

A key requirement of many of the internal control requirements encompassed in legislation throughout the European Union (EU) and the rest of the world is an annual attestation as to the adequacy and effectiveness of the internal control system. Such attestation should be clearly evidenced. The review of the control framework will be the responsibility of the audit committee who will receive information and assurances from internal audit, risk management and the external auditors.

3. Who assesses internal audit?

The audit committee assesses the performance of the internal audit function by receiving performance information from the function itself and consulting appropriate directors and the external auditors. In addition, the function should be independently reviewed by an external agency, such as the Institute of Internal Auditors (IIA), as specified in the International Professional Practices Framework, issued by the IIA.

4. How are the proposed audit activities prioritised? Is the determination linked to the organisations' risk management plan and internal audit's own risk assessment? Are the internal audit plan and budget challenged when presented?

The work of internal audit should be set out in a risk-based plan challenged and approved annually by the audit committee. This plan should be informed by the work of other review agencies, such as external audit and risk management, and should contain sufficient work for the head of internal audit to be able to form an overall view as to the adequacy of the risk management process operated by the organisation. If there is no formal risk management process, or if the process is flawed, then internal audit will need to rely on some other method of assessing the key activities and controls for its review. This could be based on its own risk assessment.

Source: FERMA (2014), European Confederation of Institutes of Internal Auditing Guidance on the 8th EU Company Law Directive, 2014, Federation of European Risk Management Associations, Brussels.

The National Auditing System Working Group on Internal Control could publish the results of self-assessment exercises and build on existing procedures (i.e. ASF and SFP reviews) to reach a commonly accepted and effective model for evaluating the federal organisation’s self-assessment results. These “secondary” level evaluations could be shared between federal entities, even in a ranking approach reflecting methodological approaches (e.g. practical steps, tools, techniques, documentation) and providing evidence-based data for further improving the exercise at the entity level.

Internal audit: Ensuring independence and providing assurance

In order to strengthen the independence and the assurance role of the internal audit function, the SFP should seek to better clarify the functions between the second and third lines of defence.

In Mexico, there seems to be confusion between the duties and functions assigned to each of the three lines of defence. The problem lies mainly with framing the tasks and responsible actors in the second line of defence.

The main features of second line defence tasks and processes are:

- They must be separate from the first line chain of command.
- Reliance is placed on this oversight by management.
- They are not completely independent since they are still close to management.
- There won’t always be a second line depending on special circumstances, such as the size of the entity.
- The degree of maturity of oversight provided varies widely depending on the function.

Mexico could continue to work on assigning and clearly separating the roles and responsibilities of the second and third lines of defence. The second line of defence consists of management oversight functions to ensure that first line controls are properly designed, in place and operating as intended. It usually includes actors and activities such as risk management, ethics committees, controllership for financial risks and reporting, management oversight committees (e.g. IT, human resources), payment gating and sampling reviews. These functions are far from line management and first line of defence activities, but still close to management’s authority so that they cannot be part of the independent third line of defence function.

It is not always easy to draw a line between the second and third lines of defence in public organisations, sometimes due to the size and structure of the organisation, as well as whether senior management consider that it is more efficient for internal audit to perform risk management, compliance or other second line of defence functions. If this occurs, and a clear separation is not achievable, there must be safeguards that the intersection between the second and third lines of assurance do not compromise the effectiveness of the internal audit function (third line). The head of internal audit should clearly communicate the impact to senior management, since if internal audit is involved in second line of defence activities, the task of providing assurance regarding these specific activities must be outsourced either externally or internally to other departments. Internal audit should not assume any managerial responsibilities regarding the audit

object. In the case of undertaking new risk management or compliance initiatives, internal audit can facilitate and support the responsible actors, but should never assume ownership.

In order to clarify the tasks and functions assigned to the second and third lines of defence, Mexico could consider developing guidelines that tailor the three lines of defence model to the actual allocation of roles and responsibilities between individuals and units within federal public organisations. Such a tool would help both managers and staff understand where they stand within the overall institutional internal control system, and what is expected from them in this entity-wide approach to effectively mainstream internal control functions in management and operational processes. As noted above, this tailored approach entails taking into account the differences between public organisations in size and structure, as well as mission and objectives. Even in cases where there are not enough resources, or where internal control arrangements are not mature enough to support a clear distinction between the second and third line of defence, international professional practice standards provide for the necessary safeguards to ensure that these functions are managed and performed properly in order to add value to the organisation.

The SFP could highlight the distinct role of the internal audit function regarding fraud and corruption investigations by assessing the current structure and operational model of the OICs, while ensuring professionalism and strong capacities.

The current model of the OICs consists of four areas: internal audit, complaints management, investigation and disciplinary activities, and performance evaluation issues. The relevant institutional arrangements and roles are described in Articles 76 and 80 of the Internal Regulation of the SFP, as well as in the Agreement for the administrative entities of the SFP (*“Acuerdo por el que se adscriben orgánicamente las unidades administrativas de la Secretaría de la Función Pública y se establece la subordinación jerárquica de los servidores públicos previstos en su Reglamento Interior”*), which was published in the official gazette in December 2015. This is a broad mission mandate that stretches to areas not typically core activities of an internal audit function. SFP units identified that the anti-corruption reform makes it even more important to clearly differentiate the roles between internal audit and investigation activities. According to leading international practice, the role of internal audit is crucial for monitoring and evaluating the operation of the various components of the internal control system. This activity enables management to determine whether all components of internal control function effectively, as separate modules and as a system. An effective internal audit monitoring function provides assurance that internal control deficiencies are identified and communicated in a timely manner to the actors responsible for taking corrective action. The monitoring process involves establishing a foundation for monitoring, designing and executing monitoring procedures that are prioritised based on risk, and assessing and reporting results, including follow-up on corrective actions where necessary.

Internal auditors also have a role in the fight against corruption, although they should not be considered as the primary responsible actors. The Institute of Internal Auditors’ 2110 Standard (IPPF 2015) specifically refers to the responsibility of internal audit to evaluate the existing situation and submit proposals to improve governance in order to promote ethical values and principles inside the entity. There is a practical guide on

Evaluating Ethics-related Programmes and Activities (IIA, 2012). According to the IIA's IPPF standards:

- Standard 1210.A2: Internal Auditors must have sufficient knowledge to evaluate the risk of fraud and the manner in which it is managed by the organisation, but are not expected to have the expertise of person whose primary responsibility is detecting and investigating fraud.
- Standard 2120.A2 Risk Assessment: The internal audit activity must evaluate the potential for the occurrence of fraud and how the organisation manages fraud risk.
- Standard 2210.A2: Internal Auditors must consider the probability of significant errors, fraud, noncompliance, and other exposures when developing the engagement objectives.
- Standard 2060: Chief Audit Executives (CAE) must report periodically to senior management and the board on fraud risks.

While conducting audit missions, auditors should act to identify fraud and corruption indicators that can be recognised in most of the core business processes. In order to be successful in recognising these indicators, auditors must rely on their technical experience, professional judgment and good understanding of how potential fraud and corruption acts can be committed. Audit strategies should be diverted to areas and operations prone to fraud and corruption by developing effective high risk indicators. Box 6.9 provides an example of internal audit's role in curbing fraud and corruption.

Box 6.9. Fraud and corruption: Internal audit's role

It is not a primary role of internal audit to detect fraud and corruption. Internal audit's role is to provide an independent opinion based on an objective assessment of the framework of governance, risk management and control. In doing so, internal auditors may:

- Review the organisation's risk assessment seeking evidence on which to base an opinion that fraud and corruption risks have been properly identified and responded to appropriately (i.e. within the risk tolerance).
- Provide an independent opinion on the effectiveness of prevention and detection processes put in place to reduce the risk of fraud and/or corruption.
- Review new programmes and policies (and changes in existing policies and programmes) seeking evidence that the risk of fraud and corruption had been considered where appropriate and providing an opinion on the likely effectiveness of controls designed to reduce the risk.
- Consider the potential for fraud and corruption in every audit assignment and identify indicators that crime might have been committed or control weaknesses that might indicate a vulnerability to fraud or corruption.
- Review areas where major fraud or corruption has occurred to identify any system weaknesses that were exploited or controls that did not function properly and make recommendations about strengthening internal controls where appropriate.

Box 6.9. Fraud and corruption: Internal audit's role (cont.)

- Assist with, or carry out investigations on management's behalf. Internal auditors should only investigate suspicious or actual cases of fraud or corruption if they have the appropriate expertise and understanding of relevant laws to allow them to undertake this work effectively. If investigation work is undertaken, management should be made aware that the internal auditor is acting outside of the core internal audit remit and of the likely impact on the audit plan.
- Provide an opinion on the likely effectiveness of the organisation's fraud and corruption risk strategy (e.g. policies, response plans, whistleblowing policy, codes of conduct) and if these have been communicated effectively across the organisation. Management has primary responsibility for ensuring that an appropriate strategy is in place and the role of internal audit is to review the effectiveness of the strategy.

Source: HM Treasury (2012), *Fraud and the Government Internal Auditor*, HM Treasury, London, www.gov.uk/government/uploads/system/uploads/attachment_data/file/207217/Fraud_and_the_Government_Internal_Auditor.pdf

In Mexico, the OICs, are responsible for the internal audit role in organisations. However, their budget is determined and heavily influenced by the ministry or organisation in which they operate. This can limit their capacity to effectively carry out their role objectively and independently.

The OICs do not appear to have adequate resources and expertise to engage in internal audit. Corruption investigators should receive specialist training, and certification of training and investigative competency would enhance the credibility of an investigator as a witness. Internal audit should assess, at the entity level, whether there is a robust ethics programme that includes: effective senior management oversight, strong tone at the top, line management involvement, organisation-wide commitment, a customised code of conduct, timely follow-up and investigation of reported incidents, consistent disciplinary action for offenders, effective ethics training, ongoing monitoring systems, and an anonymous incident reporting system. In Mexico, it appears that the enforcement of integrity policies is often limited in identifying and sanctioning people for misconduct. How senior officials react to compliance and deviation is crucial for the credibility of the control environment. Enforcement and disciplinary procedures should be clear and transparent and equally applied to everyone. It would also be helpful to communicate on cases of people exhibiting the desired behaviour.

It has been highlighted that the involvement of OICs in disciplinary procedures has created confusion among public employees regarding the exact role and mission of the internal audit function. Managers and staff often perceive OICs as policing units that focus on compliance, identify misconduct and wrongdoing, conduct investigations and sanction people. Colombia has tried to address this problem by separating the offices of internal control from the offices of disciplinary control (*Oficina de Control Interno Disciplinario*) in order to underscore the role of internal audit as a management tool that provides consultation and assurance towards improving the efficiency and service delivery of public organisations.

An independent and efficient internal audit function should place reliance upon assurance mechanisms in the first and second line of defence in order to target resources most efficiently at areas of highest risk or where there are gaps or weaknesses in other

assurance arrangements. In order for internal audit to fulfil its mission it has to be independent of the first and second lines of assurance, line management and associated responsibilities. The real challenge for internal audit in the era of financial crisis and austerity is how to do more with less, such as by sharing internal audit services across multiple agencies. Audit budgets are being reduced at a time when political personnel and public senior managers need audit assurance the most. The Government Internal Audit Agency of the United Kingdom is trying to effectively respond to these challenges, and thus safeguard and even improve its ability to deliver high quality audit services to state entities.

Box 6.10. The United Kingdom’s HM Treasury experience

The Government Internal Audit Agency (GIAA) was launched on 1 April 2015, following publication by HM Treasury of the Financial Management Review (FMR) in December 2013, as an executive agency of HM Treasury (HMT) to help ensure government and the wider public sector provide services effectively. The GIAA aims to expand the agency to become the single internal audit provider to government. The idea is that the GIAA will incorporate all existing internal audit units under its auspices. As of October 2016, the GIAA employs 464.8 full-time equivalents (FTE) (auditors and administrative staff) and they expect to reach a total number of about 750 people, according to their action plan. This approach will allow for the agency to benefit from the concentration of expertise, leading practices, and critical mass (e.g. concentration of fraud forensic or cyber security experts) to improve the efficiency and quality of service while reducing the financial cost; as well as to adapt and evolve the audit expertise and capacity model based on the expectations and needs of service beneficiaries. The GIAA creates the vital space for a career path for auditors, which results in a lower turnover rate. The state entities are being charged with the cost of the provided audit services, which safeguards independence and creates a motive for improved services and performance assessment. The United Kingdom has been working with shared audit services since 1990.

GIAA offers quality assurance on an organisation’s systems and processes, based on an objective assessment of the governance, risk management and control arrangements it has in place. Its internal auditors look at financial risks and wider issues, such as:

- employee relations
- management structure
- relationships with stakeholders

They then offer advice on how to improve those systems and processes, based on their findings.

GIAA is responsible for:

- Reviewing the functions and activities of government and public sector organisations, and assessing their efficiencies and risks.
- Making recommendations for improvement, based on assessments.
- Adding value to public services and improving how effectively organisations provide them.

Box 6.10. The United Kingdom's HM Treasury experience (*cont.*)

GIAA's priorities are to:

1. Expand capacity and expertise in areas including:
 - counter-fraud and investigations
 - information systems
 - programme and project management
2. Introduce a framework agreement for internal audit services that will:
 - improve private sector involvement
 - make use of the collective purchasing power of government internal audit
 - strengthen customer support (e.g. around sharing best practice, and access to specialist skills)
 - develop the framework for providing assurance around cross-government and inter-organisational risks

The UK's example depicts a model of providing audit services in the public sector, and the current approach follows a long period of working with the model of shared audit services between clusters of organisations acting in the same policy field. For example, Research Councils United Kingdom (RCUK) is the strategic partnership of the UK's seven Research Councils. The Research Councils' Internal Audit Service (RCIAS) was formed in 1992 from the separate internal audit units previously within each Research Council. In April 2012, RCIAS merged with the RCUK Assurance Programme to form the Audit and Assurance Services Group (AASG), with a principal responsibility to each council's chief executive in helping them meet their responsibilities and accountabilities to Parliament. To achieve this they undertake an annual programme of work within each Council, which is agreed by respective Chief Executives and their Audit Committees. Working to standards set by HM Treasury, the annual programmes include a range of services to help managers meet their objectives and maintain adequate control over resources.

Sources: UK Government (2017), *Government Internal Audit Agency Webpage*, www.gov.uk/government/organisations/government-internal-audit-agency (accessed March 2017).

Research Councils UK (2017), *Audit and Assurance Services Group (AASG) Webpage*, www.rcuk.ac.uk/about/aboutrcuk/aims/units/aasg/ (accessed March 2017).

Due to budgetary dependence, OIC staff often find that their positions are contingent on the ministries in which they operate, which further limits their potential independence. There are several solutions that could be considered in order to address this challenge. The heads (they should be called Chief Audit Executives, CAE) and the staff of OICs should be carefully selected based on meritocracy and individual skills. In Colombia, for example, CAEs are appointed by the president in a major step to attract competent professionals and raise awareness about the importance of the internal audit function. It is important that auditors have a fixed term, and that the head of the organisation for which they are providing internal audit services cannot terminate their appointment without proper justification and documentation. The head and the staff could be either seconded from public organisations or hired from the private sector. A common leading practice is the creation of a registry of certified internal auditors who can be appointed in internal

audit units. The overall process to increase the professionalism and independence of internal audit practitioners should be based on the existence of tailored job descriptions, detailed and clear professional standards that call for specific academic background, relevant experience, expertise and skills certification, and continuous training and capacity building requirements (e.g a scheme such as the IIA's CPEs). The process should be supported by a unified and dedicated performance assessment and remuneration regime.

A significant constraint is that the Mexican public administration has not developed the right mechanisms to attract, develop and retain competent individuals with the right set of skills and ethical commitment to work in the control and audit area. Civil service management practices that ensure merit, professionalism, stability and continuity in staffing are among the core prerequisites for setting up and maintaining an effective and added value internal control environment. The new law seems promising in ensuring that recruitment, promotion and compensation will be based on merit, skills and performance. This is also important for empowering public officials to assume responsibility and be accountable for their decisions and actions as well as avoid any undue influence arising from situations that may blur the lines regarding assigning roles and responsibilities in a sound internal control system.

A national certification policy for internal control and audit professionals could be linked with training and capacity building activities. These approaches are influenced by factors such as the exact role of the internal audit function within public entities, i.e. whether or not they are expected to undertake duties usually assigned to the second line of defense, the nature of their involvement in integrity breaches and investigations, their degree of independence, and reporting lines to senior management and audit committees. Recent reviews and relevant data from Latin America and the Middle East and North Africa (MENA) region show that a low percentage of practitioners have acquired certifications such as the IIA's Certified Internal Auditor (CIA). Moreover, in the framework of the Public Internal Control (PIC) Forum, led by the European Commission Budget Directorate General (DG Budget), these internationally recognised certifications have been occasionally criticised as being: heavily private sector oriented; difficult to pass for practitioners who do not speak any of the languages into which the exam modules and additional information have been translated; very broad and generic in relation to the specific challenges and needs of a given country; and not tailored to effectively focus on core functions such as public finance, public procurement and infrastructure projects, and health and social welfare services.

National efforts to address the issue of weak professional expertise and capacity could include the development of customised training modules in co-operation with national schools of public administration, training centres located at the Ministry of Finance or control and audit institutions (i.e. Supreme Audit Institutions [SAIs] or general inspectorates), professional chambers and associations and universities. The quality of these modules, and their actual impact on the skills and the performance of control and audit practitioners, poses serious challenges. Efforts to develop professional "certification" that is limited within a national context are mostly linked with hiring policies, career path, remuneration, and mobility issues in the control and audit field. Box 6.11 illustrates the key elements of the Canadian internal auditor recruitment and development programme (IARD) and the training for internal auditors in the public sector (TIAPS) programme, which represent two approaches to improving the capacity and skills of internal auditors in public organisations.

Box 6.11. Professionalisation and capacity building of the internal audit service

The Canadian Internal Auditor Recruitment and Development Programme (IARD Programme)

I. Benefits of the Internal Audit Recruitment and Development Programme

In addition to coaching, mentoring and professional development courses, the IARD Programme offers:

- The experience and on-the-job training needed to pursue a Certified Internal Auditor (CIA) designation.
- A development plan designed to help recruits succeed, including competency-based work objectives and support from senior staff.
- Unique on-the-job learning opportunities to learn the profession of internal audit in the Government of Canada.
- Professional development sessions offered by the Institute of Internal Auditors that are related to position and CIA certification.
- Potential for promotion.

II. Internal Audit Recruitment and Development Programme work experience

Working under general supervision, providing support and performing assigned tasks within each of the phases of an audit engagement as a member of an audit team. Audit teams typically report to the Internal Audit Principal or the Director of Internal Audit.

Audit teams are designed to:

- Provide departmental senior management with opinions on the effectiveness and adequacy of: risk management, control, and governance processes.
- Report on the results of risk-based audits.

III. The Comptroller General of Canada has developed the Internal Audit Competency Profiles and Dictionary as a tool of the overarching Internal Audit (IA) Human Resources Management Framework (HRMF)

The IA HRMF aims to support and enable a self-sufficient, quality IA community across the federal public sector. It provides an excellent infrastructure along with tools and support services to position the IA community as professionals who perform unique work within the Government of Canada that adds value to their organisations.

The IA competency profiles and dictionary are the main building blocks of competency-based management (CBM). They allow organisations to focus on how someone undertakes his or her job based on the skills, abilities and knowledge required to perform the work. CBM is the application of a set of competencies to the management of human resources (i.e. staffing, learning, performance management and human resources planning) to achieve excellence in performance and results that are relevant to organisations.

Training for Internal Auditors in the Public Sector (TIAPS)

The TIAPS initiative provides an example of public-sector-oriented internal audit certification that merges international best practices with localised regulatory concerns, delivered in the host country's language.

Box 6.11. Professionalisation and capacity building of the internal audit service (cont.)

I. Scope and key characteristics

The idea behind TIAPS started in Slovenia in 2002. The programme was developed to strengthen qualifications in internal audit processes in the public sector, while devoting special attention to requirements introduced by the accession processes of the European Union. The mandatory and recommended guidelines issued by the IIA have long been viewed as private-sector centric and unable to comprehensively address public sector concerns.

One of the ways TIAPS addresses such gaps is to include a customisable module on legislation and taxation, written by experts from the participating country. How standards and practices are taught is different from the IIA, as it is more rules-based than principles-based. TIAPS clearly tells its students what should be done and how, as opposed to guidance issued by the IIA, which leaves generous room for interpretation.

TIAPS targets public sector employees who hold a bachelor's degree and already have practical experience in areas such as accounting, financial oversight, and control. The programme is composed of seven modules divided into two levels, certificate and diploma. All modules, with the exception of the module on National Legislation and Taxation, were developed by CIPFA.

II. Challenges

The biggest hurdle for implementing TIAPS is also its greatest strength: localising the curriculum. This requires involved institutions to do a lot of preparation work prior to the delivery of the programme, which includes translating training material and coaching the local tutors who will deliver the content of modules in local languages.

A related issue is the need to find and hire experts to create the legislation and taxation modules. The programme-implementing team engages translators with sound knowledge of material substance, and the initial translation is checked by an editor/proofreader to make any necessary language revisions, in line with standard terminology in each respective country.

Despite being a relatively young programme, TIAPS provides specialisations. These, however, have yet to achieve the total level of equivalence to directly replace specialised certifications – such the Certified Information Systems Auditor (CISA) provided by the Information Systems Audit and Control Association (ISACA) – although there are plans to do so in the medium term.

The programme also does not have a way to monitor and ensure that its certified practitioners keep up-to-date with evolving audit trends, which both IIA and ISACA do through their continuing professional education requirements.

Sources: Government of Canada (2017a), *Webpage of the Internal Auditor Recruitment and Development Program (IARD Program) - Post-Secondary Recruitment*, <https://emploisfp-psjobs.cfp-psc.gc.ca/psrs-srfp/applicant/page1800?poster=941922&toggleLanguage=en> (accessed March 2017).

Government of Canada (2017b), *Webpage: Benefits of the Internal Audit Recruitment and Development Program*, <http://www.tbs-sct.gc.ca/ip-pi/job-emploi/ford-rpaf/benefitsiard-avantagesrpai-eng.asp> (accessed March 2017).

ADB (2016), *Training for Internal Auditors in the Public Sector: An Alternative Approach for State Internal Auditors*, Knowledge Showcases, Asian Development Bank, www.adb.org/publications/training-internal-auditors-public-sector.

Countries interested in further exploring certification programmes such as TIAPS should take a closer look at the seven modules (certificate and diploma level) currently included in TIAPS. For example, within the four certificate level modules, any existing overlap on key functions such as risk management need to be identified to ensure adequate coverage of the role of internal audit in fostering integrity and tackling fraud/corruption schemes and practices. Furthermore, the issue of developing coherent and high quality training modules that are tailored to the legislative and administrative framework and culture of a specific country poses significant challenges regarding the resources needed and adherence to predetermined quality standards. The decision on which institution will take the lead at the national level on developing the material, and which will be responsible for training and exams, also raises issues of meritocracy and objectivity. The effective follow-up and update of professional skills and expertise is also an important issue, with questions concerning whether or not TIAPS can develop a system similar to the IIA’s Continuing Professional Education (CPE) Requirements, and if the certification will be recognised outside national borders. Another issue involves assessing the added value and impact of certification to individual skills and the institutional capacity of control and audit institutions. It will be important to ensure that certification will not be another tick box exercise, or an “academic” qualification with no or limited impact in real field work. There is also a question around whether or not it will be a tool for practitioners to address the problems they encounter in the labyrinth of public entities and processes. There is a significant gap to bridge between conceptual control and audit frameworks, professional certifications, and the actual integration of internal control and audit functions within the heart of public entities’ daily management and operations.

SFP could consider piloting the establishment of independent Audit and Risk Boards/Committees in selected line ministries.

COCODI’s role, as illustrated in the new internal control manual and guidelines, is different to that of audit committees, which should be constituted by independent members and reside “outside” the organisation. Before engaging in a pilot phase, all issues related to the appointment of independent members, the remuneration regime, institutional and hierarchical relationships, and specific tasks regarding existing actors should be discussed in detail, while taking into consideration the specific challenges and constraints (e.g. budget, existing committees and actors) of Mexican federal organisations.

Public sector audit committees usually fall under one of the following types:

- Governance audit committees
- Central audit advisory boards
- Internal audit management committees

The choice of the model, which directly relates to the roles and responsibilities assigned to the committee/board, depends on a number of factors, including the degree of sophistication of financial management and reporting, management and control arrangements, and the level of development of managerial accountability, which includes the separation between the political and administrative decision-making process and the application of risk management techniques (Hepworth and Koning, 2012). One of the main challenges when setting up this kind of committee in the public sector is to ensure the participation of independent members external to the relevant organisation. As

highlighted by the IIA’s work, the public sector has fewer audit committees than other sectors, and their quality and composition can vary greatly. In some cases, this presents significant threats to internal audit independence and objectivity. It has been highlighted that one of internal audit’s key roles is to provide objective assurance to its stakeholders. A key way of achieving this is to be seen as independent from management and other stakeholders, something that is often easier said than done. Audit committees enhance and safeguard the independence and objectivity of internal auditors. National case studies reveal different approaches in establishing audit committees or equivalent bodies, especially when comparing private and public sector institutions. According to a recent IIA survey, only 55% of public sector entities in the Latin America and Caribbean region report having an audit committee, compared to 78% of private sector entities (IARF, 2015).

