



**The National Integrity Systems**

**Transparency International  
Study of Country**

Panama 2006

**Main investigators**

Angelica Maytin Justiniani

Jose Emilio Champsaur

Foundation for the Development of the Civic Freedom

### **Gratefulness**

First, we thank for the effort continuously made by the network of Transparency International in Latin America and the Caribbean (TILAC) in order to improve the quality and the access to information for the organizations and individuals that wish to make this a better world, free of corruption. In special way, to Andres Hernandez, Programme Coordinator, for his effort and leadership in handling the activities related to the projects of Transparency International (TI) in Latin America.

We wish to specially acknowledge the support offered by the Regional Coordination of TI for Central America, directed by Juan Luis Velasquez Carrera, for the support and daily advise he gives to all the national administrators that are part of the Network of Anti-Corruption Resources Centres (RECREA-CERACs), since his guidance and diligence were vital for the accomplishment of all the activities of this project.

We are thankful to all the national administrators of the RECREA-CERAC project for their constant cooperation and openly sharing their personal experiences in each country. Without a doubt, we learned a lot from this interaction and managed to save many obstacles in the preparation of our report.

We thank the Royal Embassy of Denmark for believing in this project and financing a great part of our activities.

Finally, we thank the administrative personnel of Fundacion para the Desarrollo de la Libertad Ciudadana, National Chapter of Transparency International, for tolerating the extra load this project implied on their daily tasks. Their aid resulted invaluable because of their achievement and the professionalism they showed.

## Index

<b>Acronyms and Abbreviations</b>	<b>5</b>
<i>Code of Ethics</i>	16
<i>Conflicts of Interest</i>	16
<i>Gifts and treats</i>	17
The Legislature	17
<i>Citizen Participation</i>	17
<i>Conflicts of Interest</i>	19
<i>Accountability</i>	20
The Judiciary	20
<i>Judiciary Registry Office</i>	22
<i>Administrative and Disciplinary Supervision</i>	23
<i>Judiciary Council</i>	23
<i>Alternative Methods of conflict ruling</i>	24
<i>Accountability</i>	24
Public Attorney	25
<i>Attorney General of the Nation</i>	25
<i>Attorney general of Administration</i>	25
<i>Anti-corruption prosecutors offices</i>	28
<i>Technical Judiciary Police</i>	28
<i>Budget</i>	28
<i>Appointments and Judiciary Career</i>	29
<i>Accountability</i>	29
<i>Ethics and Transparency Net 65</i>	30
Electoral Tribunal	30
<i>Competence of the Electoral Tribunal</i>	30
<i>Electoral Supervision</i>	31
<i>Independence of the Electoral Tribunal and Electoral Supervision</i>	33
<i>Accountability</i>	33
Party political	33
<i>Financing</i>	35
<i>Rendicin of</i>	35
Procurement	36
<i>General Direction of Contratacion</i>	36
<i>Social Security Depository (Public Health Depository)</i>	37
<i>General Comptroller of</i>	38
<i>Appointments</i>	38
<i>Organization</i>	38

## Acronyms and Abbreviations

ACPJ	Civic Alliance Pro Justice
IDB	InterUSA Bank of Development
CGR	General Comptroller's Office of the Republic
CNP	National Council of Journalism
CNTCC	National Council of Transparency against Corruption
COBE	Control of Works of the State
SCJ	Supreme Court of Justice
DIPRENA	National Direction of Budget of the Nation
DIGECA	National Direction of the Administrative Career
DNI	National Direction of Information technology
DRP	Direction of Patrimonial Responsibility
MEF	Ministry of Economy and Finances
ONG	Non Government organization
UNDP	Programme of the United Nations for the Development
TJP	Technical Judiciary Police
SIAF	Integrated System of Financial Administration
NIS	National Integrity System
ET	Electoral Tribunal
TI	Transparency International
US\$	USA Dollars

## Summary

It's possible to observe important advances in the policies of transparency promotion and the fight against corruption. These policies have been developed from two fronts: at the local scale, by means of the implementation of modern information technology directed to facilitating data compilation and management; and in the international scope, with the incorporation of the Anti-Corruption Conventions of the Organization of USA States and of the United Nations.

Nevertheless, the scourge of corruption continues to affect negatively the development and growth of Panama, especially because of its effects in the justice administration system. So demonstrate recent studies published by the World Economic Forum, by TI and foreign governments. Media have registered numerous scandals linked with possible corrupt practises without having obtained, from their investigations, a satisfactory response for the citizens, thus generating every time a greater popular distrust.

The efforts undertaken by each pillar of the National Integrity System (NIS) of Panama are diluted by the lack of an efficient coordination: their cooperation capacity is hindered by a climate of mutual distrust and competition. Actually, they have not been able to generate a collaboration scope that allows them to diagnose, design and implement vigorous public policies. However, the Panamanian society has journeyed by means of several successful experiences, where national consensus regarding important subjects of State was obtained, like the agreements of Bambito and Coronado, the debate on the Social Security Depository and the Nation-Wide Project Vision 2020 (Vision Nacional 2020), among other.

Preparation and execution tasks of all kinds of public policies are centralized in The Executive, with little participation of other pillars. Even, at this level, a remarkable lack of the Executive coordination exists, since several bodies have similar responsibilities, thus generating waste of time and resources, and hindering public administration.

At international scale, important interference among communication channels of the different government bodies is observed. Especially noticeable is the lack of coordination among the prosecutor offices that require legal assistance to investigate trans-national corruption cases.

The National Transparency Council against Corruption (CNTC) is the institution in charge of watching over the health of the Panamanian NIS; nevertheless, its action is focused on the creation of monitoring networks and it has not managed to develop other performance factors, such as service quality, human resources and modernization of public institutions.

A progress in the quality of the channels of citizen participation is observed, but it is necessary to admit that it is due to citizen pressure, which, in the last years, has obtained a greater political receptivity from the governors.

The human resources administration of the public sector is oriented, almost exclusively, to the objective of reducing the expenditure. The current system is unable to maintain an efficient labor force, reliable and free of political influences. It is a dual system, where a group of public officials incorporated to the system under regulations established for the Public Service coexist with another group of officials who work under other more flexible regulations and with little job security (this last group includes trusted employees, subject to free appointment and removal). In this scenario, it is common to observe the duplication of functions and wages.

In general, each pillar of NIS Panama evolves positively but independently and, sometimes, disorderedly. Because of the nature of its institutional objectives and its better, although insufficient, access to financial resources, the pillars of the state power have more influence on the quality of the NIS, with a remarkable centralization in the Executive. At the moment, none of the NIS pillars has shown an attempt looking forward to coordinating resources and goals in a joint effort, simultaneously and selflessly. As it was mentioned before, this problem is a direct consequence of the mutual distrust that exists among the members of the NIS Panama, especially between governmental and nongovernmental stakeholders.

### **Priorities and recommendations**

At ratifying the Convention of the O.A.S. against Corruption and the Convention of the United Nations against corruption, the Panamanian State demonstrates to have at its disposal a great amount of legal instruments directed to promoting a transparent and efficient administration. Nevertheless, a remarkable deficiency of human and financial resources exists in order to direct the NIS consistently. This situation is particularly difficult because nowadays the Panamanian government is implementing strong measures to reduce public expenditure and dragging permanent deficit that must be lessened to make the State finances sustainable.

The human resources subject is critical. Most of the public officials of the government work with little incentives to develop management committed with results. Their evolution is not consistent with the provision of the services they offer. Human resources administration is based on patronage, and therefore, there are no conditions to keep well-trained and committed civil servants, and this jeopardizes their contribution to the quality criteria for an effective performance of the government.

The Executive counts on all the tools to promote a stable and efficient NIS. The centralization of the management of the government pillars negatively affects the capacity of the Public Administration and the effectiveness of all the system.

