

## *Organizational Law of the Attorney General's Office (Ley Orgánica de la Fiscalía General de la República)*

On February 10, 2014, the constitutional amendment in political-electoral matters that orders the *Procuraduría General de la República* ("**PGR**") to turn itself into the *Fiscalía General de la República* ("**FGR**") was published. This amendment grants constitutional autonomy to the FGR, in theory, decreasing its dependence on the Federal Executive.

According to the transitory provisions of the 2014 political-electoral reform, the entry into force of the autonomy of the FGR depends on the enactment of the Organizational Law of the Attorney General's Office ("**LOFGR**").

On September 25, 2018, MORENA, the political party of President-elect Andrés Manuel López Obrador ("**AMLO**"), filed with the Senate the Bill for the Enactment of the LOFGR, *Iniciativa con Proyecto de Decreto por el que se crea la Ley Orgánica de la Fiscalía General de la República* ("**Bill**").

The Bill highlights the need to guarantee that the Attorney General is autonomous, independent, capable of exercising his power in a responsible manner, that he resists the pressure of political actors, builds trust in the citizenship and is guided by criteria of truth and legality. As a factor of dependence on the Executive, the President retains the power to remove the Attorney General for incurring in the severe causes provided under the law. Examples of these causes: (i) performing violations of the Mexican Constitution that may cause a disturbance in the functioning of the public institutions, (ii) systematically failing to comply with the purposes provided in the Criminal Prosecution Plan or (iii) participating in an attack to the democratic institutions and the republican form of government.

The Bill foresees certain specialized prosecutor offices: (i) Specialized Prosecutor on Human Rights, (ii) Specialized Anti-Corruption Prosecutor, (iii) Specialized Prosecutor on Electoral Matters and (iv) Internal Affairs Prosecutor's Office. In the process of appointing the Special Prosecutors, citizens may express their support or objection to the candidates proposed by the Attorney General.

The participation of organized civil society, which has been a determining factor in the prosecution and exposure of the most scandalous cases of corruption in recent years, will be through the Appointments Commission, the entity in charge of making the appointment of the members of the Technical Council of the FGR. Such Council may issue public recommendations in observance of the Criminal Prosecution Plan.

To consolidate the transformation of the PGR into the FGR, the Bill contemplates the creation of a Strategic Transition Plan which will define the actions that shall be carried out in the conversion process of the agency. The Plan will also include a diagnosis of the criminal conducts that the FGR will prosecute and will provide the new internal structure of the FGR.



## MEXICAN LEGAL NEWS

---

An overwhelming majority of MORENA in the Mexico's Congress anticipates the imminent approval of the Bill in the following weeks. This will detonate the constitutional autonomy of the FGR and will activate the process for the appointment of the Attorney General.

2019 will surely start with an Attorney General appointed according to the large majorities commanded by AMLO in the Senate. This should generate the appointment of the Anti-corruption Special Prosecutor. Thus, the Coordinating Committee of the National Anti-corruption System will have its seventh and last pending member which had been missing since 2016. This should better enable the SNA to perform its mandate, which coincides with AMLO's main campaign promise: eradicating corruption.

*To obtain additional information contact our experts:*

Diego Sierra, Partner:

+ 52 55 5258 1039, [dsierra@vwys.com.mx](mailto:dsierra@vwys.com.mx)

Pablo Fautsch, Senior Associate:

+ 52 55 5258 1039, [pfautsch@vwys.com.mx](mailto:pfautsch@vwys.com.mx)

Sincerely,

***Von Wobeser & Sierra, S.C.***

Mexico City, October 1, 2018.