There are different types of assurance that may have different strengths and may be best used in different ways. An audit and risk assurance committee (ARAC) can play a key role in seeking an optimum mix of assurance. Within an assurance framework, the role of an ARAC can be crucial. Ideally, such a committee should be composed of independent members and non-executive directors. Having a chair and other committee members with an appropriate mix of skills and experience relevant to the entity’s responsibilities is key to an audit committee’s effectiveness. These committees are not a substitute for management’s responsibility for mitigating the risks. The committee will monitor and assess the arrangements in place to provide comprehensive and reliable assurance on financial and performance reporting responsibilities, the system of internal control, risk oversight and management. This involves identifying assurance needs and the most appropriate tools to meet these needs, as well as potential assurance gaps or overlaps and ways to address them; and whether the existing framework will provide the sufficient, relevant and reliable assurance that the organisation needs to avoid surprises and to enable early decisions and actions to be taken on risk and control issues.

Box 6.12. Leading attributes of public audit committees in Australia

A good practice audit committee is distinguished by the following attributes:

- Has a formal charter that has regard to relevant legislative requirements and the entity’s broader corporate governance framework, includes the committee’s functions and responsibilities, and is approved by the accountable authority.
- Members collectively possess relevant business, financial management, ICT and public sector experience and expertise.
- Has a sound working relationship with the accountable authority, senior management of the entity and other stakeholders.
- Adopts an independent perspective, and appreciates and respects the separation of management and audit committee responsibilities.
- Is knowledgeable about the entity’s operations, particularly the entity’s risks and the arrangements in place for the management of these risks.
- Is chaired by a person who leads discussions, encourages the participation of other members, and conducts meetings in an effective manner.
- Encourages and maintains an open and constructive dialogue with other entity committees, senior management, internal audit and the Australian National Audit

Office.

Box 6.12. Leading attributes of public audit committees in Australia (cont.)

- Exercises judgement and discretion in determining how best to meet its responsibilities.
- Effectively plans its activities to meet its responsibilities; focuses on the important issues and risks; is forward-looking; and adopts a continuous improvement approach in its interaction with entity management.
- Is mindful of the strategic and operational environment of the entity when requesting information from entity management, and balances the resources required with the value to the committee of the information sought.
- Receives an appropriate level of support and provides committee members sufficient opportunities to keep abreast of key developments in the entity, the public sector, the business environment in which the entity operates and the wider community.

Source: ANAO (2015), *Public Sector Audit Committees: Independent assurance and advice for Accountable Authorities*, Australian National Audit Office, Canberra, www.anao.gov.au/work/better-practice-guide/public-sector-audit-committees-independent-assurance-and-advice.

A truly independent audit/risk committee with high expertise can harness political influence on control and audit activities and mitigate the potential bias of auditors assessing the quality of internal control and risk management arrangements. It can also strengthen the impact of these processes inside the organisation and towards the achievement of the entity's objectives, thus facilitating the involvement of middle and line managers and the rest of the personnel.

Establishing a sound working relationship with the head of internal audit will assist the audit committee to meet its responsibilities, particularly those that include reviewing internal audit plans and reports, and the resourcing of the internal audit function. It would be expected that the audit committee is consulted on the appointment of the head of internal audit. To avoid a potential conflict of interest, it is best practice for the head of internal audit to be invited to attend audit committee meetings as an adviser, rather than as a committee member.

The audit committee can also have a significant role and influence in the area of values and ethics, thus fostering and safeguarding integrity. To obtain reasonable assurance regarding the public organisation's values and ethics practices, the audit committee can:

- Review and assess the policies, procedures, and practices established by the governing body to monitor conformance with its code of conduct and ethical policies by all managers and staff of the organisation.
- Provide oversight of the mechanisms established by management to establish and maintain high ethical standards for all managers and staff of the organisation.
- Review and provide advice on the systems and practices established by management to monitor compliance with laws, regulations, policies, and standards of ethical conduct, and identify and deal with any legal or ethical violations.

A good example of establishing audit committees can be found in the Polish approach to adopting and implementing the European Union’s Public Internal Control (PIC) model (Box 6.13).

Box 6.13. Audit boards and committees: The approach of selected EU member states

Ireland

In Ireland, government departments and offices and other state agencies are required to have audit committees performing the following functions:

- Act as another source of independent advice to accounting officers.
- Review the plans and reports of the internal audit unit and assure the quality of service provided by the unit.
- Assess whether appropriate action is taken to deal with key issues identified by the internal audit unit and by external audit.
- Examine and monitor the implementation of the department’s risk management strategy.
- Provided they have representatives external to the department, facilitate improvements in internal audit and internal control through the exchange of information between departments/offices and the private and public sectors.

Each audit committee:

- Operates under a written charter.
- Has significant external representation (at least two members), including, in the normal course, representatives from the private sector with appropriate expertise. The chairperson of the committee should come from outside the department or office.
- Prepares an annual report to the accounting officer reviewing its operations.
- Invites the Comptroller and Auditor General, or his/her nominee, to meet the committee at least once a year.

Italy

In Italy, the legislative decree No 150/2009, which implemented Law No 15 of 4 March 2009 on improving the productivity of the public sector and the efficiency and transparency of public administrations, set up two bodies to measure and appraise the organisational and individual performances of public administrations:

1. A central body known as CIVIT (Independent Commission for the Appraisal, Integrity and Transparency of Public Administrations).
2. For each individual administration, the OIVs (Independent Performance Evaluation Bodies).

The law tasks CIVIT, which is called upon to show independence of judgement and evaluation and work in complete autonomy, with the task of directing, co-ordinating and supervising the appraisal functions to ensure the transparency of the systems adopted and the visibility of the indicators of public administrations’ management performance. This task, which aims to improve the efficiency of the public sector and the quality of services to citizens, goes hand in hand with that of ensuring total administrative transparency, i.e. making the data relating to their working accessible through the online provision of a careful selection of data that helps enable institutions and citizens to take an active part in controlling how the “public domain” is managed. This function is particularly relevant because the law sees data transparency as a tool for ensuring the integrity of public administrations, and thus preventing the serious problem of corruption. The members of CIVIT are appointed by the cabinet.

Box 6.13. Audit boards and committees: The approach of selected EU member states (cont.)

Each administration also has an OIV that performs tasks such as:

- Monitoring the overall operation of the system of evaluation, transparency and integrity of the internal controls and drawing up an annual report on its working.
- Promptly reporting any problems to the relevant internal government and administration organs.
- Ensuring that the measuring and evaluation processes are correct in order to uphold the principle of rewarding merit and professionalism.
- Correctly applying the guidelines, methods and instruments provided by CIVIT.
- Promoting and certifying transparency and integrity.
- Checking the results and good practices arising from the promotion of equal opportunities.

In the Italian system, there are also management control units, provided for in legislative decree no. 286/1999. Under Article 4 of this legislative decree, each administration sets up individual department level units responsible for designing and implementing management controls. These units map the processes, products and aims of the administrative action of the department to which they belong; measure the results of the administrative action in terms of efficiency, efficacy and cost; and conduct periodical monitoring of the time, resources, costs and quality of the activities of the department. The main aim is specified in Article 1 of legislative decree no. 286/1999, namely checking the effectiveness, efficiency and cost of the work of the administration in order to optimise, also by prompt corrective measures, the cost-benefit ratio.

Within the general framework of the system set out in legislative decree no. 150/2009, the performance plan and the performance report provided for in Article 10 are of particular importance. In order to ensure the quality, readability and reliability of the performance reporting documents, public administrations must each year (by 31 January) draw up a three-year programme report called the “performance plan”. This plan must be consistent with the contents and cycle of financial and budgetary programming, and must set out the guidelines and strategic and operational objectives, including defining the indicators for measuring and evaluating the performance of the administration, the objectives assigned to managers, and the relative indicators regarding final and intermediate objectives and resources. A performance report must be adopted by 30 June and describe, with reference to the previous year, the organisational and individual results obtained compared with the individual programmed objectives and resources, as well as point out any slippages. The plan and the report are sent to CIVIT and to the Ministry of the Economy and Finance.

Poland

In Poland, the Act of 27 August 2009 on Public Finance, implemented in 2010, developed a new concept of management control and accountability at the higher (secondary) level of management, the minister in charge of the government administration branch, and introduced one audit committee for each line ministry. Audit committees are meant to strengthen the internal audit function in its task of assessing management control throughout the entire branch. The audit committee may inform and give advice to the minister about risks connected with the implementation of his/her objectives throughout the entire branch.

Box 6.13. Audit boards and committees: The approach of selected EU member states (cont.)

Mission

The aim of the audit committee is to provide consulting services with a view to ensuring adequate, efficient and effective management control and providing an efficient internal audit to the minister in charge of the branch. It should be emphasised that the scope of the audit committee guidance covers the functioning of the management control and internal audit in all units supervised by the relevant minister. One joint audit committee may be established for the branches managed by one minister. For example, the Minister of Finance established one joint committee for three branches: Budget, Public Finance and Financial Institutions.

The members of the audit committee

The audit committee shall comprise the minimum of three members, including: 1) a person in the rank of the secretary or undersecretary of state designated by the minister as the chairman of the committee; and 2) at least two independent members, i.e. people not employed in the ministry or in organisations of the branch. In the opinion of the Ministry of Finance, the optimal size of the audit committee is five to nine persons (including the chairman). This size of audit committee gives all the members a chance to actively participate in the deliberations and effectively perform the tasks of the committee. In practice, by the end of 2012, audit committees ranged from three to seven members.

Tasks of the audit committee

Tasks of the audit committee shall include the following, in particular:

- Indicating material risks.
- Indicating material weaknesses in the management control of the branch and proposing measures to improve them.
- Setting priorities for annual and strategic internal audit plans.
- Reviewing material results of internal audit activity and monitoring implementation.
- Reviewing statements on the execution of the internal audit plan and on the assessment of the management control.
- Monitoring the effectiveness of the internal audit, including reviewing results of internal and external assessments of the internal audit activity.
- Giving permission for the dissolution of employment contracts and any change in salary and employment conditions of the chief internal audit executives in organisations within the branch.

Source: European Union (2014), *Compendium of the Public Internal Control Systems in the EU Member States*, Publications Office of the European Union, Luxembourg, <http://ec.europa.eu/budget/pic/lib/book/compendium/HTML/index.html>.

Summary of proposals for action

- The SFP should focus on addressing the “tick box” approach to risk management by boosting its efforts on awareness and capacity-building programmes around the importance and role of effective risk management, while prioritising a specific module for fraud and corruption risk management.

- The SFP should take a more active role in monitoring and ensuring the validity and usefulness of risk maps, matrices and Work Programmes for the Management of Institutional Risks (Programa de Trabajo de Administración de Riesgos Institucional, or PTARS) in the achievement of the organisations' objectives. This initiative could take the form of an online observatory to share good practice between federal entities and motivate organisations to improve their risk management procedures and tools.
- The SFP and line ministries should consider leveraging data analytics and mainstream tools, such as data mining and data matching, to improve the quality of their risk management tools and techniques. More informed and evidence-based risks maps, matrices and PTARS lead to more effective mitigation policies. These tools can be very valuable when focusing on integrity risks, as per the requirement of the new MAAG-CI.
- The SFP's new Standard Model for Internal Control is a positive step forward in mainstreaming internal control, linking it with organisational improvement and supporting management and staff in developing ownership of internal control activities. The SFP should work with other competent authorities to ensure that all human resource procedures (e.g. hiring, evaluation, promotions) reflect concrete internal control attributes as described in the new MECI. Concrete internal control tasks and responsibilities should also be introduced in selected (as an initial step) job descriptions. The systematic communication of internal control activities and progress at the entity level is also important.
- The SFP should build on the introduction of the new MAAG-CI and enhance its awareness and capacity-building activities around the importance and challenges of integrating internal control processes in management and operational systems. Specially designed modules and workshops for key actors, such as the *Oficialias Mayores* and members of COCODIs, as well as the rest of management and staff, must be delivered on a coherent and on-going basis.
- The SFP should explore practical steps to monitor and assess the validity and accuracy of the self-assessment reports developed by federal entities. These actions could involve: introducing stricter documentation requirements; creating a registry of certified practitioners in internal control self-assessment techniques; and developing a coherent review methodology in the framework of the NAS building on the experience of the SFP and the ASF in this field.
- The SFP should strengthen the assurance role of the internal audit function by ensuring that internal auditors are not undertaking second line of defence activities (i.e. risk management, compliance reviews, programme management), and by allocating clear roles and responsibilities across the three lines of defence among all staff at the entity level.
- The SFP could assess the structure and operational model of the OICs, taking into consideration the requirements of the new anti-corruption law, and the need to clearly separate the role of internal audit function in fighting corruption and the role of fraud and corruption investigations. The UK example of shared audit services could be examined when exploring ways to strengthen independence from auditees and improve the internal audit function in Mexican federal administration.

- The SFP should work closely with competent organisations to develop the right mechanisms to attract, develop and retain competent individuals with the right set of skills and ethical commitment to work in the control and audit area. Enhancing internal audit professionalisation and capacity-building efforts could draw from international practices and certifications, while developing country specific approaches and modules to address the challenges faced by Mexican practitioners and experts.
- The SFP should develop an action plan for piloting the establishment (i.e. mission, selection and appointment procedures, reporting lines) of independent audit and risk boards/committees in selected line ministries to assess their impact in strengthening reporting independence and the assurance role of internal audit, as well as the effectiveness of the risk management function.

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Chapter 7.

Enforcing integrity: Strengthening Mexico's administrative disciplinary regime for public officials

Effective, comprehensive public sector integrity frameworks include, not only pillars for defining, supporting and monitoring integrity, but also for the enforcement of integrity rules and standards. This chapter assesses the role of Mexico's administrative disciplinary regime as a key mechanism for enforcing integrity. It examines the strengths and weaknesses of the national administrative sanctioning system against selected OECD member and partner countries. Recommendations are put forward for consideration with a view to: improving overall effectiveness by avoiding gaps and inconsistencies between regimes and institutions in implementation; strengthening inter-institution co-ordination and capacities; and increasing monitoring and transparency to allow for better oversight and to prevent undue influence over sanctioning decisions.

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: Enforcing integrity to deter misconduct and restore trust

Effective, comprehensive public sector integrity frameworks include, not only pillars for defining, supporting and monitoring integrity, but also for the enforcement of integrity rules and standards. Enforcement measures- namely disciplinary systems and, when applicable, also mechanisms for the recovery of economic losses and damages- are the necessary “teeth” to any country’s integrity framework and are a principal means by which governments can deter misconduct. If applied in a transparent, timely and fair manner, they can also legitimise the existence of governments’ integrity rules and frameworks, serving to strengthen them over time and helping to instil integrity values in individuals and organisations as cultural norms.

Enforcement measures help signal to citizens that the government is serious about upholding the public’s best interests and is worthy of their confidence and trust. Strong enforcement demonstrates that the rule of law applies to all and that public officials cannot act with impunity. This is a particularly important principle to uphold given the strong relationship between citizens’ perceptions of corruption and their trust in government leaders and institutions. Governments must take action therefore to avoid a vicious cycle where continually decreasing levels of trust in institutions lead to greater incentives for (and tolerance of) integrity breaches, such as corruption.

This chapter examines the role of administrative disciplinary regimes as key mechanisms for enforcing public sector integrity frameworks in Mexico. It assesses the strengths and weaknesses of the national administrative sanctioning regime in the country against selected OECD member and partner countries. Recommendations are put forward for consideration with an eye to improve overall effectiveness by avoiding gaps and inconsistencies between regimes and institutions in implementation; strengthening capacities; and increasing monitoring and transparency.

Preventing potential gaps, inconsistencies and undue influence over sanctioning decisions

The recent differentiation between less serious and serious administrative offences can serve to increase both the objectivity and timeliness of sanctioning decisions. However, under this new regime, stronger co-ordination between responsibilities units in internal control bodies, the Ministry of Public Administration (Secretaría de la Función Pública, SFP), administrative tribunals and Specialised Anti-corruption Prosecutor’s Offices will be more necessary than ever, given concurrencies between serious administrative and criminal offences.

Public officials in Mexico can potentially be held liable for misconduct under five main types of regime (political, administrative, criminal, civil and labour), depending on the position in government and the type of fault or violation in question. Figure 7.1 provides an overview of the five principal systems, specifying the main laws underpinning each and the public officials who can be liable. For the purposes of this chapter, the term “regime” is used to define the laws, policies (including implementing regulations and norms) and procedures that comprise the type of disciplinary system.

Figure 7.1. Overview of the main sanctioning regimes in Mexico

Political/Constitutional	Administrative/Specialised	Criminal	Civil	Labour law
<ul style="list-style-type: none"> •As stipulated in Articles 109, 110 and 114 of the Constitution. •Applies to elected officials, Supreme Court Judges, Attorney Generals, etc. (see Article 110 for complete listing). •Subject to impeachment following vote by Chamber of Deputies and confirmation by Senate. 	<ul style="list-style-type: none"> •As stipulated in Articles 108, 109, and 113 of Constitution. States are required to have own laws and regimes in place. •The General Law of Administrative Responsibilities which applies to all public officials. •Ch.7 of Law on Professional Career in the Public Service supports possible <i>disciplinary dismissal</i> under Administrative Responsibilities Law. •Public procurement laws: Law on Acquisitions, Leasing and Services of the Public Sector and Law on Public Works and Related Services. •Specialised disciplinary regimes for military officers, foreign service personnel, federal judges and prosecutors, and federal police. 	<ul style="list-style-type: none"> •As stipulated in Articles 109 and 111 of the Constitution, and Title 10 of the Federal Criminal Code. •Applies to all public officials with exceptions for some while in office (i.e. President). •Subject to criminal sanctions under Federal Criminal Code (Title 10). 	<ul style="list-style-type: none"> •As stipulated in Article 111 of the Constitution and Articles 31 and 1916 of the Federal Civil Code and Article 47 of Federal Law on the Administrative Responsibilities of Public Servants. •Applies to all public officials. •Subject to civil sanctions under federal civil code. 	<ul style="list-style-type: none"> •Federal Law on State Workers and Federal Labour Law can be applied for dismissal for poor performance. •Applies mostly to unionised public servants (<i>servidores de base</i>).

Source: OECD based on the indicated legislation.

Political regime

As in most OECD member countries, the political regime applies only to certain public officials. In Mexico, for instance, the positions liable under this regime are outlined in Article 110 of the Constitution (the President, members of the Congress, Supreme Court Justices, etc.). Application of the political regime is based on the premise that should such officials violate the principles of the Constitution, they should be sanctioned – in this case with possible impeachment or disqualification following a vote by Congress.

Criminal and civil regimes

Criminal and civil sanctions apply to public officials for misconduct while in the line of duty. Some criminal offences can only be committed by public officials (e.g. abusing public authority towards a citizen), such as in Title 10 in the Mexican Criminal Code. Similarly, the German Criminal Code contains provisions that make corrupt action by public officials a punishable offence. The minimum penalties for public officials taking bribes (Section 332 of the German Criminal Code) are higher than those for non-officials giving bribes (Section 334 of the German Criminal Code). In Mexico, only the President is exempt from penal liability while in office, and the criminal prosecution for select officials (those named in Article 111 of the Constitution) requires that the Chamber of Deputies first approves such proceedings following a vote.

Under the new reforms, specialised anti-corruption prosecutors must be established at federal and state level Justice Departments. Article 109 of the Constitution was amended in 2015 to formally recognise this position. Following Article 113 of the Constitution, Article 10 of the General Law for the National Anti-corruption System states that the national Co-ordination Committee should include the federal Anti-corruption Prosecutor.

Article 35 further requires that states follow suit in their respective local anti-corruption systems. As part of Public Prosecutor Offices, specialised prosecutors are tasked with addressing criminal offences concerning public sector officials and activities. At the federal level, the position was established in 2014 via an Order (*Acuerdo A/011/14* from the Procuraduría General de la República, or PGR) from the Attorney General, however (as mentioned in Chapter 2), the position remains vacant awaiting a formal recruitment process and approval from the Senate. The Order provides further details on the specialised prosecutor's mandate (see Box 7.1 below). A similar unit has existed before, as since 2004, the Attorney General's Office included a specialised prosecutor for combatting corruption in the public sector. Under the previous law, the Senate did not approve the nomination of the head prosecutor.

Box 7.1. Mandate of federal Specialised Anti-corruption Prosecutor's Office

Article 109 of Mexico's Constitution was amended in May 2015 to reflect the new position and office of the Specialised Anti-corruption Prosecutor. It states that the Office is responsible for receiving cases from the Administrative Tribunals that could be considered as criminal offences under the Mexican criminal code.

In 2014, Mexico's Attorney General established a specialised unit for the Anti-corruption Prosecutor (*Acuerdo A/011/14* from the PGR). This position supplanted the previous unit that functioned under Order A/107/04, and which established in 2004 the position and unit of the Specialised Prosecutor for Combatting Corruption in the Public Sector.

Under the new Order, the Prosecutor is tasked with the following mandate:

- Planning, scheduling and organising the operation of the Specialised Anti-corruption Prosecutor's Unit.
- Carrying out the duties prescribed by the Constitution of the United Mexican States, the international instruments in the matter, the laws, the regulations and other legal provisions conferred to the Department of Justice of the federal government.
- Co-ordinating its actions with the administrative units and decentralised organs of the Attorney General's Office.
- Exercising the power to prosecute crimes of the common order in terms of the applicable legal dispositions.
- Directing, co-ordinating and carrying out the investigation of the facts that are likely to constitute one of the crimes of the federal jurisdiction subject to its jurisdiction and common order.
- Formulating the information requirements and documents related to the financial system or fiscal requirements, as referred to in Article 180 of the Federal Code of Criminal Procedure.
- Requesting information from federal, state or municipal public institutions.
- Dictating preventative measures and promoting the necessary mechanisms for the repair of damages.
- Authorising the consultation of reservation, incompetence, accumulation, and separation of previous inquiries, that the agents of the Public Ministry of the Federation propose of their ascription.

Box 7.1. Mandate of federal Specialised Anti-corruption Prosecutor's Office (cont.)

- Authorising, in the final analysis, the non-execution of the criminal action, after obtaining the opinion of the agent of the Public Ministry of the Auxiliary Federation of the Attorney General of the Republic with respect to the consultations made by the agents of the Public Ministry of the Federation.
- Authorising the formulation of non-accusatory conclusions in criminal proceedings.
- Resolving the consultations that agents of the Public Ministry of the Federation formulate regarding the omissions to make conclusions, of conclusions presented in a criminal process, or of acts whose consequence is the dismissal of the process or the absolute freedom of the accused before judgment is pronounced.
- The cancellation or reclassification of arrest warrants.
- Establishing mechanisms of co-operation and collaboration with federal, state and municipal authorities, within the scope of its competence, in accordance with institutional norms and policies.
- Proposing the conclusion of agreements with public or private institutions or organisations, national or foreign, within the scope of its competence, where the exchange of experience, knowledge and technological advances is privileged.
- Designing and implementing projects, studies and permanent programmes of information and promotion of the culture of denunciation and of legality in matters related to acts of corruption.
- Issuing or subscribing legal instruments that facilitate operation, in accordance with Article 7 of the Organic Law of the Attorney General's Office.
- Proposing to the Attorney General of the Republic the appointment of the heads of administrative units under his/her charge.
- Participating with the competent administrative units and decentralised agencies of the Attorney General's Office in the design of training, updating and specialisation schemes in the area of prevention and combat against corruption.
- Supervising and exercising the powers that correspond to the administrative units attached to it, notwithstanding that they are performed by their respective holders.

Source: Ministerial Order from federal Attorney General concerning the establishment of the Special Anti-corruption Prosecutor (Acuerdo A/011/14 from the PGR): http://dof.gob.mx/nota_detalle.php?codigo=5336635&fecha=12/03/2014.

Civil liabilities concern the financial consequences of an offence. The wrongdoing of a public official may cause damages to public assets, or result in forfeiture of public property, or damages to third parties for which compensation may be awarded. In Mexico, Articles 1910 and 1916 of the Federal Civil Code hold public officials subject to potential civil law sanctions. There is a difference between economic compensation and fines, as the verdicts of civil cases and fines under the administrative regime are not aimed at recovering losses, but are rather a symbolic sanction for misconduct. Mexico's administrative disciplinary regime allows for both economic sanctions and fines.

Specialised regimes

The different Mexican police forces (federal and state), judiciary (judges and federal/state prosecutors), military personnel, foreign affairs or intelligence officers have separate disciplinary codes and procedures in place. In Mexico, disciplinary proceedings for judicial officials are governed by the sector's respective Organic Law (*Ley Orgánica del Poder Judicial de la Federación*), specifically Article 131, which outlines an official's responsibilities. The Federal Judicial Council (*Consejo de la Judicatura Federal*) is responsible for carrying out investigations and sanctions when applicable. The Ninth Chapter of the National Law on Public Security (*Ley General del Sistema Nacional de Seguridad Pública*) sets forth conduct standards for national police. The same law also establishes that state and municipal governments are responsible for establishing regional and local legislation, which include measures for disciplinary action for their respective police forces. Military personnel are bound to the military justice system (*Código de Justicia Militar*), which is overseen by the special Prosecutor for Military Justice.

These specialised regimes are common across all OECD member countries, and exist under the rationale that the specific nature of these functions and the responsibilities legally assigned to these positions warrant separate and distinct proceedings. These separate proceedings allow such institutions to maintain their independence and avoid undue political influence or retaliation from holding government leaders accountable. It can be argued that the more the activity of the official has the potential to impinge upon the fundamental rights of citizens or national interests, the more demanding the behavioural standards imposed on them by regulations should be, and the harsher the corrective sanctions (OECD, 2003). Others, however, have argued that separate proceedings necessitate adequate oversight to ensure that they are effectively applied according to law.

Labour law regime

In the private sector, cases of misconduct (including for poor performance) are governed by the employment contract, with any employee-employer disputes falling under the jurisdiction of the National Labour Law and the specialised labour courts. This same jurisdiction can be applied to public officials, as long as their job contracts fall under the remit of this legislation (i.e. most commonly that they are outside of the civil service regime). In Mexico, a disciplinary dismissal under human resource management (HRM) rules and federal employment laws is referred to as “separation from post”, and is usually founded on the basis of poor performance on the part of the public official. In 2014, at the federal level in Mexico, such cases were rare, with only 24 disciplinary dismissals for poor performance. The Federal Employment Law (*Ley Federal del Trabajo*) grants the Federal Labour Court (the *Junta Federal de Conciliación y Arbitraje*) jurisdiction over such cases when the official wishes to appeal the decision.