Against this background, we suggested the following recommendations:

- To define and coordinate the functions and the responsibilities of the governing bodies of each pillar of the NIS;
- To determine the high-priority subjects that count on greater approval. As an example, an agreed proposal in order to eliminate the political patronage in the public duties is to strengthen the institutional framework, to generate policies of human resources and evaluation of the public management; to implement systems than incentives to obtain an efficient performance; and to sanction the bad performance;
- To learn from the successful experiences that had each of the pillars, stimulating systems than disclosure and duplication of excellent experiences;
- To deepen the present mechanisms than institutional interaction with the citizenship. To evaluate the usefulness of the present mechanisms to create new channels of participation where it is considered necessary. In this sense, it is necessary to legislate on the protection of denouncers and witnesses of corrupt practises, specially if they are civil servants, since they are the ones who could help fight impunity in these crimes, quantitatively and qualitatively;
- The strengthening of the policies on human resources in the public sector. Considering the high deficit of professionalization of public employment in Panama, it is imperative and of immediate intervention, even before implementing other more specific reforms. A general law of wages is required to put in practice the principle of wage fairness, reduce privileges, eliminate the non-wage income that some civil servants receive from the State and prohibit all form of wage discrimination. These policies must be in sympony as much with the dignity of the authorities, civil servants and public employees, in fairness terms, as with the change towards transparency, integrity, Accountability, social audit, citizen participation and the fight against corruption.

### **Profile of country**

Located in the center of the Western Hemisphere, Panama limits to the north with the Caribbean Sea, to the south with the Pacific Ocean, to the east with Colombia and the west with Costa Rica. It forms a link between Central and South America, constituting an isthmus of 80 km wide in its narrower section.

Most of the Panamanian population is of Creole racially mixed origin (descending of natives and Spanish, 70%), although a great ethnic diversity exists. It is estimated that the annual average rate of growth is of 1,7%, with tendency to diminish in the long term.

In the last decades a sustained advance in the indicators related to health and education has been registered, as well as of the standards of life of the Panamanians. As of 2005, Panama entered the group of 57 countries of high human development when presenting/displaying an index of 0,804 (on one) in agreement with the World-wide Report on Human Development 2005. "The world-wide index locates Panama between the eight Latin USA countries with greater levels of human development, only surpassed by Argentina, Chile, Mexico, Costa Rica, Bahamas, Saint Kitts and Nevis and Cuba."

Nevertheless, this report notices that persists an unequal distribution of income, education and health. In fact, of each US\$ 100 which take place in Panama, 70 cents go to the 300.000 poorer people whereas US\$ 44 go to the 300.000 richer people.

The most important economic activities of Panama are focused on the Columbus Free Zone, the banking area, the Panama Canal and the business tourism. The country counts on several very attractive factors for the foreign investment, like the Panama Canal, the Columbus Free Zone, the Authority of the Panama Canal, the processing zones, in addition to the use of the dollar like currency of legal course. The present government implemented fiscal reforms and started up the service of social security. Also, it supports the regional treaty constitution of free commerce.

Panama has a unitary government, Republican, democratic and representative, with a president, a vice-president and twelve ministers of State who make up the Executive; the Legislature, with 78 congressmen, is the Legislative Power, and 9 magistrates compose the Judiciary. These three powers govern the country.

Although the law establishes that the Panamanian judiciary system is independent, the process of appointment of judges often is harmed by political party influences. This phenomenon worsens remarkably in the countryside, where the mayors appoint Magistrates to administer justice in smaller cases. The Magistrates are not generally lawyers and many of them have not completed their secondary education.

Panama is an important nucleus of connection for the international Organized crime and the drug traffic towards Europe and the United States. The Panamanian institutions anti-drug are not still self-sufficient: its success depends to a great extent on the external attendance, specially the one that offers the United States.

## Profile of corruption

The increase of the volume and the quality of commerce of goods and services at international, regional and national level has deepened the interest on the factors that hinder these flows, among them, corruption and governability. Panama is subject of a number of instruments that evaluate the situation of corruption. Nevertheless, in most of the cases, these instruments are oriented only at watching over the impact of corruption on the economic and financial well-being of the citizens.

Table 1: Transparency International. Corruption Perceptions Index for Panama, years 2001-2005

Year	<i>Corruption Perceptions Index (CPI)</i> <sup>1</sup>
2001	3.7
2002	3.0
2003	3.4
2004	3.7
2005	3.5

Source: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi](http://www.transparency.org/policy_research/surveys_indices/cpi)

Panama is a country historically organized to interact with the international markets; nevertheless, it does not reach its economic development goals due to serious corruption and governability problems. This context generates distrust between those who offer and those who demand products from or towards Panama, and consequently, it produces an increase of the risk on investig in the country.

International analysts perceive that the most serious problems of Panama have their origin in the justice administration system. The Report on Human rights by the Department of State of the United States describes explicitly that the Panamanian legal system is prone to corruption, inefficiency and political manipulation. Other studies, such as the one made by The Economist, agree that the Panamanian justice is not independent but plagued of corruption. This way, it is logical to expect the general confidence on the part of the international commerce, including the capital flow, to be affected.

In addition, the international community has expressed that the Panamanian institutions, and the people who are forced to interact with them, are undergoing the cost of a deficient public civil service. Hiring process of most of the public officials lacks long term planning, as well as respect for the institutional objectives since it is highly prone to political manipulation. For example, a study by the Inter-USA Development Bank (I.A.D.B.) on the situation of the civil service in Latin America, concluded that the Panamanian civil service is one of the worst of the region, specially in aspects like merit (professionalism guarantees), efficiency (human capital), structural consistency (systemical integration) and functional capacity (influence on the behavior of the public servant).

Evaluations at national scope include surveys of citizen opinion, some professional studies and the processing given to corruption in the media. Survey services are usually contracted by media for public use. Their results constantly locate corruption as one of the main problems that worry the citizenship, even behind the unemployment problem. 5

As revealed by the international measuring, the Panamanians consider that the civil servants in charge of administering law do not act impartially. The media and the Civil Society frequently question legal decisions.

Other studies, like the one made by the Alianza Ciudadana Pro Justicia Organization (ACPJ), indicate that the justice administration is permeable to corruption because its system of selection of judiciary workers is susceptible to abuses on the part of the nominating authority, particularly in the case of the Magistrates of the Supreme Court of justice (SCJ), whose appointment is usually subject to the predominant political-party interests in the Executive and the Legislature.

The problem of the Panamanian justice, is of such seriousness that it even puts in risk the balance of the most important pillars of NIS in Panama. The Minister of The Executive, Ubaldino Real, stated before the media that "(...) the Executive has been tempted to become directly involved in the solution of this problem".

According to an investigation made by the Foundation for the Development of the Citizen Freedom (Chapter of TI in Panama) the most common manifestations of corruption in the country are:

1. The interchange of money for streamlining of public management.
2. Advantaging of the government properties in an inadequate form.
3. The political Personnel appointment as a compensation to electoral favors.
4. The procurement of electoral votes.

<sup>1</sup> The CPI values the countries in a scale from 1 to 10, qualifying with 10 the ones that are clean, in terms of how corruption that exists among politicians and public functionaries is perceived.

5. The abuse of authority (common in high hierarchy public functionaries).

In Panama, corruption is observed in all work and social scopes. Many citizens think this behaviour is deeply-rooted in the national culture because they perceive this problem exists since the foundation of the Republic. In this country it is common the disclosure of cases of corruption and other scandals, but the arm of justice has not reached to apprehend any implied person, mainly when this has *connections* (influence) or access into public power. Among the most frequent and deliberate corrupt practices, handling political and economic influences stands out.

Of course, these acts are not accepted by the general population; on the contrary, they are considered shameful acts, worthy of severe sanctions. Nowadays there are civil groups with strong political power as to cooperate positively in the fight against corruption. It is worth to emphasize that, before the last and most scandalous cases of corruption, the citizenship has been able to get organized and act effectively on the anti-corruption management of the government.

This apparent contradiction can be due to the dissociation existing between the governmental public institutions and the general population. Both sectors seem to manage in an independent way and with different scales of values. With exception of press conferences and the interviews in media, Panamanian public institutions lack efficient communication channels open to the civil population.

### **Activities anti-corruption**

The last five-year period has offered the Panamanian community a great experience in the fight against corruption. The population has been witness of scandals that put in evidence the repeated preponderance of this type of crimes, especially among some high-level government officials.

January of 2001 marked the beginning of a difficult stage in Panamanian institutional history. The three State Organisms were directly involved in serious denunciations for bribery and other categories of corruption. The consistent nerve in the attitude of the persons directly implied in these crimes strengthened the citizens' rejection.

Almost immediately, the national government took several measures to try to clean its image. In the first place, it sanctioned the Law No. 6 of 22 of January of 2002, that dictates regulations for the transparency in the public management. This law had been approved by the Legislature, but for some reason, it had not been sanctioned by the Executive, as a final requirement so that a law goes in force. According to Mr. Gerald Berroa Loo, editor of *La Prensa* of Panama, the scandals of bribes related to the approval of project CEMIS and to the appointment of two Magistrates of the Supreme Court of Justice were the main detonator, so that the President of the Republic, Mrs. Mireya Moscoso decided to approve this law. Few weeks later, however, this law was regulated so it lost its capacity to promote transparency in the public management. This regulation was sued before the Supreme Court of Justice. Nevertheless, it was finally eliminated only after the shift of office, in September of 2004.

Additionally, the President of the Republic appointed the Presidential Committee Against Corruption, comprised of five remarkable citizens who would work with the objective of identifying institutional deficiencies that stimulated or allowed corruption. Its work produced 50 explicit recommendations that were not seriously considered by the national government.

The government of Martin Torrijos took office on September 1 of 2004 and promised a radical change in the way the Public Administration had handled the governability problems during the previous period. Its working motto was: "zero corruption".

A strategy of institutional redesign was implemented which included the creation of several bodies assigned to the Ministry of The Executive, like the Secretariat of the Executive for the Governmental Innovation, the Secretariat for Presidential Goals, the National Council for Transparency against Corruption and its Executive Secretariat.

A policy of open biddings was established. Through of a new law to regulate public contracting, the Internet site PanamáCompra was created, [www.panamacompra.gob.pa](http://www.panamacompra.gob.pa), which constitutes the main source of information on products and services required by the public sector, and is aimed at guaranteeing transparency in the governmental procurement processes. This service helps to consolidate the public procurement with the consequent benefit that the economies of scale bring in attaining better prices.

Additionally, the Internet site "Panama Tramita", that holds information on more than 2 thousand procedures that the citizens and/or companies do before the government bodies. This site facilitates information to the citizens and contributes to clear the Bodies regarding in-person procedures.

This way, several state institutions have renewed their information systems to facilitate their internal work and to improve their interaction with the rest of the state Bodies and the citizenship in general. Such is the case of the General Comptroller of the Republic (CGR) and the Ministry of Economy and Finances (MEF). These two institutions also carry out projects of information technology modernization with the purpose of facilitating the planning, execution and monitoring of public investment projects.

In addition, the Secretariat of Institutional Responsibility was created, as well as the General Office of Human Rights from the Attorney General's Advocate Office of the Nation. Its objective is to streamline and implement policies of education, prevention against corruption and investigation of internal irregularities, as well as to promote the direction in human rights subjects. The purpose of this unit is to try to help the civil servants of the Attorney General's Advocate Office of the Nation carry out their job faithfully and penalize them for the faults or crimes they might commit.

The national government also sanctioned the laws that incorporate the anti-corruption conventions (O.A.S. and the UN). It also approved a Code of Ethics for the public officials of the Central Government, although it is used by institutions that do not belong to the government, like the Attorney General's Advocate Office of the Nation.

### **The National Integrity System**

#### **The Executive**

The Executive is constituted by the President of the Republic and the Ministers of State, whose main functions are to plan, orient, program, direct, execute, control and evaluate a set of activities that embrace economic and social functions, of infrastructure, of policy and sovereignty.

According to Article 177 of the Political Constitution of the Republic of Panama, the President of the Republic and his/her Vice-president are chosen by direct popular suffrage and simple majority of votes for a five-year period.

Panama is a presidential democracy since great part of the power is concentrated in the Head of State, or President of the Republic, who formally represents the State. According to the Political Constitution of the Republic of Panama, he/she exercises his functions by himself or with the participation of the heads of the ministries of State, among which the businesses of the Executive are delegated according to law.

Because of its concentration of power, the Executive is one of the most important pillars of NIS. Basically, it is the one who maintains all the responsibility of the expenditure and social investment of the country.

### Efficiency of the Expenditure

To December of 2005, the Executive registered assets slightly above US\$ 3550 million, amount that represents 21% of the total of public assets. The budgeted total expenditure are equivalent to 29% of the total budget; the expenditure of capital represent 24% of the total investment budget of the country and the current expenditure has been projected to 31% of the total budget of the current expenditure for the whole public sector.

The Executive is the main state manager of the social policies. Between 1990 and 1999, the social public expenditure per capita climbed up from US\$ 373.00 to US\$ 648.11.

The resources destined to social works were almost doubled, at the moment, 35% of the governmental budget is destined to the social sector. Nevertheless, the results are far from the ideal. As it has been indicated by Arturo Vallarino, former Vice-president of the Republic (period 1999-2004), “(...) the averages of well-being reached by the families reflect great disparities between different human groups of the country”.<sup>11</sup>

Table 2: Social expenditure executed by the Central Government of Panama, years 2004-2005 (in USA million dollars)

Sector	2004	2005	Absolute Variance	Percentual Composition
Education	538.4	610.8	72.4	51.8%
Health	365.5	309.6	-55.9	26.2%
Work, social security and communities services	266.5	237.2	-29.3	20.1%
Housing	22.9	22.4	-0.5	1.9%
<b>TOTAL</b>	<b>1193.3</b>	<b>1180</b>	<b>-13.3</b>	<b>100.0%</b>

Source: General Comptroller's Office of the Republic of Panama. 12

The National Report on Human Development Panama 2002 emphasizes that ““(...) in spite of having a high level of total social expenditure and relatively acceptable basic social services, Panama has not obtained indicators similar to the ones reached by other countries in the same situation (...) Panama does not deserve to be poor, and does not have to be poor”.

The coordinator of this report, Paulina Franceschi, concluded that the causes of this situation are the lack of coverage and quality, since the government strategies are well known for being highly centralized.

### Control bodies

The Executive, by means of the Ministry of The Executive, coordinates its activities from several fundamental bodies: the Council of Cabinet and the National Economic Council (CENA).

According to the Political Constitution of the Republic of Panama, the Council of Cabinet gathers the President of the Republic or the minister of The Executive, along with the Vice-president of the Republic and the ministers of State to coordinate the works and activities that the members of the Executive do and so try to frame themselves within the plan of development of the government, as well as to appoint the Magistrates of the SCJ, the General Solicitor of the Nation, the Solicitor of the Administration and his corresponding substitutes, subjected to the approval of the Legislature. In addition, they are responsible for the making of contracts, the negotiation of the National loans and the organization of the public credit.

The CENA is a body assigned to the Ministry of Economy and Finances. It is responsible for the subjects of financial nature of the Central Government and the decentralized Bodies. A Technical Secretariat is comprised of six main members (in case of absence they are replaced by their corresponding substitutes). The sessions are held on Tuesday every week.