Administrative regime

This chapter specifically concerns the administrative regime, that is, offences or faults committed in a public servant's line of duty or in public sector activities, which are viewed as potentially more serious infractions due to the consequences they can have on society and the economy. A natural or legal person's liability under the administrative disciplinary regime therefore is founded on the basis that public officials, and those firms contracted with (or seeking to be contracted with) the public sector, have a number of obligations unique to their status which are different, and perhaps even more stringent, to

those not related to public sector duties or activities. These can include, for instance, the need to demonstrate fidelity to the Constitution and legal order of the country, stricter needs for impartiality, and more demanding standards of personal integrity and fairness in their dealings with the public, their superiors and colleagues (OECD, 2003). Administrative disciplinary regimes are established therefore under the premise that the violation of such principles necessitates a distinct sanctioning system that is tied to their obligations as public officials.

Article 109 of the Mexican Constitution defines an administrative fault as any act or omission that affects the legality, honour, loyalty, impartiality and efficiency of a public official's post. Until now, the Federal Law of Administrative Responsibilities for Public Servants (*Ley Federal de Responsabilidades Administrativas de los Servidores Públicos*, LFRASP) has been the law governing offences and sanctioning procedures at the federal level. However, the recently approved General Law on Administrative Responsibilities (GLAR) will apply nationally and come into effect in July 2017. This new law establishes two different sanctioning procedures, depending on the severity of the alleged offence: serious and less serious. Box 7.2 details the classification of the two types of offences.

A second new defining feature of the GLAR is that it applies not only to public officials, but also to any firm or private individual contracting with the public sector (Article 1). In Article 73, the law newly outlines offences for those in “specialised situations”, including candidates running for office, campaign staff or trade union leaders and staff.

Box 7.2. Classification of serious and less serious offences under Mexico's General Law on Administrative Responsibilities (to come into effect July 2017)

Articles 49 and 50 of the GLAR define **less serious offences** as those acts and/or omissions which concern:

- Fulfillment of an officials' functions, powers and entrusted duties while observing performance, discipline and respect, both to other public servants as well as individuals with whom in contact, in the terms established in the code of ethics.
- Reporting acts or omissions that they may come across in the course of their duties which could constitute administrative offences.
- Heeding the instructions of superiors, provided that they are consistent with the provisions related to public service and do not constitute administrative offences.
- Submitting timely asset, interest and tax declarations as required by law.
- Registering, integrating, storing and caring for documentation and information under their responsibility, and preventing or avoiding its use, disclosure, theft, destruction, concealment or improper irreparable damage.
- Supervising and ensuring that public servants under their direction comply with the provisions of the GLAR.
- Being able to account for and report on the exercise of their functions as defined by relevant policies and laws.
- Collaborating in judicial and administrative proceedings in which they may be a party.

Box 7.2. Classification of serious and less serious offences under Mexico's General Law on Administrative Responsibilities (to come into effect July 2017) (cont.)

- Ensuring, before the conclusion of procurement contracts, disposal of all kinds of goods, provision of services of any nature, or hiring public services or related to work, that the firm in question is not already under employment, office or commission in the public service. Or, in the case that they are, that this does not impose a conflict of interest as defined by law.
- Damaging or neglecting, without incurring any of the serious administrative offenses outlined as serious offences, the Treasury or the capital of a public entity.

Alternatively, **serious offences** are defined by Articles 52-64 as those concerning:

- Accepting, obtaining or seeking to obtain, by itself or through third parties, a bribe including any benefits not included in their remuneration as public servant, which could consist of money; values; real or personal property, including through disposal in markedly lower price than it has in the market; donations; services; jobs and other benefits improper for themselves or their spouse, blood relatives, civil relatives or others with whom the official has professional, labour or business partners or partnerships or relationships.
- Embezzlement by which a public official requests or perform acts for the use or ownership for themselves or for the people in the preceding article of public resources, whether these be material, human, or financial.
- Authorising or requesting the diversion of public resources from their intended purposes, whether material, human or financial.
- Misusing information by the official in office (or by the persons mentioned in Article 52) to purchase real estate, furniture and other assets, or, more generally, to improve their conditions and obtain any advantage or private gain. This restriction applies up to one year after the official has left his/her position.
- Abusing their position to generate a profit for themselves or for persons stated in Article 52.
- Causing injury to any person or service public.
- Intervening in decision or duty in which the official holds a conflict of interest.
- Improperly recruiting, selecting, appointing or designating another official who, under law, may not be employed in the public service (i.e. such as those debarred under the sanctions registry).
- Not accurately declaring assets or concealment of conflict of interest.
- Peddling their position and the responsibilities conferred upon them to delay or omit an act, to generate any profit, or seek any private gain for themselves or those mentioned in Article 52.
- Failing to report, or covering up, acts or omissions considered to be administrative offences.
- Providing false or unjustified delayed information in the case of judicial, electoral, internal control, or other requests.
- Obstructing justice by not initiating the corresponding administrative disciplinary proceedings before the competent authority within thirty calendar days from having knowledge of any conduct that would constitute a serious administrative offense; conducting themselves in the investigation an offence; or revealing the identity of an anonymous whistleblower protected under the principles established in this law.

Source: Mexico's General Law of Administrative Responsibilities. Ley General de Responsabilidades Administrativas, approved July, 2016: <http://www.diputados.gob.mx/LeyesBiblio/pdf/LGRA.pdf>.

Under the GLAR, the statute of limitations on less serious offences is three years, while for serious offences, officials/individuals may be sanctioned up to seven years following the offence. This is similar to Peru, but less than in some other OECD member countries.

Table 7.1. Statute of Limitations in Mexico's disciplinary regimes and other countries

Peru		Brazil	Germany	Mexico
Administrative disciplinary regime	Administrative functional regime			
3 years (or 1 year from knowledge from HR Office) No maximum length of proceedings	4 years (maximum length of proceedings: 2 years; After retirement: 2 years)	No limit	No limit	3 to 7 years according to the seriousness of the offence

Source: OECD (2017) Integrity Review of Peru and OECD (2016), Enforcing Integrity: Mexico's Administrative Disciplinary Regime for Federal Public Officials, OECD, Paris.

Perhaps the most notable reform under the new GLAR is the differentiation between less serious and serious administrative offences. Corresponding sanctions for the two types of offences are outlined in Articles 75 and 78 (see Box 7.3 below for details). For less serious offences, internal control bodies in individual line ministries or public sector organisations, as well as senior management, are responsible for investigating offences, processing disciplinary procedures, and imposing the relevant sanctions. For serious offences, however, under the new regime, Administrative Justice Tribunals are responsible for issuing sanctions. Once the Federal Tribunal of Administrative Justice (Tribunal Federal de Justicia Administrativa, or TFJA) has confirmed the classification as a serious administrative fault, it will admit and substantiate the disciplinary procedure from the probationary stage onwards, and have the authority to request additional evidence that it deems convenient for issuing the final sanctioning decision (Articles 90, 111 and 130 of the General Law on Administrative Responsibilities [*Ley General de Responsabilidades Administrativas*], LGRA).

Mexico's Supreme Audit Institution, and at local levels, state and municipal audit institutions, may now also investigate alleged offences, and direct them to tribunals if deemed serious. This was not previously permitted, as audit entities could not conduct audits or investigations during the course of the same fiscal year. Table 7.3 outlines procedures under both the old (federal) and new (nationwide) regimes under the GLAR, along with a comparison of select other OECD member and partner countries. It is also worth noting two public procurement laws: the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público, LAASSP*) and the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las Mismas, LOPSRM*). Both of these laws include various requirements and rules to structure and guide public procurement activities, and include potential administrative sanctions. Chapter 8 discusses sanctions concerning public procurement procedures in further detail.

Box 7.3. Administrative disciplinary sanctions in Mexico (under the GLAR) and selected OECD member and partner countries

For less serious offences, Article 75 of the General Law on Administrative Responsibilities establishes that one or more of the corresponding sanctions can be applied, including:

- Public or private reprimand.
- Suspension of employment or post.
- Removal from office or post.
- Debarment (3 months -1 year) on employment or post, or to participate in public procurement contracts, services or public works.

For serious offences, the potential sanctions are similar, with Article 78 stating that these may include:

- Suspension of employment or post.
- Removal from office or post.
- Economic fine up to 2x the amount of damages.
- Debarment (up to 20 years depending on the amount of damages) on employment or post, or to participate in public procurement contracts.

Article 81 outlines sanctions for individuals (who are not officials) and firms involved in public sector activities (such as through a public procurement procedure). It states that private individuals may be sanctioned with:

- An economic penalty that may reach up to two times worth the benefits obtained or, in case of not having obtained them, for the equivalent of the amount of 100 to 150 000 times the daily value of the unit of measure; and update.
- Temporary disqualification from participating in acquisitions, leases, services or work for a period of not less than three months.
- Compensation for damages and losses caused to the federal, local or municipal administration, or to the assets of public entities.

Firms and corporations may face the following sanctions:

- An economic penalty that can reach up to two times worth the benefits obtained, and in case not obtained, for the equivalent of the amount of 1 000 to 1.5 million times the daily value of the unit of measure.
- Temporary disqualification to participate in acquisitions, leases, services or works for a period of not less than three months nor more than ten years.
- The suspension of activities, for a period of not less than three months nor more than three years, which will consist in detaining, deferring or temporarily depriving individuals of their business, economic, contractual or business activities because they are linked to faults.
- Administrative penalties provided for in this law.
- Dissolution of the respective company, which will consist of the loss of the legal capacity of the corporations.
- Compensation for damages and losses caused to the federal, local or municipal administration, or to the assets of public entities.

Box 7.3. Administrative disciplinary sanctions in Mexico (under the GLAR) and selected OECD member and partner countries (*cont.*)

OECD member and partner countries provide for these and additional types of sanctions including:

- Fines.
- Demotion in rank (France, Germany and the United States).
- Salary reduction (Germany, the Netherlands) or withholding of future periodic salary increases (the Netherlands, the United Kingdom).
- Compulsory transfer with obligation to change residence (France, Spain, the United Kingdom).
- Compulsory retirement (France).
- Reduction or loss of pension rights (Germany – for retired officials, and Brazil).
- Reduction in right to holiday or personal leave (the Netherlands).

Sources: Mexico's Civil Service Law no. 30057 of 2013; Mexico's Organic Law of the National System of Control and of the Comptroller General – Law no. 27785 of 2002 (as modified by Law no. 29622).

OECD (2003), *Liabilities and disciplines of civil servants*, OECD, Paris, www.sigmaweb.org/publicationsdocuments/37890790.pdf.

Table 7.2. Comparative overview of administrative procedures in Mexico and selected countries

Country	Investigations	Sanctioning decisions	Enforcing sanctions	First-instance appeal	Second-instance appeal	Monitoring and providing guidance
Brazil	1) Simplified TCA procedure for minor cases (including admission of guilt). 2) Formal inquiry (<i>sindicancias</i>) by line ministries for less serious offences. 3) Temporary administrative disciplinary process commission (PAD Commission I Brazil) of three civil servants for serious offences.	1, 2) Line ministries for TCA and inquiries. 3) For serious offences, a PAD commission can propose the application of a sanction (including dismissal) to the line ministry and the National Disciplinary Board. These enforcing authorities cannot dissent from the PAD's proposition without proper justification.	Line ministries and the National Disciplinary Board.	1) Not possible to appeal the TCA procedure. 2,3) First-instance appeal submitted to the authority that applied the sanction, whether it is a line minister or the National Disciplinary Board. This first-instance appeal is called "request for reconsideration".	Appeals submitted to the superior authority to that of whose act is appealed. This second-instance appeal is called a "hierarchical appeal". It should be noted that the convicted civil servant can appeal to the judiciary at any time.	Line ministries and the National Disciplinary Board.

Table 7.2. Comparative overview of administrative procedures in Mexico and selected countries (cont.)

Country	Investigations	Sanctioning decisions	Enforcing sanctions	First-instance appeal	Second-instance appeal	Monitoring and providing guidance
Germany	Individual line ministries.	Individual line ministries.	Individual line ministries.	Individual line ministries.	For civil servants, the Administrative Court; for those outside of the general employment framework, employment tribunals.	Federal Ministry of the Interior.
Netherlands	Individual line ministries.	Individual line ministries.	Individual line ministries.	Internal appeals board in each line ministry.	Administrative courts; District Court; Administrative High Court.	Individual line ministries and the Ministry of Interior.
Mexico less serious offences (under new GLAR legislation)	Internal control bodies (SFP), ministries, external audit bodies.	Internal control bodies (SFP), ministries.	Individual line ministries.	SFP and internal control bodies in ministries.	Administrative Justice Tribunals.	SFP, audit institutions.
Mexico serious offences (under new GLAR legislation)	Internal control bodies (SFP), ministries, external audit bodies. The Tribunal may also request additional evidence after having admitted a case.	Administrative Justice Tribunals.	Administrative Justice Tribunals.	Administrative Justice Tribunals.	Administrative Justice Tribunals (upper chamber).	SFP, audit institutions and Administrative Justice Tribunals.

Sources: OECD (2017), Integrity Review of Peru, OECD, Paris.

OECD (2016), Enforcing Integrity: Mexico's Administrative Disciplinary Regime for Federal Public Officials, OECD, Paris.

As described previously, under the new administrative regime, it is likely that some serious offences will also qualify as potentially criminal offences under the penal code, requiring notification to, and involvement of, the Attorney General's Office and, specifically, the newly created Office of the Special Prosecutor for Anti-corruption. States will also be required to establish Special Anti-corruption Prosecutors. The legal principle of *non bis in idem* signifies that an official may not be sanctioned twice for the same fault. However, this principle does not always preclude an official from being sanctioned or punished under several different legal regimes for misconduct. In the majority of cases, a criminal liability incurred while performing public service functions also entails an administrative liability, with the latter range of possible faults broader than the former. It is essential that clear legal and procedural frameworks exist in such circumstances to

avoid public officials remaining in their position when they have a criminal conviction that could affect the performance of their public duties.

In the majority of OECD member countries, it is mandatory for affected government agencies to immediately notify law enforcement of an alleged criminal offence. If a case is taken up by law authorities, administrative proceedings can then be suspended until a verdict under the criminal regime is reached, and an administrative decision taken afterwards on the basis of the criminal verdict. While the criminal verdict is pending, and depending on the severity of the offence, public officials may either be temporarily suspended without pay, or be relocated to another post. If a temporary suspension is instituted, and should the public official be found innocent, he/she most often has the right to be awarded back-pay.

Clarifying the legal and procedural frameworks for serious administrative offences should be a key priority for the NACS Co-ordination Committee, particularly the SFP, tribunals and specialised anti-corruption prosecutors, and especially since the respective policies adopted at the federal level may serve as the model for states. Without such co-ordination, Mexico risks potential gaps and inconsistencies (i.e. that cases are not taken forward under any regime, and/or that actions taken in one regime are not reflected or recognised by another.)

It is critical that legislation and procedures are clarified and communicated, and that formal co-ordination mechanisms be established. Reforms should ideally be centred around critical milestones including:

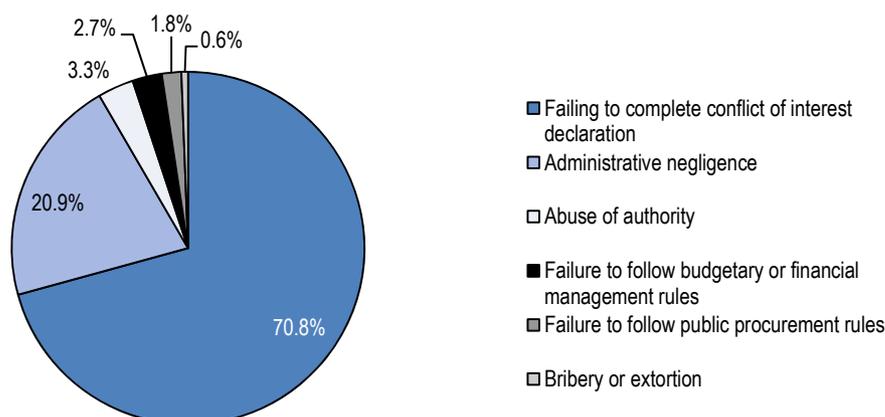
- **The outset of the investigation:** a joint decision between government and the Attorney General's Office concerning the case and the possibility of temporary suspension. If the Specialised Anti-corruption Prosecutor's Office does not pursue a case, government authorities in the SFP, state controllers, and tribunals should be immediately aware so as to consider a potential independent disciplinary action. On the other hand, should a criminal case be taken forward, greater inter-institutional co-operation is needed in the exchange of information as potential evidence for that investigation.
- **Verdict concerning conviction/exoneration:** the SFP, state controllers and tribunals should be made aware in a timely manner in order to consider implications for administrative disciplinary sanctions. In some countries, such as Germany, administrative sanctions are automatic following a criminal conviction. Civil servants are immediately suspended from service once the judgement of a German criminal court sentences them to imprisonment of at least one year on charges of a deliberate crime. The same holds true for a sentence of imprisonment of at least six months on charges of: a deliberate act punishable under the provisions of crimes against peace; high treason; endangering the democratic state, rule of law or national security; or if the crime involves an official act in the civil servant's position (including corruption). Mexico's NACS Co-ordination Committee could further study and consider instilling similar automatic administrative offences as a policy or, at the very least, consider a required administrative disciplinary hearing directly under the jurisdiction of tribunals.

Robust performance measurement of the administrative disciplinary regime is urgently needed to ensure that it is being implemented correctly and is free of undue influence over the classification of offences. This includes data and oversight on both administrative and criminal offences concerning public officials.

The new administrative regime is aimed at strengthening enforcement for offences, particularly serious offences, by processing such cases in specialised courts (i.e. outside of the executive branch and separate from the organisation where the alleged offence took place). Under the previous regime, while internal control staff were, in principle, meant to provide objective oversight over their organisation's activities, ultimately ministers and senior management maintained influence over the implementation of the final sanctioning decision (see Chapter 6 on the need to improve the independence of internal control bodies and increase the professionalisation of staff). By placing responsibility for sanctioning decisions outside of the ministry or organisation in question, it is hoped that undue influence over decisions may be prevented and the validity of decisions reached concerning serious offences will improve. Furthermore, it is hoped the new system improves effectiveness and efficiency (i.e. fewer delays, appeals or mistrials, etc.).

If implemented effectively, placing responsibility for sanctioning decisions outside of the ministry or organisation in question could be a positive advancement for the regime, however, the new law leaves the initial decisions on how to classify and proceed with cases, as well as the preliminary investigations that will support these decisions, in the hands of internal control bodies, line ministries/organisations and the Supreme Audit Institution. In bringing a case forward to the TFJA, the investigating bodies (the SFP, the internal control bodies, or the Supreme Audit Institution [*Auditoría Superior de la Federación*], ASF) are required to provide the necessary evidence to the tribunal to justify that the administrative fault(s) allegedly committed do constitute serious offences. The TFJA may even require the release of additional evidence (Articles 112, 115 and 194, section 7 of the LGRA) to support this justification. This process leaves a great deal of discretionary power in the hands of investigating bodies, and therefore the interpretation on the classification of the offence could potentially be unduly influenced, with some serious cases not being referred to administrative tribunals for proceedings. There is room for interpretation in the new classification system, with a risk that it is applied in an inconsistent manner. For instance, misuse of information for personal gain (a serious offence) could also be classified as mismanagement of information (a less serious offence). Moreover, there is a risk of serious offences being disaggregated into several less serious offences.

The limited data available on sanctioning suggest that potential issues may exist even before they arrive to internal control bodies or tribunals. In 2014, for instance, the majority of federal-level sanctions in Mexico (about 71%) were issued for failure to complete conflict of interest declarations, with 21% issued for administrative negligence. Abuse of authority, failure to follow budgetary or procurement procedures, and bribery or extortion combined constituted a relatively smaller share of sanctions (Figure 7.2).

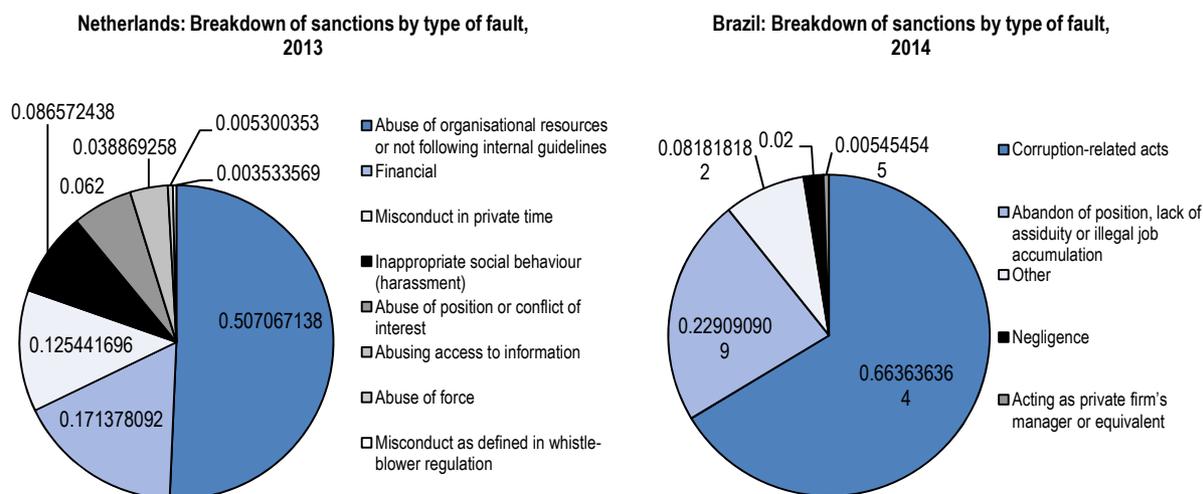
Figure 7.2. Disaggregated federal sanction statistics by type of fault, Mexico, 2014

Notes: Data here refer to initial sanctions and do not consider subsequent overturned appeals. These data refer to the federal level only (states and municipalities are excluded).

Source: Based on information provided by the Ministry of Public Administration, Mexico.

These statistics may suggest that in Mexico, some more serious offences either: 1) may not be detected; 2) are not being put forward for disciplinary action; or 3) are not being sanctioned (i.e. case is dismissed after initial preliminary investigation or in appeal). Comparisons with selected OECD member and partner countries demonstrate a higher percentage of sanctions given for bribery and corruption (Figure 7.3). OECD studies suggest that high-risk areas for integrity breaches are not being reflected in sanctions, namely integrity violations related to public procurement. The recent OECD Foreign Bribery Report identified the majority of bribes (over 50%) as being related to public procurement contracts. The World Bank's Enterprise Survey reported that in Mexico in 2010, 35% of firms surveyed were asked to pay a bribe for a government contract. However, sanctions related to public procurement and bribery combined currently reflect a marginal share of total sanctions as per these data.

Figure 7.3. Disaggregated federal sanction statistics by type of fault, selected OECD member and partner countries



Notes: In Brazil, only sanctions for dismissal are represented and exclude sanctions for state-owned enterprises. Data for the Netherlands may slightly overestimate the ratio, since data are based on proven sanction decisions, not necessarily implemented sanctions decisions.

Source: Based on information from the Dutch Ministry of the Interior and Kingdom Relations and the Brazilian National Disciplinary Board.

It is difficult to assess where the potential gaps or inconsistencies occur without performance indicators on the effectiveness and timeliness of the system. Unavailable data at the state level is also a source of ambiguity. Key performance indicators on the functioning of the regime could help monitor the impact of the ongoing reforms and identify bottlenecks and barriers. For example, further information on where initial reports of misconduct originated (i.e. citizens, whistleblowers, internal audits, external audits, line managers/supervisors, etc.) could help the SFP ensure that existing links between detection and enforcement mechanisms are strong. Data on average case proceedings and cases dismissed could also point to potential unaddressed challenges.

To ensure that preliminary investigations are held to the highest standards, and to ensure the accurate applicability of the new law, the NACS Co-ordination Committee (led by the SFP and tribunal) should establish and publish timely and accurate performance information on the functioning of the administrative disciplinary regime, especially including data on the extent to which initial reports of potential offences are duly investigated. An additional benefit of this exercise would be to promote accountability and demonstrate commitment to integrity values by communicating to the public the performance of enforcement mechanisms; such data should be made public on the national digital platform.

Defining the performance measurement framework, and collecting the necessary data/evidence for assessing the performance of administrative disciplinary regimes, can be challenging. Particularly as different institutions are now responsible for different types of cases, which makes case tracking and the compilation of data across time difficult. Centralising data across internal control bodies and tribunals is an important

challenge. Selecting and applying a set of standard key performance indicators (KPIs) and standard guidelines for data collection could help overcome these challenges and should be considered as a priority by the co-ordination committee, SFP and the federal tribunal. Box 7.4 below highlights some commonly-used performance indicators from the field of justice, which could be considered by these institutions going forward.

Box 7.4. Potential key performance indicators for evaluating administrative disciplinary regimes

No single indicator can be useful in isolation, instead, a set of indicators must be assessed as a whole, along with contextual information, to be analysed and interpreted more accurately.

KPIs on effectiveness

- **Share of reported alleged offences ultimately taken forward for formal disciplinary proceedings:** Not all reported offences may be taken forward following a preliminary investigation or hearing; however, the share of cases not taken forward, especially when analysed by area of government or type of offence, may shed light on whether valid cases are successfully entering the disciplinary system in the first place.
- **Appeals incidences and rates:** A measure of the quality of sanctioning decisions and the predictability of the regime. Common metrics include the number of appeals per population (or civil servants liable under the disciplinary law), and cases appealed before the second instance as a percentage of cases resolved in first instance.
- **Inadmissible or discharged cases:** The share of cases declared inadmissible (as well as a disaggregation for what grounds were provided for dismissal) can be considered an indication of the quality and effectiveness of procedures and compliance of the government with disciplinary procedures.
- **Overtured decisions:** A second common measure on the quality of sanctioning decisions is the share of appealed cases where initial decisions were overturned. This can signify, in addition to failure to follow proper disciplinary procedures, the sufficient proportionality of sanctions.
- **Recovery:** In the case of economic fines, the share of funds recovered or recuperated as per original sanctioning decision can indicate the effectiveness of government in carrying out sanctions.
- **Clearance rates:** Another common indicator of effectiveness, this refers to the sanctions issued over the cases initially reported. It serves as a proxy for identifying “leaky” systems, whereby cases reported are not brought forward and/or to conclusion.

KPIs on efficiency

- **Pending cases:** The share of total cases which are unresolved at a given point in time can be a useful indicator of case management.
- **Average/median length of proceedings (days):** The average length of proceedings for cases is estimated with a formula commonly used in the literature: $[(\text{Pending} + 1 + \text{Pending}) / (\text{Incoming} + \text{Resolved})] * 365$.
- **Average spending per case:** Proxies for financial efficiency can include total resources allocated to the investigation and processing of administrative disciplinary procedures divided by the number of formal cases. Other methodologies include total spending on disciplinary proceedings per civil servant liable under proceedings.

Box 7.4. Potential key performance indicators for evaluating administrative disciplinary regimes (cont.)

KPIs on quality and fairness

- In addition to some of the aforementioned indicators (i.e. high appeals rates or admissible/dismissed cases could suggest poor procedural fairness), the following qualitative data could also prove useful. The Council of Europe has produced a “Handbook for conducting satisfaction surveys aimed at court users” that could offer insights for similar exercises on administrative disciplinary regimes:
 - Perception survey data on government employees (including managers) on their perceptions of the fairness regime, the availability of training opportunities for them, etc.
 - Perception survey data from public unions, internal auditors/court staff (for serious cases), etc.

Sources: Council of Europe (2014), “Report on European judicial systems – Edition 2014 (2012 data): Efficiency and quality of justice”, European Commission for the Efficiency of Justice, Strasbourg, www.coe.int/t/dghl/cooperation/cepej/evaluation/2014/Rapport_2014_en.pdf.

Council of Europe (2010), “Handbook for conducting satisfaction surveys aimed at court users in Council of Europe’s member states”, CEPEJ(2010)1, Commission for the Efficiency of Justice, Strasbourg, <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2706085&SecMode=1&DocId=1664612&Usage=2>.

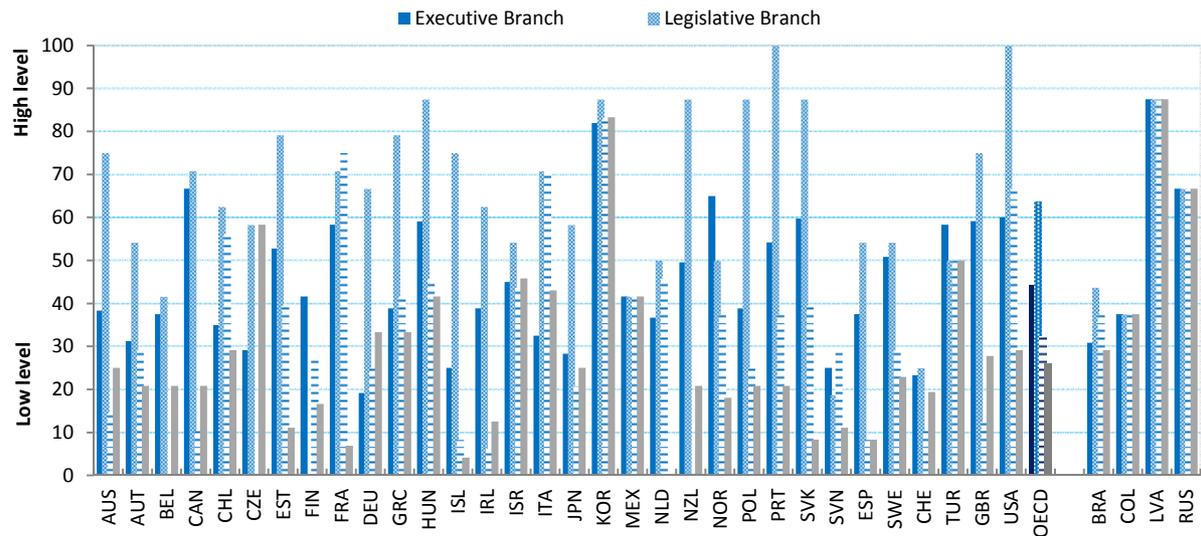
Council of Europe (2008), “Checklist for promoting the quality of justice and the courts”, Commission for the Efficiency of Justice, Strasbourg, <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2707813&SecMode=1&DocId=1281474&Usage=2>.

Palumbo, G., et al. (2013), “Judicial Performance and its Determinants: A Cross-Country Perspective”, *OECD Economic Policy Papers*, No. 5, OECD Publishing, Paris, <http://dx.doi.org/10.1787/5k44x00md5g8-en>.

Magistrates and staff of administrative justice tribunals should be held to the highest standards of transparency to prevent conflict-of-interest situations with cases, and be held responsible for the timely resolution of conflict-of-interest situations. As such, the functioning of the tribunal’s judicial council on disciplinary matters for magistrates and staff should be equally transparent to the public.

In order to ensure fairness and objectivity, administrative justice tribunals will need to ensure that they adhere to principles of independence; this will be critical in the transition to the new model. Adhering to these principles will entail a clear legal mandate for the tribunals, the objective and transparent assignment of magistrates to cases, training and adequate remuneration. High-performing internal judiciary committees will audit decisions and investigate conflicts of interest and, if necessary, discipline judges and staff. Greater transparency of assets and potential conflicts of interest could also improve the fairness and legitimacy of the new regime. As discussed in Chapter 3, new requirements are outlined in the General Administrative Responsibilities Law, where it is understood that magistrate and tribunal staff will be held to the same disclosure standards as other officials.

Figure 7.4. OECD asset declaration index, 2014



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.

Source: OECD (2015), *Government at a Glance 2015*, OECD Publishing, Paris, http://dx.doi.org/10.1787/gov_glance-2015-en.

In addition to disclosures, as discussed in Chapter 3, it will be more important than ever that the conflict-of-interest resolution policy for tribunals is clearly communicated with the public and magistrates/staff, effectively enforced, and backed by the necessary training efforts. Tribunals should be transparent with their own respective disciplinary proceedings for magistrates and staff, with annual reports and statistics. This will help set the tone on values for newly formed institutions, ensure trust in the new regime, and maintain the legitimacy of sanctioning decisions.

Until now, internal control bodies have faced challenges in effectively carrying out investigations for disciplinary matters citing difficulties in accessing financial and tax information. The National Anti-corruption Committee should urgently ensure that investigative bodies have direct access to relevant data in order to carry out timely and complete investigations.

Article 95 of the revised GLAR states that internal control bodies should have access to the required information necessary for their investigations. Article 31 states that investigative bodies should be able to adhere to formal agreements with other relevant bodies for the exchange of information in order to verify asset and interest declarations. Such agreements, which have not existed until now on a centralised basis, have the potential to vastly facilitate investigations. Currently, as stated in interviews with the OECD, internal control bodies, responsibilities units, and audit staff responsible for investigations have had challenges in accessing the relevant information. In some cases, requests for information were channelled through the ministries' internal affairs units, which held the legal right to make such requests to financial or tax institutions.

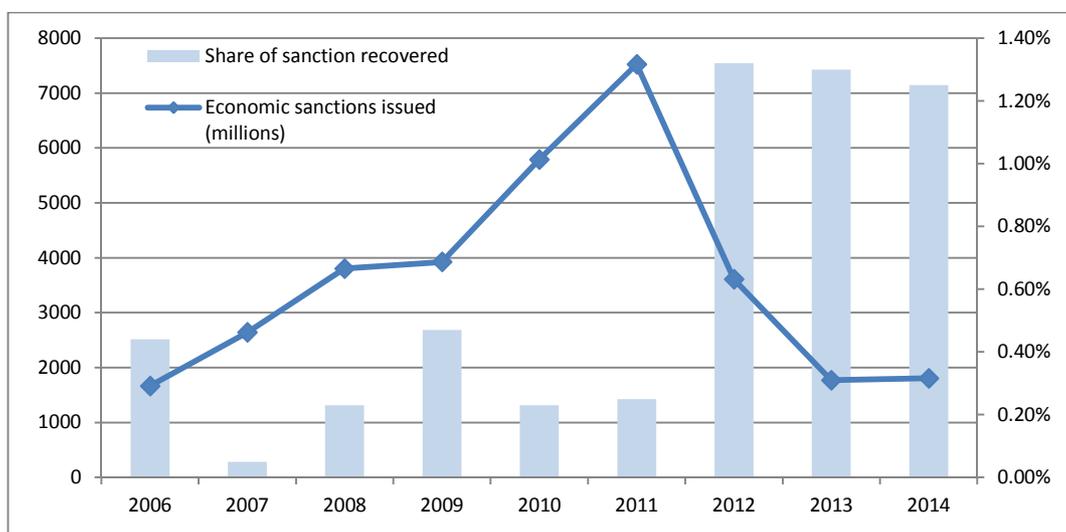
The NACS Co-ordination Committee should prioritise this issue and help to centralise agreements and establish clear channels for timely information sharing so that individual organisations do not have to approach external parties bilaterally. As such, the committee should also clarify the role of internal affair units in investigations which, until now, has not been addressed by the GLAR. If internal control staff were given direct access, it would be essential that security provisions are implemented to protect the privacy of those accused during ongoing investigations. Investigative staff should receive specialised training in forensic accounting and privacy/data issues (see section on capacity building).

Following through on administrative sanctions to ensure deterrence and restore trust in government

After a sanctioning decision is reached, internal control bodies, the SFP, and administrative tribunals are responsible for carrying out (non-economic) sanctions in co-ordination with senior management in the official’s respective line ministry or public sector entity (see Table 7.1 for institutions responsible for each phase of the disciplinary regime). In Mexico, economic sanctions are carried out in collaboration with (or directly through) national tax administrations (the *Servicio de Administracion Tributaria*, SAT). The co-ordination between offices involved in the procedure is followed by written notifications, and since 2012 is tracked as procedural policy published in the Official Federal Daily.

The number of economic sanctions issued increased between 2006-2011, with a decrease thereafter. During this decline, the share of sanctions recovered increased but remained low, always below 1.5% (see Figure 7.5). The low rate of recovery of economic sanctions can be attributed to several causes, namely: unreported collection actions, ongoing legal proceedings which suspend collection, efforts not being made to obtain the guarantee of tax credits, incomplete or erroneous information provided to the tax authority on the occasion of the presentation of the remedies, failure to locate the debtor for recovery, and overturned sanctioning decisions by federal courts.

Figure 7.5. Economic sanctions issued and share recovered, 2006-2014, sanctions shown in Mexican pesos



Source: Data provided by the SFP.

This approach differs from some other OECD member countries, where fines are deducted directly from pay. In the United States, for instance, federal regulation provides that when the head of an agency, or his/her designee, determines that an employee, because of disciplinary wrongdoing, is indebted to the administration, the amount may be collected in monthly instalments by deduction from the employee's salary.

- In Brazil, minor penalties, such as written monition and suspension for up to 30 days, can be applied after a *sindicância* (i.e. formal inquiry) has been concluded, and in accordance with principles of due process of the law. Middle to senior level managers usually possess the legal authority to enforce these sanctions. Only senior authorities (usually ministers or equivalent, or the board) can apply the most serious sanctions reached under the temporary administrative disciplinary process commission PAD proceedings (see Table 7.2). For economic fines in Brazil there are two sorts of penalties: Restitution of damage caused by the accused: if the damage is already quantified, the civil servant that caused the damage will respond to a process called “Tomada de Contas Especial”, or TCE (special accounts taking) in order to indemnify the loss incurred by the administration. It does not constitute a disciplinary process and does not require previous disciplinary measures.
- Loss of salary(ies) as a result of a penalty of suspension: if the civil servant is penalised with suspension, he/she will not receive the wages corresponding to the suspension period. At the authority's discretion, this penalty can be converted into a fine of 50% of the salary, in which case the civil servant will have to report for work as usual.

In both cases, the amount due is directly deducted from pay and can be divided in monthly instalments on request.

The Co-ordination Committee should investigate this issue in greater detail. Having better performance information, as mentioned before, would facilitate such evaluations. For instance, limited data are available on the application of non-economic sanctions. It is important that the rate of application of sanctions is increased as a deterrent to future misconduct. Enforcing sanctions set an example and deter future similar actions. The primary aim of any organisational integrity management framework is not so much to identify integrity violations, including corruption, from the past (although this might sometimes be necessary), but rather to prevent integrity violations in the first place (OECD, 2009). There is a vast amount of literature analysing the incentive structure of rational actors for violating rules. In such analyses, it is argued that offenders weigh the benefits of the corrupt act against the cost (severity) of sanctions in terms of the likelihood of detection and sanctioning, as well as the celerity of the sanction (Becker, 1974). Without increasing the costs of corruption through assurance in the application of sanctions, corruption may continue and become increasingly generalised. Application of economic sanctions contributes to covering economic damages caused by misconduct or corruption.

Ensuring the effective enforcement of sanction decisions is key to restoring trust in government and demonstrating that sanctions are not merely “window dressing”. The objective here is not so much about deterrence or recovery for damages, but rather sending a signal that the government is serious about addressing integrity in a systematic and comprehensive, rather than ad hoc, way. It is about instilling confidence in the existence of an indiscriminate system. Investments made to prevent corruption and monitor compliance are not rhetoric or sunk costs, but part of a broader integrity

framework. To public officials, this shows both commitment to values and fairness (all would be treated equally). From the point of view of citizens, this demonstrates that the government as a whole is not corrupt. Impunity for the corrupt acts of individuals can be seen by citizens as a sign that government is corrupt (or incompetent) for its inability to act. It also legitimises government decision making in the eyes of citizens. Misconduct can potentially make certain government decisions null and void (OECD, 2003). Under this logic, disciplinary investigations and sanctioning through administrative regimes can provide the basis for reversing the actions ex post (i.e. the granting of a public contract) and correcting decisions.

Building capacities to ensure the effectiveness and sustainability of reforms

The new GLAR reforms should be backed by larger-scale initiatives for professionalisation and capacity building, and backed by adequate resources. This will particularly be the case at the sub-national level, where some states will establish administrative tribunals for the first time.

As mentioned earlier, while the procedures for serious offences may fall to tribunals under the new GLAR, internal control bodies and management in organisations will remain responsible for processing less serious offences, as well as for preliminary investigations for all offences with considerable influence over the initial stages of a case. However, there are several issues that threaten the effectiveness and objectivity of internal control staff, including uncompetitive wages, lack of training, understaffing, and high turnover. Tribunal staff will require training as their caseload increases and they are required to take on new types of cases under a new regime. New magistrates and staff will need extensive training. New tribunals established at the state level in the coming years will particularly require ambitious capacity-building efforts as newly created institutions.

Having the sufficient, as well as the “right”, capacities in place is a clear requirement for a successful disciplinary regime. In order to be effective, the disciplinary regime should count on an adequate number of staff whose professional profiles reflect the mandate and tasks required under law or policy. In relation to disciplinary regimes, this may translate into human resources experts, internal control and audit staff, investigators, subject-matter experts (for particularly complex cases), financial experts, IT specialists, managers/co-ordinators and support staff. Acquiring the right number and mix of staff is a challenge, particularly in times of budget constraints, but should be weighed against the costs of non-compliance (i.e. higher losses due to integrity breaches and other offences).

As such, the NACS Co-ordination Committee, and particularly the SFP and federal administrative tribunal, should design and implement a capacity-building strategy to professionalise and train staff implicated in the disciplinary regime. Box 7.5 demonstrates the case of Brazil, which considerably scaled-up disciplinary reforms in response to the creation of the National Disciplinary Board. Over 12 000 federal officials were trained as part of the implementation process. Box 7.5 highlights the cases of the United Kingdom and Australia, which provide user-friendly tools to managers and staff concerned with disciplinary matters. Managers throughout the public sector should receive training on disciplinary proceedings to ensure that cases are brought forward to internal control bodies in the first place.

In addition to training, Chapter 6 contains further recommendations on professionalising internal control staff, particularly by incorporating them under the civil service regime to ensure job security and improve their independence from line ministers.

In order to be successful, capacity-building efforts will require sufficient budgetary resources, which, until now, have not been allocated. These should not be considered as costs, but rather as an investment in ensuring the effectiveness of the reforms and creating a genuine deterrence against corruption, which greatly costs governments in foregone revenues and losses from theft and fraud.

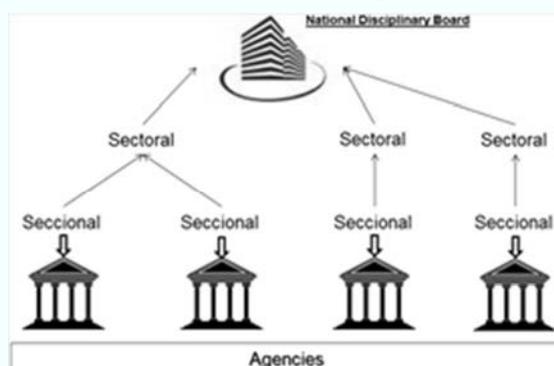
Box 7.5. Large-scale training for Brazil's National Disciplinary Board and SisCor

The disciplinary arrangements for public civil servants of Brazil fall under the remit of the Office of the Comptroller General of the Union (CGU), established in 2003 under the Single Judicial Regime of Federal Law 8.112/90. The CGU aims to enhance transparency and defend public assets through both preventative and punitive measures. With its jurisdiction limited to the federal executive branch, the CGU houses the Internal Control Secretariat, the Transparency and Corruption Prevention Secretariat, the Ombudsman Office and the National Disciplinary Board.

Prior to the establishment of the National Disciplinary Board in 2005, the responsibility of disciplinary and integrity-related activities were fragmented across federal government agencies, and subject to variations in their application and impact. The lack of central co-ordination and trained staff needed for consistent disciplinary action contributed to costly and lengthy processes and public distrust in the objectivity and effectiveness of disciplinary measures.

The National Disciplinary Board was established with the responsibility of overseeing the implementation of the centralised federal executive branch's disciplinary system: SisCor. Activities under SisCor are related to the investigation of irregularities by civil servants and the enforcement of applicable penalties. SisCor is endowed with legal powers to supervise and correct any ongoing disciplinary procedures and to apply sanctions through its 150 employees across the central department, 20 sectoral units and 47 sectional units located within federal agencies (*corregedorias seccionais*).

The structure of Brazil's federal disciplinary system (SisCor)



The centralisation of oversight under SisCor has been deemed as one driver in improving the effectiveness of the disciplinary regime, as well as consistency in the application of sanctions. SisCor has trained almost 12 000 civil servants, which has been mirrored by a substantial increase in investigative capacity and the number of civil servants currently under investigation, an increase in the number of expulsive sanctions applied, and a reduction in the annulment and reinstatement rates. The automation of the Administrative Disciplinary Process (CGU-PAD) has reduced processing times by 20%.

Box 7.5. Large-scale training for Brazil's National Disciplinary Board and SisCor
(*cont.*)

The success of the National Disciplinary Board has been, to a large extent, due to the existence of effective sectional units within agencies, which have helped to supervise, raise awareness around the role of the National Disciplinary Board, and balance entity-level responsibility with that of the National Disciplinary Board. Under SisCor, Brazil has seen the creation of an Anti-Nepotism Act, a simplified procedure for minor offences and online disclosures for national policies on transparency and integrity that are upheld through the Right of Access to Information Act.

The National Disciplinary Board is currently supporting further reforms to Law 8.112/90 to address gaps in legislation around issues not included in the scope or insufficiently addressed originally, such as cybercrimes, moral hazard (bullying), sexual harassment, racial segregation and administrative transactions.

Source: information provided by National Disciplinary Board, Brazil

Box 7.6. Strengthening capacities: Providing guidance on disciplinary matters

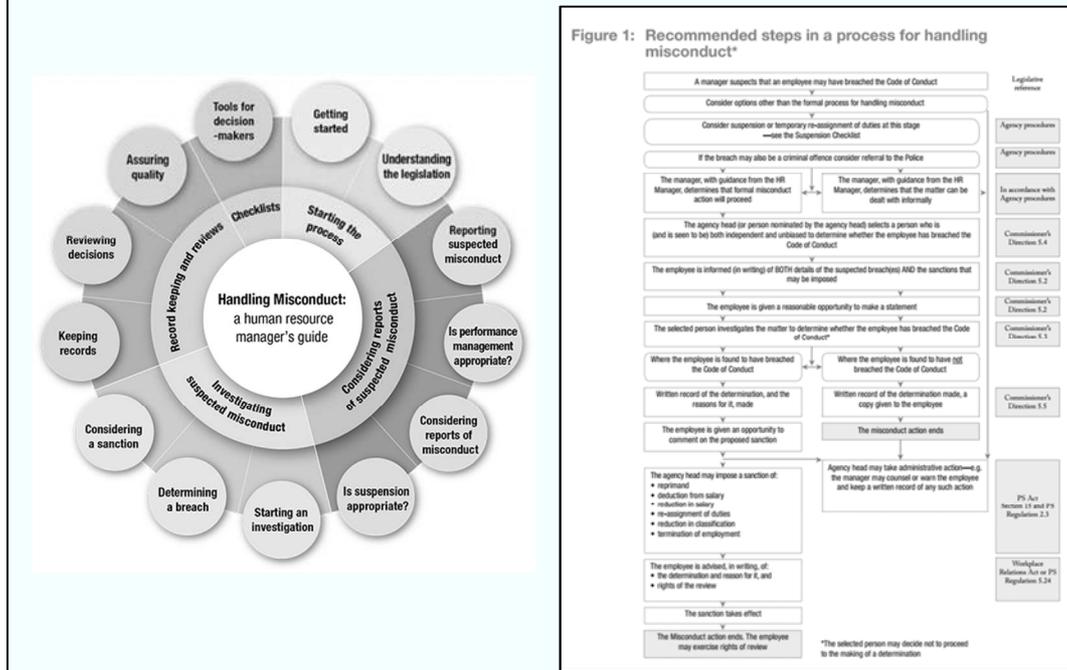
The **United Kingdom's** Civil Service Management Code recommends compliance with the Advisory, Conciliation and Arbitration Service's (ACAS) Code of Practice on Disciplinary and Grievance Procedures (ACAS, 2015), and notifies departments and agencies that it is given significant weight in employment tribunal cases and will be taken into account when considering relevant cases. ACAS, an independent body, issued the code in March 2015, which encourages:

- Clear, written disciplinary procedures developed in consultation with stakeholders.
- Prompt, timely action.
- Consistency in proceedings and decisions across cases.
- Evidence-based decisions.
- Respect for rights of the accused: right to information, legal counsel, hearing and appeal.

The code also contains guidance on how to interact with employees under investigation (i.e. providing information, evidence, allowing a companion to the hearing, role of the companion at hearings, etc.), which institutions to contact during the process to ensure due diligence and that the employees' rights are respected, how to apply sanctions fairly (i.e. consistently, progressively and proportionately), how to handle special cases (i.e. cases of misconduct by trade union members, etc.), and what proceedings to follow in relation to potential criminal offences.

Australia's Public Service Commission has also published the Guide to Handling Misconduct, which provides clarifications of the main concepts and definitions found in the civil service code of conduct and other applicable policies/legislation, as well as detailed instructions to managers on proceedings (see below workflow). The guide also contains various checklist tools to facilitate proceedings for managers such as: Checklist for Initial Consideration of Suspected Misconduct; Checklist for Employee Suspension; Checklist for Making a Decision about a Breach of the Code of Conduct; and Checklist for Sanction Decision Making.

Box 7.6. Strengthening capacities: Providing guidance on disciplinary matters (cont.)



Summary of proposals for action

Disciplinary rules and procedures are essential components of a country's policy framework for public sector integrity. They are the "teeth" needed to deter misconduct and, perhaps most importantly, demonstrate to citizens and public servants that government commitments to upholding integrity values are not merely empty promises. In order to improve its current disciplinary system and attain the respect and trust of citizens and public servants, Mexico may consider taking the following actions:

Preventing gaps, inconsistencies and undue influence

- Clarifying the legal and procedural frameworks for serious administrative faults that could also be considered criminal offences, particularly around the outset of the investigation and the criminal convictions or exonerations.
- Establishing data collection and key performance indicators to assess that the new regime is being conducted effectively and without undue influence, with particular emphasis on determining whether cases are being brought forward to internal control bodies and whether these are effectively moved forward if warranted.
- Conducting regular performance audits over the administrative disciplinary regime, and publically disclosing data and key performance indicators for external oversight and review, particularly on the NACS digital platform.

- Ensuring magistrates and staff of administrative justice tribunals are aware of organisational policies for the resolution of conflict of interest, and receive regular training.
- Ensuring full transparency of the disciplinary regime of tribunals with public annual reports.
- Clarifying the role of internal affairs units in line ministries regarding the investigative process in accessing tax and financial information.
- Facilitating formal agreements between institutions to ensure investigative staff can access relevant information for investigations, and establishing clear procedures and channels for information sharing.

Following-through on sanctions

- Urgently examining the reasons behind the low rate of recovery of economic sanctions and applicability of non-economic sanctions.
- Consider automatic deductions of economic sanctions.

Investing the necessary resources and building capacities

- Considerably scaling-up capacity-building efforts for investigative bodies on key skillsets, such as forensic auditing.
- Professionalising internal control staff by ensuring their job security, merit-based hiring, competitive salaries, and performance evaluations.
- Adequately investing in capacity building for managers on disciplinary proceedings to help ensure that cases are brought forward to internal control bodies.
- Adequately investing in capacity building, infrastructure and IT for tribunals given their new mandate, particularly at the sub-national level.
- Providing tools and user-friendly guidelines to managers on administrative disciplinary matters, their roles, and the procedures they should be expected to follow.