### **National budget**

The preparation of the national budget is the main operative tool of the Executive and the State in general. This activity is coordinated from the Ministry of Economy and Finances.

The budgetary management of the public sector is comprised of the following components:

- mid-term Financial program; General budget of the State;
- Program for the execution of the General Budget of the State;
- mid-term Strategic plan and operative annual program of each executing institution;
- Budget of each executing institution;
- Program for the execution of the budget of each executing institution;
- A quarterly report on execution of the General Budget of the State and the budget of each executing institution;
- A closing report on results of the governmental management and the management of each executing institution.

When the Ministry of Economy and Finances considers the reduction of the public expenditure necessary, it will have to put under the consideration of the Council of Cabinet, a plan of action for such objective.

The adjustments by restriction or reduction of the expenditure in the budgets of the Legislature, the Judiciary, the Public Ministry, the Electoral Tribunal, the people's advocate office and the General Comptroller's Office of the Republic will not be a percentage higher in each one of these institutions than the adjustment of the General Budget of the State, and they will affect the budget lines these bodies determine, regarding the expenditure of compulsory observance.<sup>15</sup>

### **Tools for budgetary monitoring**

The main tool for monitoring is the Financial Management system of Panama (SIAFPA).<sup>16</sup> It is an information system that allows the computer aided follow-up to transactions registered in the basic modules and it produces consolidated financial information which allows the Ministry of Economy and Finances and the General Comptroller's Office of the Republic (CGR) to keep informed about the financial activities carried out in each public institution.

Another instrument for monitoring is the program "Control tower", which arises as a result of the information need to facilitate the performance of the management of the public investment characterized in the budget. Control tower is an information system that works by means of a Web application and by means of Intranet communication for the whole country. It relies on information integrated from the National Direction of Budget of the Nation (DIPRENA), the SIAFPA and the National System of Public Investment (SINIP). It provides information from the investment projects portfolio of the public sector and is a fundamental component of the SINIP. It serves as a support to the National System of Investment and it is a fundamental piece to implement regulations, procedures and methodologies. Also, it aids to coordinate the investment carried out by all the institutions of the public sector.

### **Difficulties**

The remarkable incorporation of electronic technology for communication and creation of information systems facilitates the general supervision of the financial administration inside the Executive and outside it. Nevertheless, problems of organic nature persist, since the public institutions lack an adequate coordination in their strategic goals. In addition, numerous evaluations of the Panamanian administration claim that among the most serious problems are the lack of integration and the superposition of competences, even in institutions responsible for public institutional strengthening themselves.

The mentioned difficulties are found in the structure of the General Budget of the State itself.

Table 3: Threats that hinder the budgetary management (agreement percentage)

Threats	Decentralized Sector		Comptroller's Office
	Central Government		
Frequent changes of authorities and political influence	75%	69.3%	60%
Troublesome Processes on budget mangement and related	62.5%	53.9%	40%
Lack of transparency and regulations, legal insecurity and excessive bureaucratic controls	25%	69.3%	20%
Indefinition of objetives, goals and policies; lack of planning and limit imposition.	25%	61.6%	60%
Lack of coordination among the governing bodies of the financial management	50%	53.9%	20%

**Note:** Survey carried out among funcionarios involved in the process of financial operations in Panama.

**Source:** "Diagnostic study on the program structure of the State's General Budget". Ministry of Economy and Finances, Panama, 2005, Page14.

### Electronic government

The strategic management and the implementation of technology in the government is responsibility of the Secretariat of The Executive for the Governmental Innovation, whose director is freely appointed by the President of the Republic.

Among its projects and initiatives are:

- PanamáTramita. Internet page that gathers the instructions of the great variety of procedures that the different Government bodies offer to the citizens. <http://www.Panamatramita.gob.pa/>
- Digital Official newspaper. Electronic publishing of all the regulations and the acts that the Political Constitution of the Republic of Panama and the law order. <http://www.gacetaoficial.gob.pa/>
- PanamááCompra. System of electronic procurement that allows to promote the transparency and improve the conditions of quality and price in the procurement that the public sector carries out. <http://Panamacompra.gob.pa/>

### Public administration

#### Personnel administration

The Panamanian public administration maintains the vices of a patronage system in which the political variable is a determinant get and keep a job. Although an improvement process was begun, it was interrupted because the requirements and instruments of access determined by the law that regulates this matter are not used with effectiveness.

The Executive is the main body in charge to establish a regulating framework that guides the conduct of the public servants, but it usually does this by means of coercive or inspiration means. 21

Table 4: Survey of homes. Economically active population (15 years or older), according to occupation category. Period: August 2002-2003

Occupation Category	August 2002	Proportion	August 2003	Proportion
Employee	694,239	62.5%	707,960	61.7%
Government employee	180,123	16.2%	190,057	16.6%
Private sector employee	452,110	40.7%	453,946	39.6%
Domestic service employee	62,006	5.6%	63,957	5.6%
Self-employee	336,343	30.3%	350,351	30.6%
Employer (owner)	32,675	2.9%	35,203	3.1%

Family worker	48,001	4.3%	51,659	4.5%
Member of a cooperative of production	403	0.0%	1,378	0.1%
<b>Total</b>	<b>1,111,661</b>		<b>1,146,551</b>	

**Source:** Survey of homes. CGR Panama.

The General Direction of the Administrative Career (DIGECA) arises as a regulating body for the policies from human resources the Executive that dictates, under the dispositions of the Political Constitution of the Republic of Panama and the regulations that are developed to facilitate their implementation.

The DIGECA is an advisory unit of the Executive. Its function is to organize and select the personnel, who is to enter the public service and put those resources at disposal of the administrative officials on whom the final executive faculty resides to appoint and remove personnel.

### **Public service as a profession**

The Political Constitution of the Republic of Panama organizes the public personnel administration in several professional careers: Administrative Career, Judiciary career, Educational career, Diplomatic and Consular career, career of Sciences of the Health, Police career, career of Farming Sciences, Legislative Service career and other that the law determines. Each career has its corresponding regulation, nevertheless, a general regulation of the Administrative Career exists that is obligatory for all the sections of the State and is an auxiliary legal source for those public services that are regulated by other careers or special laws.<sup>23</sup>

Not all the Panamanian civil servants belong to some professional public career; many are regulated simply by the internal regulations of each institution.

It is estimated that 60% of the personnel of the central government belongs to careers different from the administrative one, which have their own qualification and development systems, which allows supposing a higher qualification. Regarding the personnel of the Administrative Career, approximately 18% of the personnel have been credited as a professional public employee, which means that 82% have not yet had the possibility to demonstrate that they have conditions to stay in their position.

The human resources administration is performed within each institution and, generally depends directly on the top heads, who are appointed arbitrarily by the Executive. These can freely handle the positions under their supervision, especially, when these are not occupied by members of some professional public career.

### **Reality of the public service**

In spite of the efforts aimed at building an outline of personnel administration appropriate for the modern needs of the public administration, the actual system isn't functional. The lack of a propitious civil service, the favoritism, demagogic political practices (wrong individual or group political practices) and the patronage within the government structures are rewarded with public positions to those people who have been members or have supported or have tendencies for certain political party during the electoral campaign. The system of personnel is based on a political criteria and personal friendship without taking into account the aptitudes of the candidates.

The former ambassador of the USA in Panama, Linda E. Watt, expressed: "The only rewards that the public official should receive, is his wage and the satisfaction of the well-fulfilled duty. However, everyday I listen of somebody that demanded something additional to fulfill his duties [...]"<sup>25</sup> <sup>1</sup>. These words make a clear reference to the corruption problems that persist under the current system of the public official administration.