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Further reading

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Chapter 8.

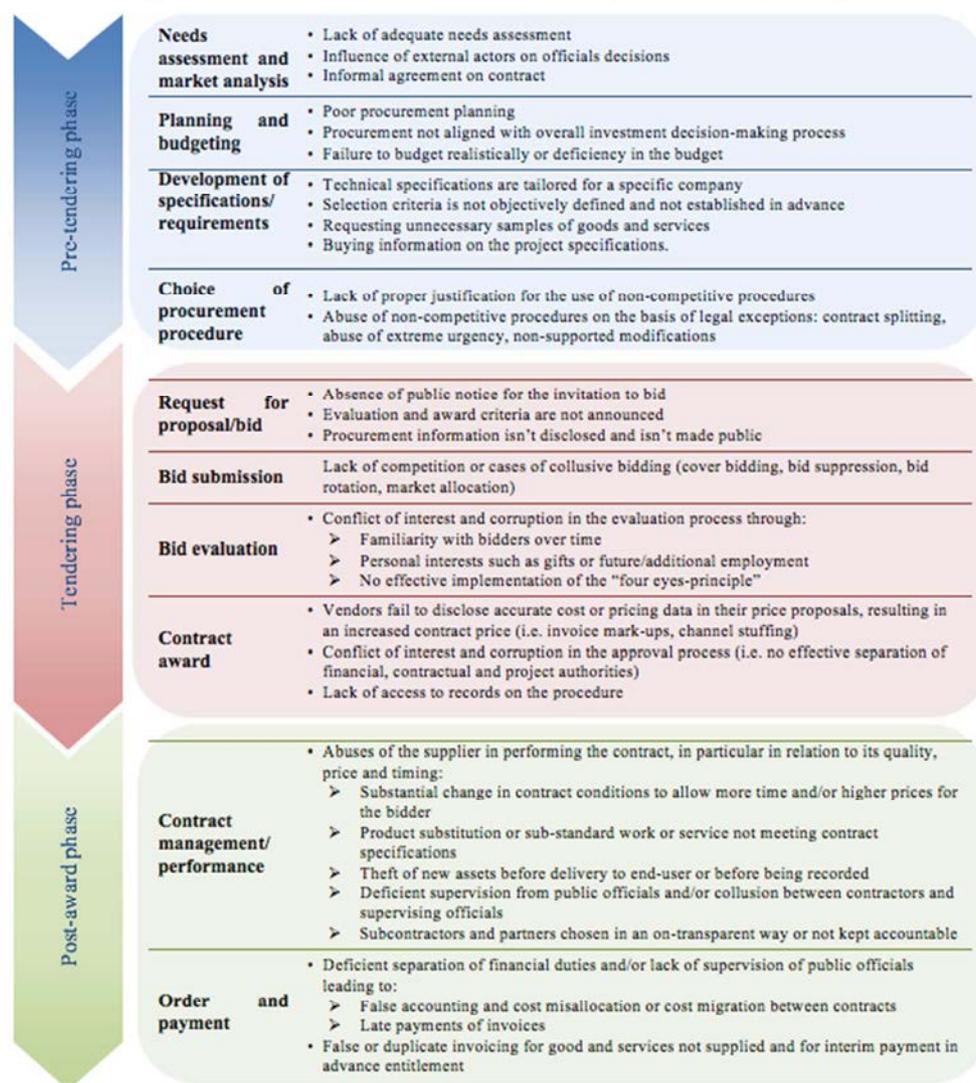
Clean public procurement in Mexico: Ensuring integrity and value for money

In line with the OECD Recommendation of the Council on Public Procurement, this chapter assesses whether Mexico has developed effective general standards for public procurement procedures, and implemented procurement specific safeguards in order to preserve integrity in public procurement. It looks specifically at newly developed initiatives, such as the Protocol of Conduct for Public Servants in Public Procurement and the Registry of Public Procurement Officials. It also describes the complaints and sanctions system in place in order to contest procurement decisions and denounce possible corruption cases. The chapter analyses levels of transparency of public procurement processes and the application of e-procurement solutions. Finally, it evaluates how external stakeholders, such as private sector representatives and civil society organisations, are involved in the public procurement system with a view to increasing its transparency and integrity.

Introduction: Corruption risks in public procurement

Positions and activities in the public sector differ in terms of the potential integrity risks involved. Some sectors or officials, such as those in justice, tax and customs administrations, audit, inspection or public procurement, may operate with higher potential risks of conflict of interest and corruption. Public procurement is particularly vulnerable to integrity violations due to the high complexity of activities, the close interaction between the public and private sectors, and the large volume of transactions. Every year, governments spend large sums of public money on procurement contracts. In 2013 alone, for instance, it is estimated that OECD countries spent about 12% of their GDP and 29% of government expenditure on public procurement, which is estimated to be around EUR 4.2 trillion (OECD, 2015a). Unethical practices can occur in all phases of the public procurement cycle, however, each phase may be prone to specific kinds of integrity risks (see Figure 8.1 below).

Figure 8.1. Corruption risks associated with the different phases of the public procurement cycle



Source: OECD (2016a), *Preventing Corruption in Public Procurement*, OECD, Paris, www.oecd.org/gov/ethics/Corruption-in-Public-Procurement-Brochure.pdf.

The OECD Recommendation on Public Procurement (OECD, 2015b) aims to address risks in public procurement. The Recommendation, which is composed of 12 integrated principles (see Figure 8.2 and Box 8.1), outlines some essential measures to be implemented in order to ensure high integrity in the public procurement system and to fight corruption related to public procurement processes. This chapter assesses the strengths and weaknesses of the Mexican federal public procurement framework against the OECD Recommendation, and the extent to which the framework identifies and mitigates inherent corruption risks. It is organised into five sections covering several principles of the OECD Recommendation that include integrity, accountability, transparency and participation (for more information, please refer to Annex 8.1). The five sections are: 1) preserving public integrity through general standards of conduct and procurement specific safeguards; 2) supporting the implementation of new integrity standards with the necessary awareness-raising and capacity-building initiatives; 3) ensuring accountability throughout the public procurement cycle, including appropriate complaint and sanction process; 4) enhancing transparency and the disclosure of information around public procurement processes; and 5) fostering transparent and effective stakeholder participation.

Figure 8.2. The 12 integrated principles of the OECD Recommendation on Public Procurement



Source: OECD (2015b), *Recommendation of the Council on Public Procurement*, OECD, Paris, www.oecd.org/gov/ethics/OECD-Recommendation-on-Public-Procurement.pdf.

Box 8.1. The contribution of the 12 principles of the OECD Recommendation to the fight against corruption

1. **Transparency:** The public disclosure of information around public procurement processes contributes to identifying and decreasing cases of mismanagement, fraud and corruption.
2. **Integrity:** Effective managing of conflict of interest in the public service and in post-public employment, which can lead to undue influence and "capture", are necessary to prevent fraud and theft.
3. **Access:** Access to procurement opportunities for potential competitors of all sizes, including the limited use of exceptions to competitive tendering (direct awards, accelerated procedures, etc.), increases competition and decreases corruption risks.
4. **Balance:** Public procurement can be used to achieve secondary policy objectives, such as the development of small and medium-sized enterprises and standards for responsible business conduct, which have the potential to strengthen integrity and fight corruption in the framework of public procurement processes and beyond.
5. **Participation:** Participation, including the provision of opportunities for direct involvement of relevant external stakeholders in the procurement system, increases transparency and integrity and reduces the risks of corruption in public procurement processes.
6. **Efficiency:** Efficiency, by reducing waste, reduces the vulnerability to corruption since funds are better accounted for and used for the intended purposes.
7. **E-procurement:** E-procurement tools facilitate access to public tenders and improve the transparency of public procurement processes and the accountability of procurement officials, which contributes to mitigating the risks of corruption inherent to procurement processes.
8. **Capacity:** More capable procurement officers are better able to comply with procedures and ensure that they are applied fairly and effectively to avoid corruption.
9. **Evaluation:** The collection of consistent, up-to-date and reliable information and the use of data on prior procurement can facilitate the identification of corruption cases, as well as collusion.
10. **Risk management:** Risk management systems contribute to identifying and addressing threats to the proper functioning of the public procurement system, including risks of fraud, misuse of public funds or corruption.
11. **Accountability:** Oversight and control mechanisms help to reinforce accountability throughout the procurement process. An effective complaint system contributes to identifying and sanctioning cases of corruption related to public procurement operations. If appropriately used, complaint systems may also reinforce risk management strategies and contribute to building a culture of integrity among procurement officials.
12. **Integration:** The visibility of the flow of public funds, from the beginning of the budgeting process throughout the public procurement cycle, contributes to the transparency of the public procurement system and can reduce the risk of corruption.

OECD (2015b), *Recommendation of the Council on Public Procurement*, OECD, Paris, www.oecd.org/gov/ethics/OECD-Recommendation-on-Public-Procurement.pdf.

Preserving integrity in public procurement through high standards of conduct and procurement specific safeguards

Mexico's framework for the federal public procurement system is based primarily on the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, LAASSP) and the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las Mismas*, LOPSRM). Both of these laws include various requirements and rules to structure and guide public procurement activities; however, neither specifically addressed integrity and corruption risks.

Until now, the administrative sanctioning of public servants who take part in corrupt practices has been covered mainly by the Federal Law on Administrative Responsibilities of Public Servants (*Ley Federal de Responsabilidades Administrativas de los Servidores Públicos*, LFRASP). With the approval of the new General Law on Administrative Responsibilities (*Ley General de Responsabilidades Administrativas*, LGRA), which will come into effect in July 2017, the LFRASP will be supplanted (see Chapter 3 for more detailed information on the LGRA). The LGRA will also supplant the Federal Anti-Corruption Law on Public Procurement (*Ley Federal Anticorrupción en Contrataciones Públicas*, LFACP), adopted in June 2012, which directly addresses corruption and fraud in public procurement. A key feature of the new LGRA is that it holds the character of a general law, and will therefore apply beyond the federal level to public procurement officials across the country.

Mexico's federal government has undergone a series of reforms aimed at strengthening its public integrity system, including reinforcing integrity standards for public procurement officials. These reforms started in early 2015 with the issuance of a series of executive orders by the President of Mexico (February 2015). Those orders (eight actions in total) primarily focus on preventing and managing conflict of interest. They also include the following four initiatives regarding the management of public procurement processes:

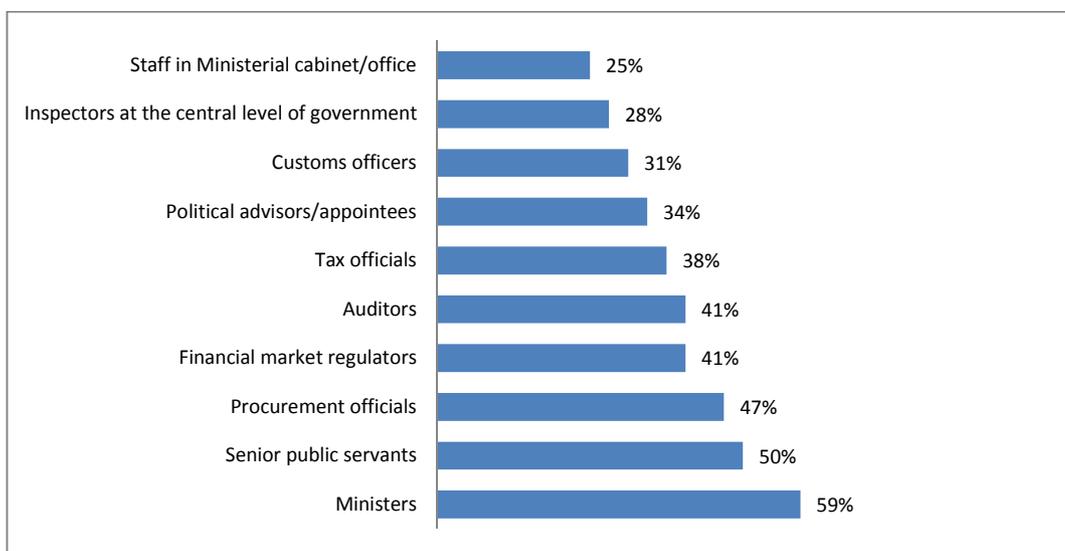
- **A protocol of conduct for public servants in public procurement**, and on the granting and extension of licenses, permits, authorisations and concessions (*Acuerdo por el que se expide el protocolo de actuación en materia de contrataciones públicas, otorgamiento y prorrogación de licencias, permisos, autorizaciones y concesiones*). This is included in the General Law on Administrative Responsibilities (*Ley General de Responsabilidades Administrativas*).
- **A registry of federal public administration public servants involved in public procurement processes** (*Registro de servidores públicos de la Administración Pública Federal que intervienen en procedimientos de contrataciones públicas*), including classification according to their level of responsibility and their certification.
- **An online publication of sanctioned suppliers**, specifying the reason of the sanction.
- **Increased collaboration with the private sector** to reinforce transparency in procurement procedures and decision making, and to reinforce integrity through the involvement of citizens in the identification of vulnerable processes and

procedures, and the development of co-operation agreements with chambers of commerce and civil society organisations.

Mexico should ensure that specific provisions related to public procurement are being included in the codes of individual line ministries, which are required to update their organisation’s codes according to the new Ethics Code and Rules of Integrity.

According to the OECD Recommendation, adherents should require high standards of integrity for all stakeholders in the procurement cycle. It suggests that standards embodied in integrity frameworks or codes of conduct applicable to public-sector employees (such as managing conflict of interest, disclosure of information or other standards of professional behaviour) be further expanded (e.g. through integrity pacts). The Recommendation also recommends tailoring general integrity tools to the specific risks of the procurement cycle as necessary (OECD, 2015b). According to the 2014 OECD Survey on Management of Conflict of Interest, specific conflict-of-interest policies and/or rules have been developed for procurement officials in 47% of OECD countries (see Figure 8.3), which is slightly less than for senior public officials (50%) and ministers (59%).

Figure 8.3. Development of conflict-of-interest policy/rules for particular categories of public officials in OECD countries



Source: 2014 OECD Survey on Management of Conflict of Interest.

In Mexico, 17 specific provisions were included in the Mexican Ethics Code and Rules of Integrity (*Código de Ética y reglas de Integridad*) for officials working in public procurement (paragraph 3), out of 12 domains (see Chapter 3). Those provisions include specific rules for public officials involved public procurement processes, requiring that they act in a transparent, impartial and legal way, making decisions based on the needs and interests of civil society and providing the best procurement conditions for the state (see Box 8.2). The Ethics Codes and Rules of Integrity have been complemented by a guide to identifying and preventing conduct that could constitute a conflict of interest for public officials (*Guía para identificar y prevenir conductas que puedan constituir*

conflicto de interés de los servidores públicos). This guide provides a list of nine high-risk processes, which include those related to public procurement and public works, as well as a table to analyse the risks according to those areas.

Box 8.2. Mexican Ethics Code and Rules of Integrity: Provisions related to public procurement

Public contracts, licenses, permits, authorisations and concessions

The public servant who participates in public contracting or in granting and providing extensions to licenses, permits, authorisations and concessions, on the grounds of their employment, position, commission or function or through subordinates, needs to behave with transparency, impartiality and legality; orient decisions towards the needs and interests of the society, and guarantee the best conditions for the state.

This rule encompasses the following, non-exhaustive, list of forbidden behaviours:

- Omit to declare, in accordance with the applicable provisions, the possible conflicts of interest as well as particular business and commercial links with persons or organisations registered in the Single Registry of Contractors for the Federal Public Administration.
- Fail to apply the principle of equal competition that should prevail among participants in public procurement processes.
- Formulate requirements differently from those strictly necessary for the fulfilment of the public service, causing excessive and unnecessary expenses.
- Establish conditions in the invitations or calls for tenders which confer advantages or provide a differential treatment to certain bidders.
- Favour certain bidders by considering that they meet the requirements or rules foreseen in the invitations or calls for tender when they do not; simulating the fulfilment of them or contributing to their temporary fulfilment.
- Help suppliers to fulfil the requirements foreseen in the requests for quotes.
- Provide undue information about individuals involved in public procurement processes.
- Be partial in the selection, designation, contracting, and, as the case may be, removal or termination of the contract, in the framework of public procurement processes.
- Influence decisions of other public servants in order for one participant to benefit from the public procurement processes or from the granting of licenses, permits, authorisations and concessions.
- Avoid imposing sanctions on bidders, suppliers and contractors who violate applicable legal provisions.
- Sending e-mails to bidders, suppliers, contractors or concessionaires through personal e-mail accounts or accounts which are distinct from the institutional e-mail.
- Meet with bidders, suppliers, contractors and concessionaires outside the official buildings, except for the proceedings related to on-site visits.
- Request unsubstantiated requirements for the granting and providing of extensions to licenses, permits, authorisations and concessions.

Box 8.2. Mexican Ethics Code and Rules of Integrity: Provisions related to public procurement (cont.)

- Give inequitable or preferential treatment to any person or organisation in the framework of granting and extending licenses, permits, authorisations and concessions.
- Receive or request any type of compensation, offering, treat or gift in the framework of granting and providing extensions to licenses, permits, authorisations and concessions.
- Fail to observe the protocol of action in matters of public contracting and providing extensions to licenses, permits, authorisations, concessions and their extensions.
- To be a direct beneficiary, or through relatives up to the fourth degree, of government contracts related to the agency or entity that directs or to which are directed the services.

Source: Ministerial Order for Mexico's Ethics Codes and Rules of Integrity, DOF-20-08-2015, (Acuerdo ACUERDO que tiene por objeto emitir el Código de Ética de los servidores públicos del Gobierno Federal, las Reglas de Integridad para el ejercicio de la función pública,) www.dof.gob.mx/nota_detalle.php?codigo=5404568&fecha=20/08/2015.

As discussed in Chapter 3, individual line ministries are currently in the process of revamping their specific codes of conduct as per the new Integrity Rules set out in 2015 by the Ministry of Public Administration (*Secretaría de Función Pública*, SFP) and now in the new LGRA. However, little attention has been paid in these codes as to how they specifically target procurement personnel (or other high-risk positions in their organisations) and are aligned with the protocol. In line with the recommendation of Chapter 3, new ministerial codes would need to involve public procurement officials in order to strengthen the sense of ownership and its values throughout individual line ministries.

In relation with the Public Procurement Protocol, Mexico could adopt a more values-based approach, rather than emphasising controls, by considering removing the Protocol's requirements for systematic audio and videotaping of conversations, and by providing clearer guidance for procurement officials on how to manage conflict-of-interest situations.

As mentioned above, Mexico introduced a new code of conduct specifically for public procurement officials, the Protocol of Conduct for Public Servants in Public Procurement (hereafter, the Public Procurement Protocol or the Protocol), which seeks to specifically target conflict-of-interest situations for public procurement dealings. The Protocol applies to all public servants involved in public procurement and in the granting or providing of extensions to permits, licenses and concessions, including for international commercial transactions. It includes general rules regarding contact with private individuals, the organisation of meetings, on-site visits, public events, as well as deliberate procedures. The Protocol is completed with a Manifest (*Manifiesto que podrán formular los particulares en los procedimientos de contrataciones públicas, de otorgamiento y prorroga de licencias, permisos, autorizaciones y concesiones*). The Manifest is for individual persons to declare or deny any businesses, work, personal or family links or relationships of consanguinity or affinity to the fourth degree with public servants specified in the Protocol. The Manifest will be discussed further in the last section of this chapter.

While the Protocol is a specialised code of conduct targeted specifically at public procurement officials, and is an important step towards ensuring a risk-sensitive management, there are currently several aspects of the Protocol that weaken its potential to achieve the desired impact, and that could even lead to undesired consequences. It could, for instance, benefit from a more balanced approach. There is a limit to the benefits of control and sanctions, and balancing rules-based and values-based approaches is considered crucial (OECD, 2009a). The Protocol, however, is based almost exclusively on rules, while neglecting values. It could even lead to undesired consequences, as the current Protocol may undermine officials' motivation and engagement in their workplace if they receive the impression that little trust is placed in them or, worse, that they are inherently corrupt. The OECD Recommendation emphasises the importance of not creating undue fear of consequences or risk-aversion in the procurement workforce or supplier community (OECD, 2015b).

The Protocol also includes some stipulations and requirements that are difficult to enforce because they are too easy to circumvent in practice. For instance, the taping of phone calls and the videotaping of meetings can simply be avoided by meeting outside the administration offices and working time. Although the Protocol urges the use of primarily written communications and to write minutes of meetings with the private sector, this does not impede informal oral communications and agreements on corrupt deals while complying with maintaining a flow of written formal communications. Requiring the presence of at least two public servants during meetings (the four-eyes principle) to mitigate risks of corruption should at least be complemented with a rotation of teams to mitigate the risk of collusion between public servants. While the four-eyes principle is considered good practice and has been used widely (see Box 8.3), it has been recently challenged (Lambsdorff, 2015; Schikora, 2010; Li et al. 2015; Charness and Sutter, 2012), as research suggests that it may, on its own, be ineffective at containing corruption. Solely relying on the four-eyes principle may even lead corruption to increase, as teams tend to act more selfishly than individuals, which can favour the establishment of corrupt networks. Responsibility can also be more easily diffused and provide public servants the possibility to rationalise their corrupt behaviour through excuses.

Box 8.3. The four-eyes principle: Tappan Zee Bridge Project, New York State

The four-eyes principle is a requirement that two individuals review and approve an action before it can be taken. For the construction of the Tappan Zee Bridge in the State of New York, several teams were set up to ensure respect of the four-eyes principle and the fairness of the selection process during the procurement phase:

- A Procurement Management Team, comprised of a team of public and private employees, responsible for directing the overall evaluation and selection process.
- A Legal Team, comprised of public and private legal advisors to conduct a legal pass/fail analysis of aspects of the proposals and provide guidance throughout the procurement process.
- A Financial Team to perform a financial pass/fail review and a net present value analysis of the price proposals.
- A Price Reasonableness Team to conduct reviews of each of the proposals and provide recommendations to the BRSC regarding the reasonableness of the pricing for each of the proposals.

Box 8.3. The four-eyes principle: Tappan Zee Bridge Project, New York State
(*cont.*)

- A Technical Evaluation Team to evaluate the technical strengths and weaknesses of each proposal.
- A Value Assessment Team comprised of engineers and other professionals from both the public and private sectors, to assemble all of the reports for each proposer, and where feasible, use the accumulated reports to quantify the technical strengths and weaknesses of each proposal.
- A Blue Ribbon Selection Committee to present a non-binding recommendation to the Selection Executives.
- A Bridge Design Aesthetic Team, comprised of artists and architects, to review the proposed bridge designs and assist in the evaluation process.
- A group of selection executives comprised of the members of the Major Projects Committee of the Thruway Authority's Board, to review the selection and findings of the BRSC. The ultimate determination to award a contract was made by the full NYSTA Board.

Source: Thacher Associates (2013), Tappan Zee Hudson River Crossing Project; Report of the Independent Procurement Integrity Monitor, www.newnybridge.com/documents/int-monitor-report.pdf.

As mentioned, rules-based protocol measures could trigger undesired consequences, similar to that suggested by research on the four-eyes principle. The tone and content of the Protocol seem to create or reinforce an environment where public servants feel distrusted and are fearful of committing errors. This atmosphere may lead to a failure to comply with regulations for fear of facing corruption charges.¹ The hidden costs of control are well known and well researched (e.g. Falk and Kosfeld, 2006; Lambsdorff, 2015; Anechiarico and Jacobs, 1996). For instance, incrementing controls can lead to the crowding-out of intrinsic motivation for honesty; in other words, with heavier control, people tend to feel distrusted and switch to a purely rational way of decision making. If external incentives favour undesired action after the cost-benefit analysis, the individual will be much more likely to misbehave (Schulze and Frank, 2003). Taken together with the previous observation that many of the controls brought forward in the Protocol are actually easy to elude, such crowding-out of intrinsic motivation can be particularly problematic, as public servants may become more likely to agree to corrupt deals as they do not feel a moral obligation (positive reciprocity) towards their employers and the public interest. While this does not imply that control and sanctions have to be eliminated, it does provide an argument for designing them in a more balanced way.

To some extent, the measures may also create scope for blackmailing public servants who have failed to comply with the Protocol without bad faith. If a public servant committed an error, or may even have been induced to commit an error by a private company in a procurement process, this knowledge can be used as a threat to extort favours or contracts. This threat is always a credible option where private companies can expect lower sanctions and public servants are facing strong sanctions. An example from Germany shows that this risk is not hypothetical (see Box 8.4).

Box 8.4. The risk of blackmailing

At a court in the city of Bochum, Germany, an employee of the road construction authority confessed to accepting bribes for contracts relating to marking roads. Beginning in 1987, and lacking business experience, he passed on names of competing firms in a public tender. After this incident, he received an envelope filled with Deutsche Mark (DM) 2 000 from the private firm who obtained the favour. “Suddenly I knew that I had begun to be at his mercy,” was the statement given in court and the justification for why he afterwards became entrapped in this corrupt relationship.

Source: Lambsdorff (2002), and Westdeutsche Allgemeine Zeitung/Cityweb, February 10, 1998: “Mit jedem Gefallen tiefer in den Sumpf.”

The current Protocol does not provide guidance on how public procurement officials can and are expected to react when faced with typical ethical dilemmas and conflict-of-interest situations that could arise in public procurement processes. Mexico could therefore consider complementing the current rules-based Protocol by guidance based on principles, values and ethical reasoning (Boxes 8.4 and 8.5, and recommendations in Chapter 3). The guide on conflicts of interests already has a strong focus on procurement processes, on which the SFP could elaborate.

Box 8.5. Conflict-of-interest management during tender evaluation in Australia

The Government of South Australia’s Department of Planning, Transport and Infrastructure (DPTI) addresses ways to address potential and material conflict-of-interest situations during the procurement process through the Procurement Management Framework. It states that the DPTI staff member should notify the evaluation Panel Chairperson as soon as they notice any apparent conflict-of-interest situation. Even though a potential conflict of interest will not necessarily preclude a person from being involved in the evaluation process, it is declared and can be independently assessed.

The framework also lists situations that would be considered as a material conflict of interest of a staff member in relation to a company submitting a tender including: 1) a significant shareholding in a small private company submitting a tender; 2) having an immediate relative (e.g. son, daughter, partner, sibling) employed by a company which is tendering, even though that person is not involved in the preparation of the tender and winning the tender would have a material impact on the company; 3) having a relative who is involved in the preparation of the tender to be submitted by a company; 4) exhibiting a bias or partiality for or against a tender (e.g. because of events that occurred during a previous contract); 5) a person, engaged under a contract to assist DPTI with the assessment, assessing a direct competitor who is submitting a tender; 6) regularly socialising with an employee of tenderer who is involved with the preparation of the tender; 7) having received gifts, hospitality or similar benefits from a tenderer in the period leading up to the call of tenders; 8) having recently left the employment of a tenderer; or 9) considering an offer of future employment or some other inducement from a tenderer.

Source: Government of South Australia (2016), *Procurement Management Framework. Confidentiality and Conflict of Interest*, PR115, http://dpti.sa.gov.au/_data/assets/word_doc/0016/162322/PR115_Confidentiality_and_Conflict_of_Interest_-_Procurement_Procedure.docx (accessed 01 June 2016).

While the Public Procurement Registry is a positive first step to identifying which officials are involved in the public procurement process, Mexico should now leverage this registry to better identify integrity risks in this area.

Following the series of executive orders by the President, Mexico created a Registry of Public Servants of the Federal Public Administration who are involved in public procurement processes and other high-risk processes in terms of corruption. It aims to serve as a basis for the identification and classification of public procurement officials, according to their level of responsibility, by the entities of the federal public administration, the Supreme Audit Institution (*Procuraduría General de la República*) and the Office of the Presidency of the Republic (*Oficina de la Presidencia de la República*). According to the executive orders of the President of Mexico, public officials listed in the registry are obliged to get adequate certifications in order to ensure their integrity and performance. The registry, which is being published on the SFP's website, is also a tool to keep citizens informed about the public servants involved in public procurement and other high-risk processes (such as the granting and extension of licenses, permits, authorisations and concessions).

To aid in developing and implementing the registry, the SFP has developed a guide for the identification and classification of responsibility levels of public officials of the federal public administration (*Guía para la identificación y clasificación de los niveles de responsabilidad de los servidores públicos de la Administración Pública Federal*). On 25 October 2016, the website listed a total of 15 372 public servants involved in public procurement processes and other high-risk processes, 11 802 of whom are public procurement officials² The listed public servants are classified along the following levels of responsibility: attention or processing (*atención or tramitación*) and resolution (*resolución*) of processes. The guide also specifies the object of responsibility, such as: justification for the use of exceptions and single-source procurement, calls for proposals and requests for quotations, evaluation of submissions, contract award, and contract management. The registration is undertaken via the electronic Registry of Public Servants of the Federal Government (*Registro de Servidores Públicos del Gobierno Federal*, RUSP).

In order for the registry to be used and relevant, it first needs to be updated on a regular basis, in particular as it is meant to include staff working on issues related to public procurement on an ad hoc as well as permanent basis. According to the SFP, the registry will be updated according to the calendar of the Human Resource Policy Unit of the ministry (*Unidad de Política de Recursos Humanos de la Administración Pública Federal*, UPRHAPF).

In order for the information to be helpful to fight against corruption and decrease conflict-of-interest cases, the information contained in the registry must be cross-checked with the asset declarations (*declaración de situación patrimonial*) and interests declaration (*declaración de intereses*) of public procurement officials included in the registry. Cross-checking such information would ensure that all public procurement officials, including those who take care of procurement on an ad hoc basis, have filled in their asset declarations and their interests declarations. Moreover, specific integrity risks could be identified among public procurement officers, according to their level of responsibility. This could be one of the roles of the new Specialised Unit for Ethics and Prevention of conflicts of interest (*Unidad Especializada en Ética y Prevención de conflictos de interés*, UEEP) of the SFP, in co-operation with the SFP's Public Procurement Unit. The latter may also want to identify and monitor the public servants

responsible for managing the processes and making final decisions (processing and resolution of processes according to the levels specified in the guidance note), given that this can increase the risk of fraud.

Mexico also needs to take into account the risks of publishing registry information, including names, of staff involved in public procurement processes, as this could be used by suppliers to bribe public servants in relation to a specific public procurement process.

Supporting implementation of new integrity standards with awareness raising and capacity building

Mexico should ensure the implementation of new initiatives, such as the Public Procurement Protocol and the Public Procurement Registry, through adequate communication strategies and tailored advice.

As stressed in Chapter 3, a protocol or a code alone cannot guarantee ethical behaviour, but it can offer written guidance on expected behaviour by outlining the values and standards to which public procurement officers should aspire. To be effectively implemented, adequate communication strategies, including awareness-raising activities, should be developed. A clear communication strategy to raise awareness regarding integrity policies, as well as available tools and guidance, makes use of different existing and innovative channels of communication. It should also target internal stakeholders (public procurement officials) and external stakeholders (the private sector, civil society organisations and individuals). External communication of the relevant codes of conduct can support key stakeholders in their commitment to integrity. The role of external actors, in particular users of public services and the private sector, is critical to maintaining the integrity of government operations.

The objectives, content and usage of the Public Procurement Protocol and the Public Procurement Registry could be communicated to the public procurement workforce; and manuals and guidelines could also be created to help public procurement officials understand and apply the new provisions. Given that the Protocol was also included in the LGRA and will be applicable to all Mexican states as of July 2017, communications should target not only public procurement officials at the federal level, but should also take into account the future needs of officials working at the state level. The SFP must raise awareness with HRM and procurement units about the Registry, and set out procedures for regularly updating and maintaining the database. As specified in the Public Procurement Protocol, the SFP, particularly the UEEP, is also in charge of providing advice to contracting authorities regarding the implementation of the code. The communication strategy needs to cover the specific provisions included in the Mexican Ethics Code and Rules of Integrity for officials working in the domain of public procurement. In the framework of this communication strategy, Mexico should continuously recognise public procurement as a high-risk area.

Communication on the Mexican Ethics Code and Rules of Integrity, the Public Procurement Protocol and the Public Procurement Registry should include external actors, including users and providers of federal public services. Emphasis should be given to their rights and duties to abide by the rules. As specified in Chapter 3, a growing trend in OECD member countries is to communicate throughout the private sector the values and ethics that officials must adhere to. In the case of Mexico, potential suppliers have to be made aware of the Manifest targeted at individual persons to declare or deny any businesses, work, personal or family links or relationships of consanguinity or affinity to

the fourth degree with public servants specified in the Protocol. As suggested in Chapter 3 of this review, the new integrity standards and codes could be attached to requests for proposals and calls for applications, or mailed to all vendors. This could be conducted through the advisory board of private sector representatives to the national anti-corruption system (NACS, see Chapter 2). Raising awareness externally about public officials' integrity commitments is a pre-requisite to fostering the participation of citizens in public procurement processes, strengthening accountability, and increasing institutional trust (see section on participation below).

Mexico should further foster a culture of integrity amongst procurement professionals by developing a clear integrity capacity strategy and by implementing tailored training programmes for public procurement officials.

According to the Recommendation, integrity training programmes need to be developed for the procurement workforce, both public and private, to raise awareness of integrity risks, such as corruption, fraud, collusion and discrimination; and to develop knowledge on ways to counter these risks and foster a culture of integrity to prevent corruption (principle of integrity). The Recommendation also underlines the need to ensure that procurement officials meet high professional standards for knowledge, practical implementation and integrity by providing a dedicated and regularly updated set of tools, for example, sufficient staff in terms of numbers or skills, recognition of public procurement as a specific profession, certification and regular training, and integrity standards for public procurement officials (OECD, 2015b). As stressed in Chapter 3, HRM is particularly relevant in promoting and ensuring integrity. Public ethics and the management of conflict are about directly or indirectly changing the behaviour of an organisation's human resources, and therefore HRM policies are part of the problem and the solution to promoting integrity in the public administration, including among public procurement officials.

Against this background, and as recommended in Chapter 3, Mexico could consider developing a clear integrity capacity-building strategy for the public administration, including public procurement officials. The capacity strategy should include a certification system for public servants, at least for those listed in the Registry of Public Servants of the Federal Public Administration who are involved in public procurement processes and other high-risk processes in terms of corruption. It should be aligned with the levels of responsibilities defined in the guide for the identification and classification of the responsibility levels of public officials of the Federal Public Administration (see above), and specific training should be proposed in order for public servants to get certified. The strategy should give clear guidance on which training needs to be taken and how often, and which tests need to be passed by public servants in order for the certification system to be effective. Such a strategy would strengthen the integrity of public officials and contribute to professionalising the workforce and increasing its performance, as experienced in the case of Canada (see Box 8.6).

Box 8.6. The Canadian Certification Programme for the Federal Government Procurement and Materiel Management Communities

In today's rapidly changing environment, the Canadian Federal Government's Procurement and Materiel Management Communities have become a more knowledge-based profession, with an emphasis on a strategic advisory role. In an environment where accountability is foremost, it is essential that practitioners demonstrate that they possess the advanced skills and knowledge required to function effectively and efficiently.

The programme is managed by the Acquired Services and Assets Sector (ASAS) Communities Management Office (CMO) in the Treasury Board Secretariat. The CMO provides strategic direction and central leadership for the collaborative development and implementation of strategies, programmes and initiatives to support capacity building, community development and the professional recognition of the Federal Government Procurement, Materiel Management and Real Property Communities.

When the certification programme was launched in 2006, it received national and international recognition as the federal government's first ever Certification Programme for Procurement and Materiel Management specialists. What binds together the procurement and materiel management communities is their responsibility for the lifecycle management of assets, from assessment and planning of requirements throughout acquisition until disposal. As a consequence of this shared responsibility, the communities have many common competencies, learning goals and knowledge requirements.

Certification provides the increased professional recognition for the communities and offers a professional designation to formally acknowledge a practitioner's level of achievement. Procurement specialists can acquire certification as a Certified Federal Specialist in Procurement, Level I and II, and those in materiel management can acquire certification as a Certified Federal Specialist in Materiel Management Level I. Both designations are based on the Federal Government Procurement and Materiel Management Communities Competency Suite. A competency describes an employee's proficiency in a particular job function in terms of knowledge, skills and abilities. Each competency has a definition, a proficiency level and behavioural indicator statements.

The certification programme is designed to evaluate a candidate's experience and knowledge in the federal government context, thereby distinguishing it from designations of external certifying bodies. In addition to developing technically proficient communities, the programme focuses on ensuring capacity in leadership competencies.

Source: OECD (2016b), *Towards Efficient Public Procurement in Colombia: Making the Difference*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264252103-en>.

In the framework of the development of the integrity capacity strategy for the public administration, including public procurement officials, Mexico could consider developing and implementing tailored training programmes for public procurement officials. According to the SFP's website (including its Activities Report for 2015-2016), training on public procurement has been developed, including on the use of the e-procurement system CompraNet, the evaluation of submissions, and the development of market studies. However, analysis of the list of available training courses for public procurement officials has shown that there is no specialised training for public procurement officials on managing integrity and corruption risks. There are also no training videos for public procurement officials on integrity. Training could be developed with guidance from the UEEP (see above), as well as the National School of Government Professionalisation (*Escuela Nacional de Profesionalización Gubernamental*). Specific training should be

included in the framework of the induction training developed for new employees, and specific courses should be developed to present the new provisions and tools (the latter could, for instance, be implemented through e-learning solutions). In Germany, specific integrity training has been developed for public procurement officers (see Box 8.7).

Box 8.7. Integrity training in Germany

The Federal Procurement Agency is a government agency that manages purchasing for 26 different federal authorities, foundations and research institutions that fall under the responsibility of the Federal Ministry of the Interior. It is the second largest federal procurement agency after the Federal Office for Defence Technology and Procurement.

The Procurement Agency has taken several measures to promote integrity among its personnel, including support and advice by a corruption prevention officer (Contact Person for the Prevention of Corruption), the organisation of workshops and training on corruption, and the rotation of its employees.

Since 2001, it has been mandatory for new staff members to participate in a corruption-prevention workshop. They learn about the risks of getting involved in bribery and the briber's possible strategies. They also learn how to behave when these situations occur; for example, they are encouraged to file a report ("blow the whistle"). Workshops highlight the central role of employees, whose ethical behaviour is an essential part of corruption prevention. About ten workshops took place with 190 persons who provided positive feedback concerning the content and the usefulness of the training. The involvement of the agency's Contact Person for the Prevention of Corruption and the Head of the Department for Central Services in the workshops demonstrated to participants that corruption prevention is one of the priorities for the agency. In 2005, the target group of the workshops was enlarged to include ongoing as well as induction training for the entire personnel. Since then, six to seven workshops are being held per year at regular intervals, training approximately 70 new and existing employees per year.

Another key corruption prevention measure is staff rotation after a period of five to eight years in order to avoid prolonged contact with suppliers, as well as improve motivation and make the job more attractive. However, the rotation of members of staff still meets with difficulty in the agency. Due to a high level of specialisation, many officials cannot change their organisational unit, as their knowledge is indispensable for the work of the unit. In these cases alternative measures, such as intensified (supervisory) control, are being taken.

Source: OECD (2016b). *Towards Efficient Public Procurement in Colombia: Making the Difference*, OECD Public Governance Reviews, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264252103-en>.

In order to preserve public integrity, Mexico should publicise risk management strategies and raise awareness and knowledge of them within the procurement workforce and with other stakeholders.

Risk management tools can map, detect and mitigate corruption risks and preserve public integrity throughout the public procurement cycle. According to the OECD Recommendation, adherents should develop specific risk assessment tools to identify and address threats to the proper function of the public procurement system. Where possible, tools should be developed to identify risks of all sorts, including potential mistakes in the performance of administrative tasks and deliberate transgressions, and bring them to the attention of relevant personnel, providing an intervention point where prevention or mitigation is possible. Adherents should also publicise risk management strategies, for instance, systems of red flags or whistleblower programmes, and raise awareness and

knowledge among the procurement workforce and other stakeholders about the risk management strategies, their implementation plans and measures set up to deal with the identified risks (OECD, 2015b). The importance of risk management is also stressed in the OECD Recommendation on Public Integrity, which calls on adherents to ensure a strategic approach to risk management that includes assessing risks to integrity (e.g. fraud and corruption) and addressing control weaknesses. This involves building warning signals into critical processes, as well as effective monitoring and a quality assurance mechanism for the risk management system (OECD, 2017).

As noted in Chapter 6, the SFP in Mexico has developed a specific risk management process (*Administración de Riesgos Institucional*, ARI). In November 2016, it also published a new methodological and implementation Manual of Internal Control System (*Acuerdo por el que se emiten las Disposiciones y el manual Administrativo de Aplicación General en material de Control Interno*, MAAG-CI), which describes the risk management methodology and related activities that aim to identify, assess and mitigate corruption risks. It also states that organisations should focus on processes vulnerable to corruption, such as financial and budgetary issues, public procurement, investigations and sanctions. However, so far it seems that public officers dealing with public procurement within the SFP and contracting authorities are not aware of this new risk management strategy, and that they are consequently not implementing it at the federal level. Interviews undertaken in the framework of the fact-finding mission also suggest that the SFP has not implemented any specific awareness-raising or capacity-building programmes around risk management, including corruption risks, that are targeted at contracting authorities and public procurement officers.

Against this background, and in line with the recommendations included in Chapter 6, Mexico should publicise risk management strategies and raise awareness and knowledge among the procurement workforce and other stakeholders about the risk management strategies. The SFP needs to accompany its new risk management framework with an effective awareness and capacity-building programme around risk management in general, and with a specific module on risk management for fraud and corruption. In particular, the SFP should provide specialist and specific training for high-risk functions, including public procurement, and for different staff groups, such as those responsible for audit, finance, public procurement or investigations. In order to ensure the proper implementation of the Manual of Internal Control System, and facilitate its application within public procurement, Mexico may also want to provide public procurement officers with specific tools or templates. The SFP could, for instance, develop a specific checklist identifying the risks linked to public procurement activity, in particular the corruption risks (see Figure 8.1). The SFP could also develop specific guidance on how the five internal control components (control environment, risk assessment, control activities, information and communication and monitoring) can link with the public procurement process; and provide a checklist for contracting authorities to verify that the five components are being taken into account in their daily activities and that the risks are evaluated and mitigated (see Table 8.1).

Table 8.1. Leveraging internal control over the procurement cycle

Internal Control components	Tailor made linkages with the procurement process
Control environment	Are there clearly defined ethics requirements and professional certifications for those employed in the procurement units?
Risk assessment	Has the entity assessed areas of vulnerabilities in the procurement procedures?
Control activities	Are there effective controls in place to mitigate the identified procurement risks?
Information and communication	Are deficiencies in the procurement process communicated and remediation activities shared?
Monitoring	Is the procurement process linked with indicators and the monitoring system to document its efficiency and effectiveness, as well as implementation of corrective actions?

Source: OECD Secretariat.

Ensuring accountability throughout the public procurement cycle, including appropriate complaint and sanction processes

Mexico could consider strengthening the timeliness and trustfulness of its review and remedies system in order to ensure that procurement decisions can be contested and possible corruption cases denounced.

Review and remedy mechanisms contribute to increasing the overall fairness, lawfulness and transparency of the procurement procedure and support its integrity. They also build confidence among businesses and facilitate competition in local public contract markets. Review and remedy systems serve a procurement oversight function by providing means to scrutinise the activities of government procurement officials, to enforce their compliance with procurement laws and regulations, and to correct their improper actions. They provide an opportunity for bidders to contest the process and verify the integrity of the award (OECD, 2013). The OECD Recommendation suggests handling complaints in a fair, timely and transparent way through the establishment of effective courses of action for challenging procurement decisions to correct defects, prevent wrongdoing and build the confidence of bidders, including foreign competitors, in the integrity and fairness of the public procurement system. Additional key aspects of an effective complaint system are dedicated and independent review and adequate redress (OECD, 2015b).

Mexican procurement laws, including the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, LAASSP), provide a mechanism for challenging the key acts in the pre-award stage, such as the call for tender, opening of proposals, and the award decision. The system includes specific conditions and timeframes for raising a formal complaint, as well as defined enforcement authorities and mechanisms. According to Article 65 of the LAASSP, complaints regarding the call for tender can be raised by any supplier who has a manifest interest in participating in a procurement process; only parties that have submitted a bid are allowed to challenge the opening of the proposals and the award of the contract. Complaints can be submitted either in writing directly to the SFP or electronically through CompraNet, the e-procurement system of the Mexican Federal Government (Article 66 of the LAASSP). The decision-making process results in

remedies that are relevant to correcting any irregularity in the procurement process. To ensure the impartiality of review mechanisms, authorities independent from the contracting authorities rule on the review decisions. Complaints are therefore addressed to the Internal Control Office (*Órgano Interno de Control*, OIC), an operational extension of the SFP located within each federal public entity, but independent (see more information in Chapter 6). According to Article 73 of the LAASSP, once a complaint has been resolved, the decision must be made public in CompraNet (OECD, 2013). Suppliers may choose to settle a complaint through the conciliatory mechanisms carried out by the SFP (Article 77 of the LAASSP). When problems arise regarding the interpretation of clauses (Article 80 of the LAASSP), suppliers may ask for a commercial arbiter that follows the proceedings of the Commercial Code (*Código de Comercio*).

In order for the review and remedies system to be used and to support the denouncement of corruption, it needs to be trusted and timely. Even though the Mexican review and remedy system is considered independent and comprehensive, analysis has shown that it is not always timely. According to the World Bank Benchmarking Public Procurement results for 2016 (World Bank, 2016), the legal time to review is 21 days, whereas the time in practice is 90 days. The length of the procedures can discourage suppliers from raising a complaint. Mexico could consider evaluating the time needed for all the steps that have to be undertaken by the review body to render a decision, identify the steps which need particular attention, and take corrective actions to ensure that the time limits are being respected.

For corruption to be denounced easily, it is important that all relevant stakeholders have the possibility to denounce potential corruption cases. In the framework of the LAASSP, not all suppliers have the possibility of denouncing key acts in the pre-award stage, such as the call for tender, opening of the proposals and the award decision. A supplier who suspects a corrupt action, and as a result decides not to take part in the call for tender, does not have the possibility to denounce a potentially corrupt case. In this case, the supplier only has the possibility to inform the SFP of an irregularity through the online form available on CompraNet (*Portal de quejas y denuncias*), see below.

Some suppliers may not have an incentive to request a suspension of the procurement process, given that the suspension is costly. According to Article 70 of the LAASSP, a financial warranty equivalent (of between 10 and 30% of the approved budget for the procurement procedure) is necessary when a supplier requests a suspension. Furthermore, a party wishing to avoid the suspension may offer a counter warranty equivalent to the same amount given by the supplier requesting the suspension. This new requirement can increase the cost for suppliers of filing a complaint. However, complaints can be filed without requesting suspension and the procedure remains inexpensive (OECD, 2013).

Mexico should ensure a system of effective and enforceable sanctions for government and private-sector procurement in relation to public procurement processes.

In order to support accountability throughout the public procurement system, systems of effective and enforceable sanctions for government and private-sector procurement participants need to be developed. According to the OECD Recommendation, sanctions should be in proportion to the degree of wrongdoing to provide adequate deterrence without creating undue fear of consequences or risk-aversion in the procurement workforce or supplier community (OECD, 2015b).

As stated in Chapter 7, as well as in the introduction of this chapter, Mexican procurement laws, including the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, LAASSP), include various provisions on administrative infringements and sanctions (Articles 59 to 64 of the LAASSP). The latter cover the sanctions to be applied to bidders and suppliers, including fines (*multas*) and exclusions (*inhabilitaciones*), as well as the criteria according to which sanctions have to be defined. The LAASSP, as well as the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las Mismas*, LOPSRM), specify that the administrative sanctioning of public servants who take part in corruption practices are mainly covered by the Federal Law on Administrative Responsibilities of Public Servants (*Ley Federal de Responsabilidades Administrativas de los Servidores Públicos*, LFRASP), which will be replaced by the new LGRA in July 2017. As described in Chapter 7, both laws aim to enhance the legality and integrity of public servants' performance of their administrative duties by establishing the types of administrative offences, the procedure for taking disciplinary action, and the modality and degree of sanctioning to be applied to public servants (OECD, 2015c). However, the LGRA will also apply to bidders and suppliers. It remains unclear how the entering into force of the LGRA will impact the public procurement laws mentioned above.

Mexico has initiated an online publication of sanctioned suppliers, which specifies the reason for the sanction, through the directory of sanctioned suppliers and contractors (*Directorio de Proveedores y Contratistas Sancionados*). This complements the registry of sanctioned public officials (*Sistema de Registro de servidores públicos sancionados*). The new directory includes individuals and entities sanctioned (*multados*) by the SFP or by the OICs in the framework of public procurement processes at the federal level or state level when they involved federal resources (according to Article 59 of the LAASSP). It also includes individuals and entities that have been excluded (*inhabilitados*) from public procurement permanently or temporary (according to Article 60 of the LAASSP). On 26 October 2016, the number of sanctioned and excluded suppliers was 1 236 (and the number of sanctioned 321). Following the publication of the executive orders, the directory specifies the reason for the sanction or exclusion, the amount of the sanction, and the length of the exclusion. Since then, users have the possibility to search for sanctioned suppliers according to ministries and entities (or directly according to supplier and contractor). The specificity of the current list of sanctioned and/or excluded suppliers is that it shows all the suppliers that have once been sanctioned and/or excluded, i.e. they are not deleted from the list once the sanction has been paid or once the temporary exclusion from public procurement has ended.

The publication of sanctioned suppliers contributes to increasing the transparency of the public procurement system and has the potential to fight against corruption and increase/restore trust in government procurement. Public procurement officials and citizens should use the information to the maximum when managing and/or monitoring public procurement processes. The database can also be used for analysing trends in the type of sanctions, and linking them to specific ministries and/or entities. At the same time, Mexico needs to ensure that suppliers and contractors included in this list have the possibility of undertaking self-cleaning measures, and provide them with full rights to participate in future public procurement processes once the fine or penalty has been paid and once the exclusion period has ended. It needs to be ensured that companies are not being disadvantaged in future public procurement processes based on the information included in the list. As stressed in the OECD report *Fighting Bid Rigging in Public*

Procurement in Mexico – A Secretariat Analytical Report on Compliance with OECD Standards of Procurement Legislation, regulations and Practices in CFE, it would also be necessary for the SFP to seek an opinion from the Mexican competition authority (*Comisión Federal de Competencia Económica*, COFECE) about the competitive consequences of exclusions, and abide by its opinion. Agencies that depend on goods and services provided by the convicted companies and individuals should also be sought out (OECD, 2015d). Two websites existed at the time of preparation of this review: one page starts with sanctioned suppliers and contractors ("*proveedores y contratistas sancionados*") and the other with directorate of sanctions ("*directorio sancionados*"). Mexico needs to ensure that it publishes only one list of sanctioned suppliers in order not to confuse users.