More than a year ago, the Executive presented a bill to regulate the Administrative Career. However, the Legistaltive has not arrived to a satisfactory conclusion in this respect.

At least 30 Articles of the project were reformed during the first debate in the Working Committee. Leandro Avila, its president, comented that it is pretended to modify the actual overtime system, which currently is to pay with days off, as well as the compensations when unjustified discharges take place. Alfredo Berrocal, of the National Federation of Public Officials and Employees, comented that the modifications "[...] give legal security to the officials".<sup>2</sup> <sup>26</sup>

At the moment, the planning systems, employment and performance management systems and remuneration systems are the weakest. For example, 70% of public employees earn less than US \$ 350 a month and their remunerations are commonly defined discretionally by their direct bosses.<sup>3</sup> <sup>27</sup> Some advances are noticed in the position description; however, many positions are not used or are incompatible with organic structures.

In addition to the presentation of the new reform project to the Law of the Administrative Career, the new government has achieved some regulating and the executive advances, for example:

- DIGECA is promoting the rescue of the institutional manuals and the review of their coherence to the structure of each section; according to the officeholder of this direction, the works were begun to convert the position descriptions used by the MEF and the other ministries.
- Instalation of the Technical Board and the Board of Appeals and Conciliation of the Administrative Career, on December 7, 2004.
- Restart of the entrance process to Administrative Career Regime (705) for officials of the Ministry of Health, who acquired Administrative Career officials status.
- In 2005 it was formed again the Committee of Organization and Human Resources of the Public Sector.
- Between 2005 and 2006 it has been presented, in the Legislature, bills directed to regulating and recognizing several professions and union careers.

Given these circumstances, it is clear the high risk level of the NIS when the Executive and the government human resources administration systems fail.

### **Code of Ethics**

Regarding the promulgation and implementation of the Code of Ethics, Panama has not achieved some efforts to provide every agency or section of the State with its corresponding Code of Ethics by means of the promulgation and implementation of the Law No. 6 of January 22, 2002.

However, the Executive, by means of an Executive Decree<sup>4</sup> 28, decided to adopt a uniform Code of Ethics for all the employees of the Public Attorney's Office, since the Codes of Ethics previous to the promulgation of the Law No. 6 did not meet the uniform criteria established in this law. The new code was adopted and is now promoted in all government institutions by the Attorney's Office of the Administration.

At the moment, the regulation related to ethical behavior of public employees lacks a regulation in what regards the activities carried out by them after the exercise of their functions.

### **Conflicts of Interest**

Law No. 9 of June 20, 1994, "By which it is established and regulated the Administrative Career", explains the rights and duties of public employees. Articles 137 and subsequent of this law highlight the duty of public employees "[...] to observe the moral principles and ethics regulations, as fundamental parameters of orientation in the performance of their functions[...]" and to "[...] inform his superior in order to get declared disabled to attend an administrative procedure concerning the relatives of the public employee, until the fourth degree of blood kinship and the second degree of affinity kinship [...]"<sup>5</sup> 29

Likewise, this law establishes prohibitions and sanctions to specific behaviors, such as "[...] to give order to the subordinates to attend political acts of any nature [...]", and "[...] to demand the affiliation or renouncement to certain party in order to be able to run for a public position or to remain in it and to privilege the procedures of natural or legal persons that are his relatives and seek to sign agreements with the State, or who require or explore administrative concessions, or who are suppliers or contractors."<sup>6</sup> 30 The violation of the prohibitions herein described, leads to the imposition of sanctions that are applied by virtue of the seriousness of the fault.

Panama also relies on mechanisms to make the execution of the measures to hinder conflicts of interests effective.<sup>7</sup> 31

Among the mechanisms of punitive nature, defined in the regulations and in the regulating dispositions and other special dispositions, are: Article 448 of the Judiciary Code that refers to the competence, procedures and sanctions for infractions to the judiciary ethics; the "Model of Internal Regulation for Institutions of the Public Sector" that expressly refers to the behaviors that are against the institutional interests; and the Penal Code.

In the case an institution that has not adopted the internal regulation mentioned in the previous paragraph, Law No. 38 of July 31, 2000, demands the application of the necessary corrective measures, including the sanction of the mentioned behaviors, and establishes the levels of seriousness and their correlative administrative sanctions, when it corresponds, or their remission to the Public Attorney's Office, in the event of infractions to the penal regulation.<sup>8</sup> 32

It is good to mention other mechanisms, like that established by Law No. 22 of June 27, 2006, that regulates the public hiring and sanctions with absolute nullity the contracts celebrated by people disqualified to hire according to this law, for example: public employees in general and those who have intervened, in any form, in the preparation, evaluation, awarding or celebration of a procedure of contractor selection; as well as Articles 760 to 763 and 395 of The Judiciary Code that state the recusation mechanism under the supposition that a judge or magistrate is not declared disqualified, in spite of existing a conflict of interests, in the cases under his responsibility, thus extending this disposition to preliminary investigation agents.

Likewise, Articles 448 and following of The Judiciary Code, establish a procedure for the investigation and sanction of violations to judiciary ethics. It also establishes dispositions to avoid nepotism and favoritism at the moment of selecting an auxiliary of justice administration –administrators and tutors–, the prohibition to allow influence from political-party demands and the prohibition of taking private companies' positions which block or might block the good performance of his legal functions.

The general regime establishes a complete catalogue of behavior regulations for the correct, honorable and appropriate execution of the public duties. These regulations are directed to reaching the principles that the InterUSA Convention against Corruption sets.

The Panamanian legislation foresees the regimes of incompatibility, impediments, disqualifications and prohibitions in the exercise of the public duties or the knowledge of some matter by high officials of the Judiciary and Public Attorney's Office and of the Legislature and the Executive contemplated in the Political Constitution of the Republic of Panama (Articles 150 to 152, 175 and 191). It is noticed, however, there is no regulation to keep into account the particularities and the importance of these positions and the mechanisms to make these regimes effective.

### **Gifts and treats**

Article 335 of the Penal Code points out that: "Will be sanctioned with prison from 6 months to 3 years or their equivalent in days-fine, the public employee who, without having incurred in a punishable act more severely punished [...] receives gifts that were presented or offered to him in consideration to his position, while remaining in this position [...]"

The lack of access to judiciary statistics doesn't allow to know if cases of this type have shown up in the corresponding instances.

In a workshop about administration of justice and transparency, carried out in Panama, it was mentioned that it's lawyers' habit to offer gifts to the judiciary officials in the month of December, especially to the judges of the civil branch.<sup>9</sup> In fact, in 1997 some photos of officials of the Judiciary accepting gifts were published.<sup>10</sup> In 2000 the topic of the acceptance of gifts came out again into public light when the President of the Republic distributed Christmas gifts among congressmen.<sup>11</sup>

Article 335A of the Penal Code in force specifies that: "[...] He who won't justify the origin of a patrimonial enrichment, his own or of and interposed person to disguise what was procured from the assumption or his position or public employment and even up to 1 year after having ceased in it, without having incurred in an act severely punishable, will be sanctioned with prison from 2 to 5 years, 100 to 365 days-fine and disqualification to exercise public positions for to the same period of the prison sentence."

The Code of Ethics prohibits to accept gifts and treats on the part of the Central Government public employees, with exception of those "[...] of smaller amount that by reasons of friendship or personal relationship and with reason of events in which those are usual."<sup>12</sup>

## **The Legislature**

The Panamanian Parliament (the Legislature) is single-chambered: the Assembly is comprised, from May 2, 2004, of 78 congressmen elected in direct vote for a five-year period. The legislative elections are carried out in 40 electoral circuits. In 26 of them a legislator is chosen by simple majority of votes (uni-nominal), in the other 14 are chosen between two and six congressmen for circuit according to the number of inhabitants (pluri-nominal) by means of a system of proportional representation of simple electoral quotient. There is seat for quotient, half quotient and residue. In the plurinominal circuits, candidates appear in fixed party lists to allow the preferential and selective vote in favor of one or more candidates.