Box 8.8. Debarment policies in public procurement

Integrity violations of companies may lead to permanent or temporary exclusion from public procurement. Debarment/exclusion policies have been developed in many countries and organisations, but rules differ across jurisdictions and international organisations, and there is significant variation in the specific grounds for debarment (e.g. Hjelmeng and Soreide, 2014). In line with European Union (EU) legislation, there are mandatory debarment/exclusion rules in place in EU Member States, according to which, bidders against whom final court convictions for corruption have been handed down are excluded from future tenders. In EU Member States, laws contain debarment provisions and contracting authorities have cross access to their internal debarment databases. Multilateral Development Banks have developed an Agreement for Mutual Enforcement of Debarment Decisions and made public the list of companies and individuals ineligible to participate in their tendering process. The 2009 OECD Anti-Bribery Recommendation calls on Parties to the OECD Convention of Bribery of Foreign Public Officials in International Business Transactions to: “suspend, to an appropriate degree, from competition for public contracts or other public advantages, including public procurement contracts and contracts funded by official development assistance, enterprises determined to have bribed foreign public officials and, to the extent a Party applies procurement sanctions to enterprises that are determined to have bribed domestic public officials, ensure that such sanctions should be applied equally in case of bribery of foreign public officials” (OECD, 2016a). While the debarment/exclusion has gained significant terrain in the last decade, particularly as a device in the fight against corruption and a tool to restore trust in government procurement, there is a lack of solid theoretical underpinning for these rules, and its efficiency continuous to be discussed, in terms of access, competition and value-for money principles, amongst others. The length of debarment and the impact of self-cleaning measures (such as the collaboration with investigators and the provision of information about the offence) on the promotion of public trust in government procurement are particularly discussed (e.g. Hjelmeng and Soreide, 2014).

Source: OECD (2016a), *Preventing Corruption in Public Procurement*, OECD, Paris, www.oecd.org/gov/ethics/Corruption-in-Public-Procurement-Brochure.pdf.

Hjelmeng, E. and T. Soreide (2014), “Debarment in Public Procurement: Rationales and Realization”, in G.M. Racca and C. Yukins, *Integrity and Efficiency in Sustainable Public Contracts*, www.researchgate.net/publication/265550163_Debarment_in_Public_Procurement_Rationales_and_Realization.

Enhancing transparency and the disclosure of information around public procurement processes

Mexico should continue ensuring an adequate degree of transparency of the public procurement system in all stages of the procurement cycle, by using and further developing the e-procurement system CompraNet.

Integrity and transparency of public procurement systems are closely linked. Transparency and the disclosure of information around public procurement processes contribute to identifying and decreasing cases of mismanagement, fraud and corruption, and are therefore key accountability mechanisms for integrity. The OECD Recommendation on Public Integrity encourages transparency and stakeholder engagement at all stages of the political process and policy cycle to promote accountability and the public interest. This can be achieved by, for instance, promoting transparency and an open government and granting all stakeholders – including the private sector, civil society and individuals – access to the development and implementation of public policies and encouraging a society that includes “watchdog” organisations, citizens groups, labour unions and independent media (OECD, 2017). Transparency is also one of the principles of the OECD Recommendation on Public Procurement, which calls on adherents to ensure an adequate degree of transparency of the public procurement system at all stages of the procurement cycle. It also recommends that adherents improve public procurement systems by harnessing the use of digital technologies to support appropriate e-procurement innovation throughout the procurement cycle. Those technologies are powerful tools to ensure transparency and integrity (OECD, 2015b). Excessive and unnecessary transparency may facilitate anti-competitive agreements (OECD, 2015d).

At the federal level, Mexico has implemented several good practices suggested by the 2015 OECD Recommendation on Public Procurement. Since 1997, the SFP in Mexico has been developing its e-procurement information system, CompraNet. Since June 2011, the registration of procedures and procurement documents on CompraNet has been mandatory for every governmental agency, federal or state level, that uses the federal budget for its procurement procedures and that exceeds a value threshold of 300 days of minimum wage. CompraNet contains historical information (from June 2010) about procurement procedures and leases and services. According to Article 2 of the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, LAASSP), CompraNet provides the following information: the annual procurement programme, the supplier’s registry, the social witness registry, the list of sanctioned suppliers, the calls for tenders (and restricted invitations) and their modifications, the records of clarification meetings, the records of submissions and opening of proposals, the social witnesses’ testimonials, data related to the contracts and addenda, the direct awards and the resolutions and instances of disagreement. It is free to access (OECD, 2015d). CompraNet also includes an online form which gives the opportunity to the general public to inform the SFP of irregularities (*Portal de quejas y denuncias*).

CompraNet allows for strengthened integrity and transparency, as well as for increased access, efficiency, evaluation and accountability of the Mexican public procurement system. The adoption of digital processes serves to enhance the integrity of the public procurement system as face-to-face interactions and other opportunities for potential corruption are reduced through the centralised and automatic transfer of data

between systems. In order to assure integrity, as well as business continuity and privacy, e-procurement tools need to be modular, flexible, scalable and secure (OECD, 2015b). While the Mexican e-procurement system is considered secure, and while the system is continuously updated in order to include technical innovations, Mexico may want to continue developing the system, taking into account international best practices (see Box 8.9). Transparency is secured through real-time disclosure of tender notices, bidding details and results, awarding information and contracting information. This information fosters fair and open competition and accountability given that it can be used by the general public to track the history of each transaction.

Box 8.9. Korean e-procurement system: Innovations to fight against corruption

In Korea, a notable improvement has been made in the transparency of public procurement administration since the early 2000s through the introduction of a fully integrated, end-to-end e-procurement system called KONEPS, which is mandatory for all public organisations.

To support integrity, KONEPS operates digital encryption and decryption based on public key infrastructure (PKI) encryption, and utilises time-stamping to prevent access to bidding prior to authorised bidding times. In order to further address the concern that illegal practices and collusive acts could be caused by borrowed e-certificates, Korea introduced "fingerprint recognition e-bidding" in 2010. In the fingerprint recognition e-bidding system, each user can represent only one company by using a biometric security token. Fingerprint information is stored only in the concerned supplier's token, thus avoiding any controversy over the government's storage of personal biometric information. By July 2010, it was applied in all tenders carried out via the e-procurement system by local governments and other public organisations for procuring goods, services and construction projects.

As a further innovation, PPS (Public Procurement Service) implemented a virtual desktop application to ensure the safety of the e-bidding environment. Going beyond the need to protect KONEPS itself, the adoption of the virtual personal computer system is designed to address the concern that the security environment varies among users, and that procurement data, such as bidding information, could be vulnerable to interception via malware prior to transmission to KONEPS. By downloading and utilising the virtual PC environment, tender officials and participating bidders create a logical separation between the physical PC being used to run the system and the virtual PC environment that is used to operate KONEPS and transmit data. This is accomplished through a complete simulation of the PC environment, including the encrypting key bid information, which is run independently from the physical PC. Operating KONEPS through the virtual PC system provides an additional efficiency benefit, as the system is optimised for KONEPS and can be used on any system capable of installing the virtual PC system, eliminating the need to address differences in user hardware. Overseen and managed by the National Computing and Information Agency, mandatory use of the enhanced virtual security system is now in place for all tender notifications through KONEPS. As of July 2015, 94% of participating bidders are using the enhanced system, and plans are underway to expand to those bids still published by individual end-user entities.

These developments have led to an increase in public trust in the procurement process. The National Integrity Commission of Korea conducts a regular integrity survey of public entities, and the integrity index for PPS rose by 27.2% between the launch of KONEPS in 2002 and 2005.

Source: OECD (2016c), *The Korean Public Procurement Service: Innovating for Effectiveness*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264249431-en>.

In order for the e-procurement system to contribute to integrity and transparency of public procurement systems, e-procurement tools should be simple to use and appropriate to their purpose, and consistent across procurement agencies (OECD, 2015b). Mexico provides regular training for the use of CompraNet, particularly since the system has become compulsory. Mexico needs to ensure that public procurement officials know how to manage the platform, and that suppliers and civil society representatives know how to use it to ensure access to public tenders, as well as monitor public procurement processes by external stakeholders. Regular training is being proposed to private sector representatives for free (and advertised on the CompraNet website), and 48 sessions were implemented in 2016. In addition to the proposed training, Mexico has developed a user-friendly guide to support the use of CompraNet (*Guía de apoyo para consultar información en CompraNet*), as well as a specific webpage dedicated to bidders.

Data on public procurement processes generated through the CompraNet system can and should be used by Mexico to measure the performance of the public procurement system (OECD, 2015e). This is one of the objectives of CompraNet-im, the public procurement information and market intelligence module (*modulo de información e inteligencia de Mercado para las contrataciones publicas*). The module includes information on public procurement annual workplans, public procurement processes, contracts, suppliers and contractors, as well as performance indicators on public procurement processes (65 in total). Access to the information is free and does not require any username and password. The information contained in this module contributes to the transparency of public procurement information, including for external stakeholders. While updating and developing the module, Mexico may want to ensure that published data is meaningful for stakeholder use (OECD, 2015e), and easy to understand.

CompraNet-im could also provide or link to more information on the flow of public funds, from the beginning of the budgeting process throughout the public procurement cycle in order to allow: 1) stakeholders to understand government priorities and spending; and 2) policy makers to organise procurement strategically (OECD, 2015e). Linkages between CompraNet-im and the Budget Transparency Portal (*Transparencia Presupuestaria*) could, for instance, be developed. Within the Budget Transparency Portal, including the module on public works (*Obra Publica Abierta*), information could be provided on the amount procured, as well as information on the suppliers and contractors. Providing these linkages between budgets and public procurement processes can foster participation and strengthen accountability and integrity.

The Focused Transparency (*Transparencia Focalizada*) report, last published on 13 December 2016, summarises meaningful and easy to understand data on: the number and amount of public procurement contracts according to procurement methods (for the last six years); the number and amount of contracts according to the procurement category (goods, works, services, etc.); the number and amount of public procurement processes that have been taken electronically; national and international procurement processes; and the participation of small and medium-sized enterprises (SMEs) in public procurement processes. The data presented in this report is comprehensive, but could be accompanied by background information to make it easier for external stakeholders to understand and interpret.

Mexico should ensure the integration of the future national e-platform of the NACS with the e-procurement system CompraNet in order to avoid overlaps and to allow for the cross-checking of public procurement data with other relevant information.

As mentioned in Chapter 2, the President of Mexico has promulgated the General Law of the National Anti-Corruption System (*Ley General del Sistema Nacional Anticorrupción*), which establishes the institutional and governance arrangements for the new national anti-corruption system (NACS). This General Law of the NACS establishes the national digital platform (*Plataforma Digital Nacional*), still to be developed, that will include: a database of asset, conflict of interest, and tax declarations as per the Law on Responsibilities; a database of public officials involved in public procurement contracts; a database of sanctioned public officials and individuals; information and communications system of the National Anti-corruption System (NACS) and the National Auditing System (NAS); a database of public complaints related to corruption (both administrative and criminal); and a database of public procurement contracts. At the same time, Mexico has been working to improve its framework on transparency and access to information through a major reform that creates the national transparency system, led and co-ordinated by the National Institute for Transparency and Access to Information (*Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales*, INAI), as well as national transparency platform (*Plataforma Nacional de Transparencia*).

Given that the national digital platform aims to include a database of public officials in public procurement contracts (the Registry of Public Servants of the Federal Public Administration involved in public procurement processes) and a database of public procurement contracts, Mexico needs to ensure that it is integrated with the e-procurement information system CompraNet, which already includes data related to contracts and addenda (see above). In the development of the platform, Mexico needs to avoid duplications and ensure user-friendliness. As suggested in Chapter 2, harmonising and aligning IT systems and databases would allow for interconnectivities. This would facilitate co-operation between entities and aid in monitoring and auditing activities. When applicable, the platform should be linked with e-procurement information systems at the state level.

Mexico needs to work towards the implementation of the Open Contracting Data Standard on public procurement, according to commitments made by the President of Mexico in 2015 and 2016.

In addition to the development of CompraNet, Mexico has committed itself to implementing the Open Contracting Data Standard (developed by the Open Government Partnership, OGP), in the area of public procurement. This commitment was made by President of Mexico during the OGP Summit (Mexico City, 27-29 October 2015), and was reiterated at the 2015 International Anti-Corruption Day celebrated on 9 December 2015, and during the Anti-corruption Summit (London, 12 May 2016). Mexico committed itself to "work towards the implementation of the Open Contracting Data Standard on public procurement starting with major infrastructure projects as an early priority, including the new Mexico City International Airport (*Nuevo Aeropuerto Internacional de la Ciudad de México*, NAICM), in accordance to Mexican regulations" and "explore the implementation of contracting in health and pharmaceutical procurement" (Commitments of the Government of Mexico to the London Anti-

Corruption Summit). Mexico also became a founding member of the Contracting Alliance 5 (C5) together with Colombia, France, Ukraine, and the United Kingdom, and chairs the alliance as of December 2016. This alliance is a network of countries seeking to effectively implement the Open Contracting Data Standard (OCDS) to eliminate corruption in public procurement processes. This commitment is currently being included in the draft reform of the regulation related to the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, LAASSP) and the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las Mismas*, LOPSRM), in line with the commitments of the Government of Mexico at the London Anti-Corruption Summit.

As stressed by the OECD's *Open Government Data Review of Mexico: Data Reuse for Public Sector Impact and Innovation*, the Mexican government has not only laid the foundations for greater social oversight and civic audit of the government's activities and public expenditure, it also aims to enable a more transparent and egalitarian competitive climate in the country, thus building a basis for the creation of open data values such as civic engagement, public accountability and economic development (OECD, 2016d). The implementation of the OCDS has the potential to foster public sector transparency and fight corruption and nepotism in public procurement processes by following an open-by-default approach during the entire contracting process. It can also strengthen accountability by providing additional data to the general public on public procurement processes, in particular large processes such as the NAICM. It is in line with the OECD's High-Level Principles for Integrity, Transparency and Effective Control of Major Events and Related Infrastructures, which confirm that large events and large infrastructure projects are more likely to be exposed to the risk of misuses and misappropriations of public funds, frauds, corruption, collusion and illegality in general. The Principles stress that openness towards the public can help to address civil society's demands for information and reduce possible tensions, and it also involves a social control by the civil society. Finally, it recommends the well-highlighted publication of data in open format and in a standardised way, e.g. on websites, so that information is easily accessible and effectively reusable by stakeholders (OECD, 2015f).

As of October 2016, the Airport Group of Mexico City (*Grupo Aeroportuario de la Ciudad de Mexico*, GACM) had uploaded 208 contracts in open data format onto the national web portal to meet the new legislative requirements and commitments within the OGP. Mexico is thus one of the pioneers and supporters of open contracting, which constitutes a first step towards abiding by its commitment to strengthened transparency and open contracting.

In this effort, the GACM followed the open contracting standards regarding information items and the format in which they should be published. Users can directly access the information of these contracts in the datos.go.mx portal, or through the GACM website. As a next step, the GACM needs to streamline the data to make it more intelligible for the average citizen on an ongoing basis. Full transparency implies presenting data in different formats suitable for different stakeholders. For example, data can be presented in a plain, aggregated, and simplified format for the average citizen, while being available in disaggregated formats with sufficient detail for technical analysis, evaluation, and participation. Full transparency also implies making information on project planning and implementation available on a timely and accurate basis to permit analysis, evaluation, and monitoring by relevant stakeholders. To achieve these objectives, the GACM should ensure that all relevant contract information, from the early stages of the award process to the final implementation, is made available in real time in

order to update stakeholders and website users effectively. The GACM and the Office of Digital Strategy of the Presidency could allow for an easier visualisation of the evolution of the project and related contracts.

In line with the commitments of the President, Mexico should apply the OCDS to other major infrastructure projects. To do so, Mexico may want to set up criteria for the identification of these projects according to complexity and risk levels, including: the total cost and budget of the project, size and number of resources, duration and (technology) scope, stakeholders and level of scrutiny of the general public. The lessons learnt from the NAICM should be taken into account when applying the OCDS to other large projects. Mexico would also need to continue exploring the implementation of open contracting in health and pharmaceutical procurement, according to the commitment made during the London Anti-Corruption Summit in May 2016.

Fostering transparent and effective stakeholder participation

Mexico should further engage with the private sector to decrease corruption risks in the framework of public procurement by proper implementation of the co-operation agreements, and statements of integrity and the Manifest.

In order to preserve the integrity of the public procurement system, it is critical to work with external actors, in particular the private sector. The public procurement cycle involves multiple actors, and therefore integrity is not a requirement for public officials alone. As specified in Chapter 2, both the public and private sectors are responsible for taking measures to preserve integrity. Private companies often have their own integrity system in place, and many countries engage with private sector actors to instil integrity in public procurement. For example, integrity standards applicable to public sector employees may be expanded to private sector stakeholders through integrity pacts. The OECD Recommendation on Public Procurement underlines the need to develop requirements for internal controls, compliance measures and anti-corruption programmes for suppliers, including appropriate monitoring. It stresses the need for procurement contracts to contain "no corruption" warranties and measures to verify the truthfulness of supplier's warranties that they have not and will not engage in corruption in connection with the contract. According to the OECD Recommendation, such programmes should also require appropriate supply-chain transparency to fight corruption in subcontracts, and integrity training for supplier personnel (OECD, 2015b).

In the framework of the President's 2015 executive orders, the SFP was mandated to increase collaboration with the private sector in relation to transparency and the fight against corruption, as well as the active participation of citizens in the identification of vulnerable processes and procedures, through the development of co-operation agreements with chambers of commerce and civil society organisations. Since the publication of the executive orders, Mexico has signed several co-operation agreements with chambers of commerce such as the Business Co-ordinating Council (*Consejo Coordinador Empresarial*, CCE) and the Mexican Chamber of Construction Industry (*Cámara Mexicana de la Industria de la Construcción*, CMIC); and has started discussions on potential joint actions with the International Chamber of Commerce (*Cámara Internacional de Comercio*, ICC) and the Mexican Centre for Philanthropy (*Centro Mexicano para la Filantropía*, CEMEFI).

These potential joint actions constitute first steps to strengthening integrity and transparency in public procurement processes. The willingness of the chambers of

commerce to collaborate with the Mexican states demonstrates the interest of the private sector in fighting corruption. However, Mexico needs to ensure the proper implementation of the joint actions included in the co-operation agreements: diagnostics, statistics and other relevant information need to be shared; good practices in terms of transparency and the fight against corruption need to be identified and communicated; sector-specific initiatives, such as the initiative to strengthen the monitoring of public works, need to be promoted; and forums of dialogues on issues related to integrity, public ethics and the prevention of conflicts of interest need to be facilitated. In order to do this, Mexico needs to ensure the effective monitoring of co-operation agreements by the SFP, either the UEEP or another general directorate. In addition, Mexico would need to further engage with the private sector to decrease corruption risks in the framework of public procurement, as mentioned above.

Integrity pacts are one way of preserving the integrity of public procurement systems. They are essentially agreements between the government agency offering a contract and the companies bidding for it that they will abstain from bribery, collusion and other corrupt practices for the extent of the contract. Mexico has included such pacts in the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, LAASSP), Article 29, section 9. According to the law, contracting authorities require suppliers to provide a statement of integrity (*declaración de integridad*), which makes clear that the supplier is not subject to any conditions under the law preventing it from being awarded a contract. However, the declaration is not made public. This instrument is good practice and is recommended by the OECD Recommendation on Public Procurement and the OECD Guidelines on Fighting Bid Rigging as it makes firms' legal representatives aware of and directly accountable for unlawful behaviour (OECD, 2015d). In order to reinforce this tool, the signed declarations of bidders could be published on CompraNet or any other Mexican website aimed at strengthening transparency and fighting against corruption (see above). Referring to the OECD report, *Fighting Bid Rigging in Public Procurement in Mexico – A Secretariat Analytical Report on Compliance with OECD Standards of Procurement Legislation, Regulations and Practices in CFE*, it would be beneficial to extend the commitment so that the bidder states that it has not engaged in anti-competitive conducts with other bidders (e.g. by exchanging bid information related to their offers or by discussing the bid strategy).

Mexico recently introduced a new tool as part of the Public Procurement Protocol (see previous section of this chapter), the Manifest (*Manifiesto que podrán formular los particulares en los procedimientos de contrataciones públicas, de otorgamiento y prorroga de licencias, permisos, autorizaciones y concesiones*), which is for individual persons to declare or deny any businesses, work, personal or family links or relationships of consanguinity or affinity to the fourth degree with public servants specified in the Protocol. According to the Protocol, these individual persons are invited to fill in a manifest each time they are involved in public procurement processes, grants or extensions of concessions, as well as the grants and extensions of licenses, permits and authorisations. Each individual person is supposed to fill in the manifest online (www.manifiesto.gob.mx) and can update it anytime. According to the Protocol, public procurement officials need to verify any relevant information in the system and follow-up on any apparent conflict of interest, using the advice of the Specialised Unit for Ethics and the Prevention of Conflict of Interest, if necessary.

While the initiative of creating such a Manifest is an important step towards identifying conflict-of-interest situations, the mechanisms introduced by the Protocol

could be improved. First, it would be more efficient to request suppliers, bidders, etc. to fill in the Manifest only in the case of potential, real and apparent conflict. In order to do so, the Manifest should provide a clear definition of conflict of interest (specifying the three types above) in line with relevant codes and standards (see Chapter 3). The codes and standards should be complemented by a specific guide to help public procurement officers, internal control bodies, suppliers, bidders, etc. in the operationalisation of the system. A frequently asked questions section could be created, as well as a focal or contact point in charge of advising public servants and external actors. At the time of drafting the review, the website was not yet working and no information was available on the objectives and implementation of the Manifest on the SFP's website.

In addition to the statements of integrity and the Manifest, Mexico could also envisage making the new Ethics Code and Rules of Integrity (or at least part of them) subject to consultants, such as in the case of the US House of Representatives (see Box 8.10). As stressed in the OECD Recommendation, the preservation of integrity of the public procurement system requires integrity training for supplier personnel. Therefore, Mexico may also include the supplier's needs in its future integrity capacity-building strategy for the public administration (see above) by developing and proposing specific training on issues related to integrity and the fight against corruption in the framework of public procurement processes. These training and/or information actions could be developed and undertaken jointly with the chambers of commerce with whom the SFP has signed co-operation agreements (see below). Mexico could further engage with certain suppliers to explore ways of encouraging them to develop their own standards and programmes to enhance integrity and fight corruption, including in the framework of subcontracts.

Box 8.10. US House of Representatives' ethics clauses for consultants

Beyond integrity clauses integrated into consultant agreements, some organisations recommend that consultants be considered as employees and as such require that they abide by the organisation's code of conduct and overall ethical rules and regulations.

The US House of Representatives, for example, subjects consultants to the House's ethical clauses, including those pertaining to gift acceptance, undue influence exerted on the consultant, discrimination, etc. (US House of Representatives Committee on Ethics, n.d.). Consultants are required to execute an oath of confidentiality before receiving access to classified information. In addition to these rules, consultants are also prohibited from engaging in certain lobbying activities, such as lobbying the contracting committee on any matter. Consultants are also subject to the House's gift rules governing the acceptance of anything having monetary value, such as services, travels, meals, tickets, sporting events, and shows.

While the House's rules do not require consultants to file public financial disclosure statements given the short term nature of their services, the Ethics Committee strongly recommends that each committee, before entering into a consulting contract, obtains some basic financial information on the individual's source of income, the type of income and the rate at which he/she is compensated, the identity of each client for whom he/she is providing services, and the nature and value of any investment and liability held by the individual that could be affected by the services provided to the committee. These recommendations are intended to allow for the monitoring of the consultant's compliance with conflict-of-interest rules.

Source: OECD (2015c), *Effective Delivery of Large Infrastructure Projects: The Case of the New International Airport of Mexico City*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264248335-en>.

Mexico needs to ensure that dialogues with suppliers and business associations are subject to due fairness, transparency and integrity safeguards by avoiding any face-to-face clarification meetings in the tendering process.

The OECD Recommendation stresses the need to foster transparent and effective stakeholder participation in public procurement processes. It suggests that adherents should engage in transparent and regular dialogue with suppliers and business associations to present public procurement objectives and assure a correct understanding of markets. According to the Recommendation, such interactions should be subject to due fairness, transparency and integrity safeguards, which vary depending on whether an active procurement process is ongoing (OECD, 2015f). Dialogue in the framework of active procurement processes need to be designed in order to ensure integrity, fight corruption and reduce possibilities of bid-rigging and collusion. This echoes the OECD Guidelines for Fighting Bid Rigging in Public Procurement (OECD, 2009b), which suggests, for instance, inviting interested suppliers to dialogue with the procuring agency on the technical and administrative specifications of the procurement opportunity, and to avoid bringing potential suppliers together by holding regularly scheduled pre-bid meetings.

According to the Mexican public procurement legal framework, contracting authorities shall hold at least one clarification meeting for public tendering (Article 33 of the LAASSP). During the clarification meeting, public officials of the requiring and contracting areas should respond to bidders' questions and keep records of the meeting, which are to be made public on CompraNet (Article 33 Bis of the LAASSP). Any number of clarification meetings can be scheduled, as long as the last clarification meeting is held at least six days before the bid opens. Clarification meetings can take three forms: face-to-face, electronic and mixed. The mixed procedure means that both face-to-face and electronic submissions are accepted. Face-to-face and mixed clarification meetings can be a facilitating factor for bid rigging, as they bring together competitors interested in the same contract opportunity. Electronic meetings reduce this risk to the minimum (OECD, 2015d). Against this background, Mexico should explore the possibility of modifying the applicable procurement legislation. This would mean that clarification meetings are optional, and subject to electronic responses being provided to all potential bidders through CompraNet (OECD, 2013).

Mexico should continue providing opportunities for the direct involvement of relevant external stakeholders, including civil society, by strengthening the efficiency of its social witnesses programme.