The members of the Legislature will be elected by means of political-party postulation or by free postulation, by means of popular direct election, as the Constitution establishes.

Article 160 of The Political Constitution of the Republic of Panama establishes that: "It is a legal function of the Legislature to take the denounces or complaints that presented against the President of the Republic and the Magistrates of the Supreme Court of Justice, and to judge them, if it is the case, for irregularities executed in the exercise of their functions in damage of the free operation of the public power and violations of this Constitution or the laws [...]"

### **Citizen Participation**

The Direction of Promotion of Civic Participation of the Legislature was created with the purpose of:

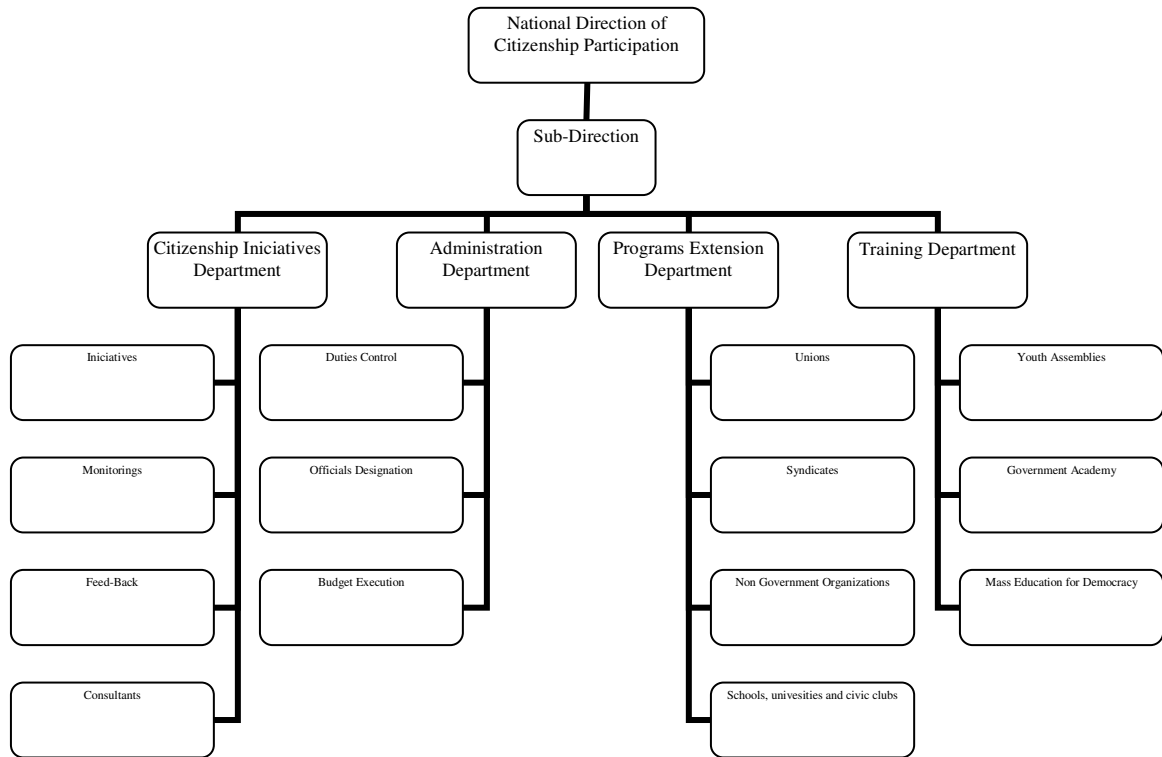
- Promoting the civic participation in the process of elaboration of the laws and the supervision of the government gestion.
- Promoting a new political leadership that expresses the Assembly validity of the ethic and moral principles in the political service.
- Facilitating to the citizens, a better knowledge on the operation of the Legislature.
- Enforcing a bigger effectiveness in the legislative work, identifying the topics that are of civic interests.

During Enrique Garrido's presidency, and by means of the Legislature, it was opened the first Office of Civic Participation. The National Direction of Promotion of Civic Participation "[...] is a space open to the citizens with the

purpose that they enjoy indirectly the legislative initiative known to all congressmen and to participate actively in the law making”.

The civic participation in the elaboration of laws responds to the need of looking for mechanisms that help strengthen the institutions of the State and to consolidate democracy.

**Figure 1: National Direction of Civic Participation of the Legislature. Organization chart (year 2006)**



**Source:** National Direction of Promotion of Civic Participation.

URL: <http://www.asamblea.gob.pa/participacion/vistaOrganigrama.asp?imagen=organigrama.png>

#### Appointments

According to the internal regulation of the Legislature, all the changes in the structure of positions and actions of personnel: appointments, deprivations, salary adjustments and promotions that are carried out, must be sent to the Ministry of Economy and Finances, for their knowledge.

The officials or workers of the Legislature are classified in the following way:<sup>13</sup>

1. Congressmen. Officials of popular election that, for all the effects, rights and obligations, will be considered civil servants whose period of appointment is regulated by the Political Constitution of the Republic of Panama.
2. The elected. The Secretary or General Secretary and the Undersecretaries or General Undersecretaries.
3. Of Career of the Legislature. The regular personnel that integrates the technical and administrative services, that enters to the Career of the Legislature and fulfill the requirements of previous competence and others that are in the law.
4. Of free appointment and removal. The personnel of trust attributed to the President or Presidency, to the parliamentary factions, to the congressmen, to the Secretary or General Secretary and other official or civil servants that don't belong to the Career of the Legislature.

5. Temporary. The personnel appointed by contract for a definite time that exercises functions in a transitory, provisional or occasional way.

### Conflicts of Interest

Article 158 of the Political Constitution of the Republic of Panama<sup>14</sup>, establishes that the Congressmen will not be able to make for themselves, neither to interposed people, contract with other government bodies than the State or with institutions or companies linked to this, neither to admit from anybody or negotiate businesses before those bodies, institutions or companies. The following cases are excepted:

1. When the Congressman makes personal or professional use of public services or affects average operations of the same nature with institutions or companies linked to the State.
2. When it is about contracts with any of the bodies or bodies mentioned in this Article, by means of bidding, by societies that don't have any anonymous nature and of which a Congressman is partner, whenever the participation of him in those is of previous date to his/her election for the position.
3. When, by means of bidding or without it, they celebrate contracts with such bodies or bodies, societies anonymous of which that do not possess a total of more than twenty percent of actions from the social capital to one or more congressmen.
4. When the Congressman acts in exercise of lawyer profession before the Judiciary, outside of the period of sessions or inside this mediating license granted by the whole Legislature Assembly.

Before the constitutional reform, the section 1 to 4 of Article 152 refers to the authorization that the congressmen had to exercise lawyer profession in its entirety, outside of the period of sessions or inside this mediating license; nevertheless, starting from the constitutional reform raises the impediment for the exercise of a lawyer profession, allowing the Congressmen to negotiate only before the Judiciary, outside of the period of sessions or inside this mediating license, that is:

The Congressmen will not be able to make for themselves, neither interposed people, contracts with government bodies other than the State or with institutions or companies linked to this, neither to admit anybody to be able to negotiate businesses before those bodies, institutions or companies:

1. When the Congressman makes personal use of professional or public services or carries out ordinary operations of the same nature with institutions or companies linked to the State.
2. When it is about contracts with any of the bodies or bodies mentioned in this Article, by means of bidding, by societies that don't have the anonymous nature and of which is partner a Congressman, whenever the participation of him in those is of previous date to his/her election for the position.
3. When, by means of bidding or without it, celebrates contracts with such bodies or bodies, societies anonymous of which a total or more than twenty percent of actions of social capital belong to one or more congressmen.
4. When the Congressman acts in exercise of lawyer profession before the Judiciary, outside of the period of sessions or inside this mediating license granted by the Assembly of the Legislature.

In the case of regulations that regulate the reception of gifts and celebrations, the law 39 of July 19 of 2001 modifies and adds dispositions to The Penal Code and The Judiciary Code, dictates regulations for the prevention of corruption (Articles 331 to 335, 335A, 335B). These Articles are the same that rule for officials of the Executive as well as of the Legislature, there is not a specific regulation for congressmen.

### Code of Ethics

In September of 2005, the Parliamentary Code of Ethics and Honor was approved. It is a regulation that tries to regulate the individual and collective behavior of the members of The Chamber, so that a correct attitude and the highest interests of the voters always prevail.

The Parliamentary Code of Ethics and Honor establishes some incompatibilities to a Congressman's position:

1. To take advantage of the position to carry out personal or private procedures;
2. To request or accept fees to lecture in conferences, ceremonies or similar activities when acting in his/her capacity as a Congressman of the Legislature;
3. To request or accept presents, cash contributions, donations, gifts, rewards or benefits of any type whenever their acceptance impacts directly in the decisions and performances that he adopts in the exercise of his functions;
4. To request or accept, from foreign governments, private or public companies: trips, homages or another type of similar liberalities, whenever their acceptance impacts directly in the decisions and performances in the exercise of his functions;

5. To resort to gifts or illegal remunerations to achieve a favor from a public official;
6. To practise a public position or a remunerated profession on full-time basis, except those cases when the Political Constitution of the Republic of Panama and the law allow it;
7. To take advantage, in own benefit or of a third party, of any privileged information or of reserved nature that has been obtained due to his position;
8. To leave, without, the sessions of the committees and plenary sessions;
9. To delay, without a justified reason, the works entrusted as a Congressman;
10. To leave or abandon, without a justified reason, the mission he has been entrusted;
11. To cast insults, slanders or denounces against colleagues; and
12. Any other behavior or attitude incompatible with the dignity and decency appropriate of his investiture.

These rules have been object of a lot of criticism since sanctions for the one who infringes them aren't established. The former magistrate of the SCJ, Edgardo Molino Mola, called their contents "dead letter".<sup>15</sup>

### **Accountability**

According to the Political Constitution of the Republic of Panama,<sup>16</sup> the SCJ will investigate and prosecute Congressmen of the Legislature for the commission of criminal acts. Recently the Law No. 25 of July of 2006<sup>17</sup> 41 included a Congressman's substitute among those subjected to this competence of the Supreme Court of Justice.

The mentioned Law No. 25 modifies the investigation and trial procedure against Congressmen of the Republic when assigning one of the Magistrates of the SCJ to serve as a prosecutor of the penal cause or policiva. This modification has been criticized by organizations of the Civil Society and by the Attorney General since the judiciary and investigative functions relapse on the same single state body, which jeopardizes the due impartiality and political independence of the process.

With this bill, the Assembly excludes the Attorney General from exercising its investigation work, and it even went to such an extreme as establishing that it requires a qualified majority in the sentences of the SCJ so that congressmen may be judged, which is not contemplated by the Political Constitution of the Republic of Panama.

### **The Judiciary**

The Panamanian legal system is structured in a system of formal sources led by The Political Constitution of the Republic of Panama, as its main regulating source. At a lower level, the laws of the Republic, of organic or ordinary nature, the decree-laws and the cabinet decrees are located. Right after, come the executive decrees, the regulations, the "resueltos" and the resolutions (either administrative or legal). The international treaties or agreements rank the same as a law.

The Supreme Court of Justice is entrusted the guard of the integrity of the Constitution. In consequence, it is responsible for deciding about the constitutionality of all the laws, decrees, ordinances and resolutions denounced before it as unconstitutional by any citizen, with audience by the Attorney General of the Nation.

The instances that administer justice in Panama are: SCJ, the Superior Tribunals of Justice, the Judges of Circuit, the Municipal Judges, the Tutelary Tribunal of Minors, the Sea Tribunals, the Superior Tribunals of Work, the Section Tribunals of Work and other tribunals established within the Judiciary for this purpose.<sup>18</sup> 42

Either agents of the Public Attorney or the Attorney General participate in the administration of justice as preliminary investigation officials by means of the exercise of the penal action. Also, to the Judiciary belongs the State-appointed Defense Institute. Likewise, it has management support units, denominated basic offices in the Administrative proceedings. Among them, are the Administrative Secretariat, the Direction of Information Technology, the Direction of Internal Audits and the Direction of the Judiciary School. Other bodies related to the legal system are the Ministry of Government and Justice (the Executive) and the Defender of the People (semi-autonomous institution).

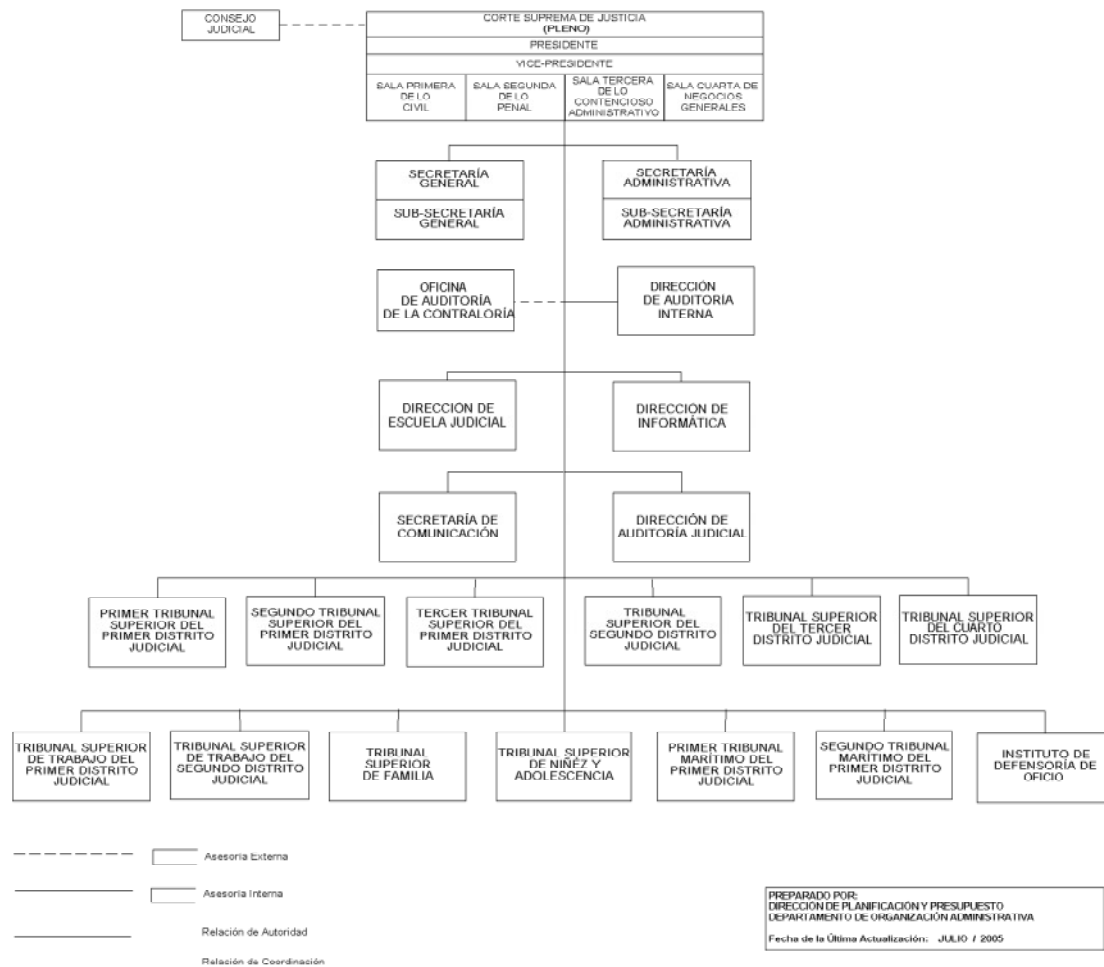
Every public official and the general citizenship are entitled to consult from the SCJ about the validity or constitutionality of a legal disposition. Article 2559 states that:

Any person, by means of a legal representative, can challenge, before the Supreme Court of Justice, the laws, cabinet decrees, decrees laws, decrees, agreements, resolutions and other acts coming from authority when considered unconstitutional, and to require the corresponding unconstitutionality declaration.