Creating a culture of openness in the public sector does not only come from proactive disclosure of information, but is also achieved through the involvement of citizens, experts and civil society in the policy-making process through forms of "direct social control". The OECD Recommendation recommends the provision of direct opportunities for the direct involvement of relevant external stakeholders in the procurement system with a view to increasing transparency and integrity while assuring adequate scrutiny, provided that confidentiality, equal treatment and other legal obligations in the procurement process are maintained (OECD, 2015b). These opportunities can be, for instance, provided through social witnesses, usually members of a non-governmental organisation (NGO) who are invited to observe one or several parts of the procurement process. Social witnesses have the opportunity to raise concerns about corrupt behaviour and provide recommendations for increasing the integrity of the process. Social witnesses

are third parties deemed to have no conflict of interest in procurement procedures, and whose task is to observe the tender process in order to enhance its accountability, legality and transparency (OECD, 2015d).

As the General Law of the NACS provides a strong role for civil society within the governance of the system, the public procurement system provides civil society opportunities to participate in public procurement processes. Mexico is one of the first OECD countries to introduce social witnesses (*testigos sociales*), who have been required to participate in all stages of public tendering procedures above certain thresholds since 2009. At the federal level, these thresholds are Mexican Peso (MXN) 350 million (approximately USD 23 million) for goods and services and MXN 710 million (approximately USD 47 million) for public works in 2015. Social witnesses may also participate in public tendering procedures below the legal threshold, as well as direct award procedures and restricted tendering, if considered appropriate by the SFP. Social witnesses are selected by the SFP through public tendering (*Convocatoria pública para la selección de personas físicas y morales a registrar en el padrón público de testigos sociales*) and selected witnesses enter a pool (*Padrón Público de Testigos Sociales*) for a period of three years. Their names are published online. As of October 2016, the SFP had registered 25 social witnesses for public procurement projects: six civil society organisations and 19 individuals. Social witnesses get certified and their performance is evaluated by the ministry (unsatisfactory performance potentially results in their removal from the registry). They also get certified and compensated for their services. When a federal entity requires the involvement of a social witness, the SFP designates one from the preselected pool. Following their participation in procurement procedures, social witnesses issue a final report providing comments and recommendations on the process. These reports are made available to the public through CompraNet.

As mentioned in the OECD *Public Procurement Review of the Mexican Institute of Social Security: Enhancing Efficiency and Integrity for Better Health Care*, the SFP notes that “the monitoring of the most relevant procurement processes of the federal government through social witnesses has had an impact on improving procurement procedures by virtue of their contributions and experience, to the point that they have become a strategic element for ensuring the transparency and credibility of the procurement system”. An OECD-World Bank Institute study (2006) indicates that the participation of social witnesses in the procurement processes of the Federal Electricity Commission (*Comisión Federal de Electricidad*, CFE) created savings of approximately USD 26 million in 2006, and increased the number of bidders by over 50% (OECD, 2013). The social witness programme is considered good practice and is in line with the OECD Recommendation on Public Procurement. Mexico should nevertheless take into account the risk of corruption within this programme. There is a risk of social witnesses being bribed, and the risk is increased given that the names and contact details of social witnesses are being published online and are easily accessible. In order for the social witness programme to be effective, Mexico may want to develop some specific training courses for social witnesses. As suggested in the OECD report, *Fighting Bid Rigging in Public Procurement in Mexico – A Secretariat Analytical Report on Compliance with OECD Standards of Procurement Legislation, regulations and Practices in CFE*, the SFP should ensure the hiring of individuals and entities with the background and experience that enable them to provide expert procurement advice to public procurement officials. Training courses for social witnesses that focus on bid rigging and competition issues should be designed (OECD, 2015d). The SFP may want to ensure that the related guides

(*Guía anual de acciones de participación ciudadana*) and good practice examples are being updated.

It remains unclear what actions Mexico has undertaken following the series of executive orders of the President of Mexico in 2015, which foresaw increased collaboration with the private sector in relation to transparency and the fight against corruption, but also with citizens in the identification of vulnerable processes and procedures, through the development of co-operation agreements with chambers of commerce and civil society organisations. Mexico may want to follow-up on these commitments, or make clear what it has undertaken so far in terms of implementation. The social witness programme, as well as the development of an online form which gives the general public the opportunity to inform the SFP of irregularities (*Portal de quejas y denuncias*), could be mentioned as two initiatives.

Summary of proposals for action

In order to ensure the implementation of the new public procurement law, the following actions could be undertaken by Mexico:

Preserving public integrity through general standards of conduct and procurement specific safeguards

- Mexico should ensure that specific provisions related to public procurement are being included in the codes of individual line ministries, which are required to update their own organisation's codes according to the new Ethics Code and Rules of Integrity.
- In relation to its Public Procurement Protocol, Mexico could adopt a more values-based approach rather than emphasising controls, by considering removing the Protocol's requirements for systematic audio and videotaping of conversations, and by providing clearer guidance for procurement officials on how to manage conflict of interest situations.
- While the Public Procurement Registry is a positive first step to identifying which officials are involved in the public procurement process, Mexico should now leverage this registry to better identify integrity risks in this area.

Supporting the implementation of new integrity standards with the necessary awareness-raising and capacity-building initiatives

- Mexico should ensure the implementation of new initiatives, such as the Public Procurement Protocol and the Public Procurement Registry, through adequate communication strategies and tailored advice.
- Mexico should further foster a culture of integrity amongst procurement professionals by developing a clear integrity capacity strategy and by implementing tailored training programmes for public procurement officials.
- In order to preserve public integrity, Mexico should publicise risk management strategies and raise awareness and knowledge of them among the procurement workforce and other stakeholders.

Ensuring accountability throughout the public procurement cycle, including an appropriate complaint and sanction process

- Mexico could consider strengthening the timeliness and trustfulness of its review and remedies system in order to ensure that procurement decisions can be contested and possible corruption cases denounced.
- Mexico should ensure a system of effective and enforceable sanctions for government and private-sector procurement in relation to public procurement processes.

Enhancing transparency and the disclosure of information around public procurement processes

- Mexico should continue ensuring an adequate degree of transparency of the public procurement system in all stages of the procurement cycle, by using and further developing the e-procurement system CompraNet.
- Mexico should ensure the integration of the future national e-platform of the NACS with the e-procurement system CompraNet in order to avoid overlaps and to allow for the cross-checking of public procurement data with other relevant information.
- Mexico needs to work towards implementing the Open Contracting Data Standard on public procurement, according to commitments made by the President of Mexico in 2015 and 2016.

Fostering transparent and effective stakeholder consultation

- Mexico should further engage with the private sector to decrease corruption risks in the framework of public procurement, by proper implementation of the co-operation agreements with the private sector, as well as the statements of integrity and the Manifest.
- Mexico needs to ensure that dialogue with suppliers and business associations is subject to due fairness, transparency and integrity safeguards by avoiding face-to-face clarification meetings in the tendering process.
- Mexico should continue providing opportunities for the direct involvement of relevant external stakeholders, including civil society, by strengthening the efficiency of its social witness programme.

Notes

- 1 Reportedly, Mexico is currently considering introducing polygraph tests. Due to growing scepticism regarding its validity (“Most psychologists and other scientists agree that there is little basis for the validity of polygraph tests.” <http://www.apa.org/research/action/polygraph.aspx>) and the potential negative consequences as explained in this section, Mexico should reconsider introducing this measure, carefully balancing its potential costs and benefits.
- 2 <http://reniresp.funcionpublica.gob.mx/ppcapf/consulta/informacion.jsf>.

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Annex 8.1.

The integrity, accountability, transparency and participation principles of the OECD Recommendation of the Council on Public Procurement (2015)

The integrity principle

RECOMMENDS that Adherents preserve the integrity of the public procurement system through general standards and procurement-specific safeguards.

To this end, Adherents should:

- i) **Require high standards of integrity for all stakeholders in the procurement cycle.** Standards embodied in integrity frameworks or codes of conduct applicable to public-sector employees (such as on managing conflict of interest, disclosure of information or other standards of professional behaviour) could be expanded (e.g. through integrity pacts).
- ii) **Implement general public sector integrity tools and tailor them to the specific risks of the procurement cycle as necessary** (e.g. the heightened risks involved in public-private interaction and fiduciary responsibility in public procurement).
- iii) **Develop integrity training programmes for the procurement workforce**, both public and private, to raise awareness about integrity risks, such as corruption, fraud, collusion and discrimination, develop knowledge on ways to counter these risks and foster a culture of integrity to prevent corruption.
- iv) **Develop requirements for internal controls, compliance measures and anti-corruption programmes for suppliers, including appropriate monitoring.** Public procurement contracts should contain “no corruption” warranties and measures should be implemented to verify the truthfulness of suppliers’ warranties that they have not and will not engage in corruption in connection with the contract. Such programmes should also require appropriate supply-chain transparency to fight corruption in subcontracts, and integrity training requirements for supplier personnel.

The accountability principle

RECOMMENDS that Adherents apply oversight and control mechanisms to support accountability throughout the public procurement cycle, including appropriate complaint and sanctions processes.

To this end, Adherents should:

- i) **Establish clear lines for oversight of the public procurement cycle** to ensure that the chains of responsibility are clear, that oversight mechanisms are in place and that the delegated levels of authority for approval of spending and approval of key procurement milestones is well defined. Rules for justifying and approving exceptions to procurement procedures should be comprehensive and clear, such as in cases of limiting competition.
- ii) **Develop a system of effective and enforceable sanctions** for government and private-sector procurement participants, in proportion to the degree of wrong-doing to provide adequate deterrence without creating undue fear of consequences or risk-aversion in the procurement workforce or supplier community.
- iii) **Handle complaints in a fair, timely and transparent way** through the establishment of effective courses of action for challenging procurement decisions to correct defects, prevent wrong-doing and build confidence of bidders, including foreign competitors, in the integrity and fairness of the public procurement system. Additional key aspects of an effective complaints system are dedicated and independent review and adequate redress.
- iv) **Ensure that internal controls (including financial controls, internal audit and management controls), and external controls and audits are co-ordinated, sufficiently resourced and integrated to ensure:**
 1. The monitoring of the performance of the public procurement system.
 2. The reliable reporting and compliance with laws and regulations as well as clear channels for reporting credible suspicions of breaches of those laws and regulations to the competent authorities, without fear of reprisals.
 3. The consistent application of procurement laws, regulations and policies.
 4. A reduction of duplication and adequate oversight in accordance with national choices.
 5. Independent ex-post assessment and, where appropriate, reporting to relevant oversight bodies.

The transparency principle

RECOMMENDS that Adherents ensure an adequate degree of transparency of the public procurement system in all stages of the procurement cycle.

To this end, Adherents should:

i) Promote fair and equitable treatment for potential suppliers by providing an adequate and timely degree of transparency in each phase of the public procurement cycle, while taking into account the legitimate needs for protection of trade secrets and proprietary information and other privacy concerns, as well as the need to avoid information that can be used by interested suppliers to distort competition in the procurement process. Additionally, suppliers should be required to provide appropriate transparency in subcontracting relationships.

ii) Allow free access, through an online portal, for all stakeholders, including potential domestic and foreign suppliers, civil society and the general public, to public procurement information notably related to the public procurement system (e.g. institutional frameworks, laws and regulations), the specific procurements (e.g. procurement forecasts, calls for tender, award announcements), and the performance of the public procurement system (e.g. benchmarks, monitoring results). Published data should be meaningful for stakeholder uses.

iii) Ensure visibility of the flow of public funds, from the beginning of the budgeting process throughout the public procurement cycle to allow (i) stakeholders to understand government priorities and spending, and (ii) policy makers to organise procurement strategically.

The participation principle

RECOMMENDS that Adherents foster transparent and effective stakeholder participation.

To this end, Adherents should:

i) Develop and follow a standard process when formulating changes to the public procurement system. Such standard process should promote public consultations, invite the comments of the private sector and civil society, ensure the publication of the results of the consultation phase and explain the options chosen, all in a transparent manner.

ii) Engage in transparent and regular dialogues with suppliers and business associations to present public procurement objectives and to assure a correct understanding of markets. Effective communication should be conducted to provide potential vendors with a better understanding of the country's needs, and government buyers with information to develop more realistic and effective tender specifications by better understanding market capabilities. Such interactions should be subject to due fairness, transparency and integrity safeguards, which vary depending on whether an active procurement process is ongoing. Such interactions should also be adapted to ensure that foreign companies participating in tenders receive transparent and effective information.

iii) Provide opportunities for direct involvement of relevant external stakeholders in the procurement system with a view to increase transparency and integrity while assuring an adequate level of scrutiny, provided that confidentiality, equal treatment and other legal obligations in the procurement process are maintained.

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Chapter 9.

Mexico's Plan of Action to implement OECD Integrity Review Recommendations

In order to advance in the implementation of recommendations proposed in the OECD Integrity Review, the OECD and Mexico's Ministry of Public Administration (SFP) have jointly agreed upon an **Action Plan** with four central themes as immediate priorities:

- Strengthening institutional arrangements for coherence and effective co-operation.
- Cultivating a culture of integrity in the public sector and society.
- Strengthening the public sector's lines of defence against corruption.
- Enforcing the integrity framework for deterrence and greater trust in government.

Each of these priority areas includes one or more Proposals for Action, with concrete initiatives which have been assigned to responsible institutions in the context of the new National Anti-corruption System institutional architecture.

This Action Plan constitutes a road map for the Government of Mexico to concentrate its efforts and envision a comprehensive agenda to further integrity. Indeed, Action Plans have proven to be helpful to governments in prioritising key reform objectives, sequencing and planning resources, and in communicating with stakeholders.

Furthermore, the Action Plan will form the basis for a subsequent OECD Progress Report, due to be published in the Spring of 2018, which will take stock of achievements made in implementing reforms, including OECD recommendations, and identify any potential barriers to implementation.

Strengthening institutional arrangements for coherence and effective co-operation

Specific Actions	Responsible entity(ies)
Incorporating National Anti-corruption Action Plan initiatives into key national strategies (including but not limited to the National Development Plan, Open Government Strategy, National Digital Strategy, National Civic Culture Strategy, National Security Strategy, etc.)	NACS Co-ordination Committee and support bodies (Executive Secretariat and Executive Commission)
Establishing specific cross-government/sectoral Working Groups for the design of the National Action Plan as well as ongoing co-ordination for implementation of Action Plan initiatives	NACS Co-ordination Committee and support bodies (Executive Secretariat and Executive Commission)
Establishing specific Working Group(s) within the Citizen Participation Committee for private sector representatives and other sectoral issues	Citizen Participation Committee and support bodies (Executive Secretariat and Executive Commission)
Allocating sufficient financial and human resources and support to	National and State Legislatures, NACS

National and Local Co-ordination Committees and support bodies	Co-ordination Committee and support bodies (Executive Secretariat and Executive Commission)
Monitoring and evaluation of public sector organisations' and States' compliance with new legislation for National and Local Anti-corruption Systems (i.e. Observatory and/or publically disclosed index or indicators as per international good practice)	NACS Co-ordination Committee and support bodies (Executive Secretariat and Executive Commission)
Considering systematic review of organisations' risk maps and risk management plans to ensure alignment with National and Local Action Plans	NACS Co-ordination Committee and support bodies (Executive Secretariat and Executive Commission)
Scaling-up resources to existing mechanisms for inter-institutional coordination between levels of government (such as the CPCE-F, ASOFIS, etc.)	National and State Legislatures, NACS Co-ordination Committee, Ministry of Public Administration (SFP), National Auditing System, Supreme Audit Institution (ASF), CONAGO and CONAMM (Governor and Mayors Associations)
Ensuring inter-operability of databases comprising National Digital Platform and strategy for leveraging the Platform for integrity risk analysis	NACS Co-ordination Committee and support bodies (Executive Secretariat and Executive Commission)
Ensuring particularly the integration of the CompraNet information into the National Digital Platform in order to avoid overlaps and to allow cross-checking of public procurement data with other relevant information	NACS Co-ordination Committee and SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and Unit for Acquisitions, Public Works and Services and Federal Assets

Specific Actions	Responsible entity(ies)
Updating and scaling-up the strategy for public sector integrity	SFP Minister and Specialised Unit for Ethics and the Prevention of Conflict of Interest
Transforming existing Ethics Committees into permanently-staff bodies responsible for only preventative measures	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest, Ministers/Deputy Ministers/Heads of public sector organisations
Creating a network of Ethics Units/Contact points across the federal public sector to facilitate the sharing of good practices and identifying common bottlenecks to reform	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and existing Ethics Committees/Units/Contact Points
Mainstreaming integrity considerations into HRM policies- from recruitment, to training and performance evaluations, to severance	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest, and SFP Unit for Human Resources Management and the Professionalisation of the Public Administration
Piloting risk management committees to improve the relevance and quality of organisations' risk maps and plans	SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit
Piloting shared audit services and/or independent audit committees as a means of strengthening the independence of the internal audit function in the public sector	SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit
Clarifying the role of internal affairs units in disciplinary investigations and ensuring responsibilities units have a leadership role in investigations	NACS Co-ordination Committee and SFP

Cultivating a culture of integrity in the public sector and in society more broadly

Specific Actions	Responsible entity(ies)
Streamlining the values included under the new Ethics Code and ensuring links with sanctions are clear	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest
Revising the Protocol for public procurement officials, particularly the elements concerning surveillance and the management of conflict of interest, in order to adopt a more values-based approach	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and Unit for Acquisitions, Public Works and Services and Federal Assets
Separating the Ethics Code from the Integrity Rules with the latter forming the basis of a new Guide or Manual	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest
Adopting a consensus-based approach in the design of line ministries' and public sector organisations' respective Codes of Conduct and ensuring consideration for high-risk positions (such as public procurement officers)	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and existing Ethics Committees/Integrity Contact Points
Updating Guidelines for Preventing and Managing Conflict of Interest and distinguishing conflict of interest policies from policies concerning submission of asset declarations	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and General Directorate for Responsibilities
Updating and communicating the policy on the acceptance and reporting of gifts	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest
Ensuring the effective verification and auditing of asset declarations according to predetermined risk-based criteria including the cross-checking of information against other databases (for instance, but not limited to, the registry of public procurement officials, tax databases, etc.)	General Directorate for Responsibilities

Specific Actions	Responsible entity(ies)
Reforming legislation to ensure protection for whistleblowers by explicitly prohibiting dismissal and other reprisals, specifying when protection will be granted, and shifting the burden of proof on employer to justify dismissal.	National Co-ordination committee, SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and General Directorate for Responsibilities
Reforming administrative, criminal and civil codes to ensure punishment and sanctions are imposed on those who exert retaliation against whistleblowers and remedies for whistleblowers that faced retaliation	National Co-ordination Committee
Diversifying and formalising reporting channels for whistleblowers to report alleged misconduct or corruption and communicating these options and procedures clearly	National Co-ordination Committee
Building capacities in management and internal control bodies on protecting the rights of whistleblowers, including rights to anonymity and confidentiality	Unit for Control and Evaluation of Public Management and Unit for Government Audit
Raising awareness amongst public officials and in the general public on the rights of whistleblowers as well as their duties to report suspected misconduct or corruption	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and SFP Unit for Human Resources Management and the Professionalisation of the Public Administration
Evaluating the effectiveness of the whistleblower regime and publishing results in a timely manner	National Co-ordination Committee

Specific Actions	Responsible entity(ies)
Scaling-up awareness raising and training programmes for public officials as well as the general public on new Integrity Rules, Codes of Conduct, and Conflict of Interest Guidelines	National Anti-corruption and Citizen Participation Committees and SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest
Scaling up awareness raising for specialised at-risk positions (i.e. public procurement) on new Integrity Rules, Codes of Conduct, and Conflict of Interest Guidelines	National Anti-corruption and Citizen Participation Committees and SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest
Scaling-up specialised training on new integrity policies to high-risk positions (such as public procurement officials, tax and customs agents, law enforcement, etc.)	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and respective Ethics Committee/Integrity Contacts Points in line ministries and public sector organisations
Designing and piloting policies targeting public officials, citizens and firms based on insights from behavioural sciences to promote integrity	NACS Co-ordination and Citizen Participation Committees, SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and respective Ethics Committee/Integrity Contacts Points in line ministries and public sector organisations, with support of relevant line ministries depending on intervention
Instituting awareness raising and education campaigns for citizens and firms on integrity values and their benefits to society	NACS Co-ordination and Citizen Participation Committees , SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and SEP Secretariat of Education
Incorporating integrity lessons into national curriculum for primary and secondary students, such as through the scaling-up of the current PNCE Programme	Secretariat of Education
Training teachers and parents to better execute integrity lessons as part of the PNCE programme	Secretariat of Education
Implementing cooperation agreements with private sector stakeholders as well as the statements of integrity in order to decrease corruption risks in the framework of public procurement	Unit for Acquisitions, Public Works and Services and Federal Assets
Developing opportunities for direct involvement of relevant external stakeholders, including civil society, in public procurement processes and strengthening the efficiency of its social witnesses programme	General Directorate for Regional Operations and Social Control

Strengthening the public sector's lines of defence against corruption

Specific Actions	Responsible entity(ies)
Scaling-up capacity building efforts for line managers, Chief Administrative Officers (Oficalias Mayores) and COCODI members in risk management, with a particular focus on integrity risks	National Auditing System's Working Group on Internal Control and Audit SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit
Scaling-up more specialised risk management training for particular high-risk functions including in public procurement, audit, financial management, etc	National Auditing System's Working Group on Internal Control and Audit SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit and Unit for Acquisitions, Public Works and Services and Federal Assets
Piloting data analytics techniques to better identify and manage risks to public sector integrity	National Auditing System's Working Group on Internal Control and Audit SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit
Evaluating organisations' risk maps and plans, and sharing good practices across the public sector to incentivise greater ownership and quality risk plans	SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit

Specific Actions	Responsible entity(ies)
Scaling-up awareness building and capacity-building efforts targeting line managers to promote stronger application of internal controls and increase knowledge about the value of such controls for their organisations' own strategic and business objectives	SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit
Revising the self-assessment methodology for organisations to evaluate their risk management and internal control systems and instituting "second tier" evaluations of these assessments	SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit
Mainstreaming internal control policies into organisations through stronger linkages to budget allocation, human resources policies (such as for recruitment and performance evaluations)	SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit
Professionalising internal audit function with standardised certification and training programmes	SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit and SFP Unit for Human Resources Management and the Professionalisation of the Public Administration

Enforcing the integrity framework for deterrence and greater trust in government

Specific Actions	Responsible entity(ies)
Clarifying co-ordination procedures for case tracking, particularly for serious offences, between the SFP, Responsibilities Units in line ministries, Administrative Tribunals and the Specialised Anti-corruption Prosecutor to avoid duplication and fragmentation-	National Co-ordination Committee
Establishing inter-institutional agreements and/or other mechanisms to guarantee effective information-sharing between government agencies for the purposes of carrying out administrative disciplinary investigations	National Co-ordination Unit and SFP General Directorate for Responsibilities
Clarifying the asset and interest disclosure requirements for Magistrates and other Tribunal staff, and ensuring greater transparency of the Tribunal's Code of Conduct, conflict of interest management policies and the functioning of the Judicial Council	National Co-ordination committee, SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and General Directorate for Responsibilities

Monitoring and evaluating the performance of the disciplinary administrative regime to ensure effective application of new legislation and to ensure the integrity of the new regime	National Co-ordination committee, SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and General Directorate for Responsibilities
Studying the possibility of new mechanisms for the application of economic fines and sanctions, such as automatic deductions from salaries and pensions	National Co-ordination committee, SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and General Directorate for Responsibilities
Scaling-up capacity building efforts for Responsibilities Units and other investigative staff, including but not limited to forensic auditing	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and General Directorate for Responsibilities and Unit for Human Resources Management and the Professionalisation of the Public Administration
Scaling-up awareness raising and capacity building for line managers on the new disciplinary regime and their role in its effective implementation	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and General Directorate for Responsibilities and Unit for Human Resources Management and the Professionalisation of the Public Administration
Scaling-up efforts to build capacities and ensure adequate resources for Tribunals (at national and local levels) given growing mandates	SFP Specialised Unit for Ethics and the Prevention of Conflict of Interest and General Directorate for Responsibilities and Unit for Human Resources Management and the Professionalisation of the Public Administration
Improving the effectiveness and timeliness of the review and remedies system for public procurement decisions	SFP's Unit for Control and Evaluation of Public Management and Unit for Government Audit and Unit for Acquisitions, Public Works and Services and Federal Assets
Streamlining and regularly updating the list of sanctioned suppliers	

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TAKING A STRONGER STANCE AGAINST CORRUPTION

This series includes international studies and country-specific reviews of government efforts to make the public sector more efficient, effective, innovative and responsive to citizens' needs and expectations. Publications in this series look at topics such as open government, preventing corruption and promoting integrity in the public service, risk management, illicit trade, audit institutions, and civil service reform. Country-specific reviews assess a public administration's ability to achieve government objectives and preparedness to address current and future challenges. In analysing how a country's public administration works, reviews focus on cross-departmental co-operation, the relationships between levels of government and with citizens and businesses, innovation and quality of public services, and the impact of information technology on the work of government and its interaction with businesses and citizens.

The *OECD's Integrity Review of Mexico* is one of the first peer reviews to apply the new 2017 Recommendation of the Council on Public Integrity. It assesses i) the coherence and comprehensiveness of the evolving public integrity system; ii) the extent to which Mexico's new reforms cultivate a culture of integrity across the public sector; and iii) the effectiveness of increasingly stringent accountability mechanisms. In addition, the Review includes a sectoral focus on public procurement, one of the largest areas of government spending in the country and is considered a high-risk government activity for fraud and corruption. The OECD finds that Mexico's recent integrity reforms have the potential to be "game-changers" in the country's fight against corruption, however, ensuring successful implementation remains the main challenge going forward. As such, the Review provides several proposals for action aimed at strengthening institutional arrangements and improving vertical and horizontal co-ordination, closing remaining gaps in various existing legal/policy frameworks (protection for whistle-blowers, risk management, administrative disciplinary procedures, etc.), as well as supporting awareness-raising and capacity-building efforts to instill integrity values and ensure the sustainability of reforms.

Consult this publication on line at <http://dx.doi.org/10.1787/9789264273207-en>.

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