The decisions made by the SCJ on the unconstitutionality subject, in the exercise of the faculty conferred by this Article, are final, definitive and obligatory.

### **Figure 2: Supreme Court of Justice**

**ORGANIGRAMA GENERAL**



Source: The Judiciary. [www.organojudiciary.org.pa](http://www.organojudiciary.org.pa)

**Appointments**

According to what is established in Article 70 of The Judiciary Code, the Supreme Court of Justice is comprised of nine elected Magistrates according to the dispositions of Article 203 of the Political Constitution of the Republic of Panama. The President of the Republic agrees, in Council of Cabinet, the appointments of the Magistrates of the SCJ and submits them to approval of the Legislature.

Article 203 of the Political Constitution of the Republic of Panama, in agreement with Article 71 of The Judiciary Code, establishes that each magistrate's appointment is for a ten-year period, the absolute absence of a Magistrate will be covered with a new appointment for the rest of the period; each magistrate will have an appointed substitute for an equal period as the titular one, who will replace him in his temporary or absolute absences while the vacancies are filled.

The requirements to become a Magistrate of the SCJ are detailed in Article 204 of the Political Constitution of the Republic of Panama. Articles 203 to 208 point out limitations for those who aspire to such position.

The people in charge of appointing the judges of the inferior tribunals are their immediate superiors in the Judiciary hierarchy. So, the the plenary of the Supreme Court of Justice appoints the district judges who in turn appoint the circuit judges that are responsible for the appointment of the municipal judges. Although candidates are selected by means of a competitive exam, the bodies that appoint the judges receive the whole list and don't have any obligation of selecting the best qualified, which promotes a process of arbitrary selection. The result is that the selected person “[...] owes and professes absolute dependence, perpetually, on the one or ones who appointed him”.<sup>19</sup> 43

The Judiciary lacks a scientific and serious system of personnel administration. The works that Direction of Human resources develops are guided to fill recruitment and procedures of permits, vacations and licenses needs. Their biggest defect is that it doesn't possess a schedule that allows the development of its employees. It is not conceived nor implemented motivation programs for the personnel as neither for the personal excel. It becomes, in not few cases, a noticeable influence generator center.

### Judiciary Registry Office

Article 100, sections 10 and 20 of actual Judiciary Code, confers the Fourth Court of the SCJ, the duty of making all the sentences of the Supreme Court of Justice publicly known. Article 328 of The Judiciary Code establishes a system of public follow-up on the performance of the Magistrates and Judges of the established legal system.

In The Judiciary Registry, it shall be published:

1. A list of the businesses dispatched by the Supreme Court of Justice and by the Superior Tribunals and of those pending at the end of every month;
2. All the sentences that the Supreme Court of Justice passes in Appeals and Reviews and in businesses that it hears in second or unique instance and in an Agreement Court;
3. Orders and sentences dictated by the Superior Tribunals, as the relator determines, and
4. The legal pieces that the Court estimates of importance, either sentences, fiscal views, allegations or monographies, Article 328.

The Judiciary Registry is published monthly in volumes (177 copies) which gather the sentences of a month. The publication presents delayed cases which have reached six months in occasions.

### Budget

The budget of the Judiciary in the country is determined and assigned by the Legislature. The Judiciary presents, for the consideration of the Legislature, an estimation of the budget to be required. This, in turn, after listening to the corresponding sustentations, assigns the corresponding items. After the budget has been approved and brought into force, it is controlled by the General Comptroller of the Nation, an independent body but part of the Council of Cabinet. In practice, the independence of this body is relative since the designation of its main directors, Comptroller and Sub-Comptroller, is carried out by the President of the Republic for a term equal to that of his administration.

Article 211 of the Political Constitution of the Republic of Panama establishes:

The budgets of the Judiciary and of the Attorney General, shall not be inferior, as a whole, to two percent of the Central Government ordinary income.

Nevertheless, when this quantity is superior to the one required to cover the fundamental needs proposed by the Judiciary and the Attorney General, the Executive will include the surplus in other items of expenditure or investment in the Bill of Budget of the Central Government, so that the Legislature can determine what corresponds.

**Table 1: Budget of the Judiciary System, year 2007 (in USA dollars)**

~	AVERAGE EXPENDITURE	EXPENDITURE OF CAPITAL
<b>The Judiciary</b>	41,550,200.00	4,467,500.00
<b>Attorney General</b>	46,340,100.00	2,199,000.00
<b>Total</b>	87,890,300.00	6,666,500.00
<b>The central government ordinary income</b>		2,633,775,089.00
<b>Percentage</b>	3.3%	0.3%

**Source:** General Budget of the Nation for the 2007 period.

The lack of resources is an important cause of dependence on other bodies of the State. According to the Civic Alliance Pro Justice<sup>20</sup> 44, there are factors related to the organization of the budget of the Judiciary and the Attorney General that jeopardize its efficiency. Among them, are:

- More than 70% of the budget of the Judiciary is dedicated to personal services (wages, public relations expenses, etc.) for which, the operation budget is restricted to 30%. The budget for investment, as well as the expenditure related to training of officials, comes fundamentally from donations by international cooperation organizations.
- The increase of the number of cases attended by the operators of justice (investigators, preliminary investigators and judges) generates the utilization of more office material, basic services, personnel, among

other, which is not taken into consideration at the moment of elaborating and approving the corresponding budgets, which affects the performance of Justice in the country.

### **Administrative and Disciplinary Supervision**

The disciplinary process of the Magistrates of the SCJ is forwarded before the Legislature when these carry out a crime. The denounces are presented before the Credentials Committee of said state body and, should the need arise, this proposes to the Assembly, the denounced magistrate's judgement. Article 284 of The Judiciary Code states that, if it is about the rest of members of the Judiciary, these can only be removed, under warranty of the due process, by decision of their hierarchical superior in the following cases:

1. When, from a firm sentence he had been imposed any penalty for a common crime or one contained in any special legislation;
2. When, after having been appointed, it is properly credited that he has suffered or completed any penalty for common crime of deceitful nature;
3. For physical or intellectual impediment properly credited or if they were found in some cases of incompatibility contemplated in the Judiciary Code;
4. When they had abandoned the works of their positions for three consecutive days or more without a properly granted permission and in the cases when he doesn't reside in the legal limits where he performs his work;
5. When he takes, directly or indirectly, part in party politics;
6. In the cases of incompatibility with the exercise of the lawyer profession, commerce or any other remunerated position with exception of university teaching;
7. When the judge or magistrate has been separated from the hearing of a process because of delay in its procedures two or more times during the same year.

### **Judiciary Council**

The Judiciary Council is the advisory body of the Judiciary, in the governative and disciplinary order, except in the attributions of this nature under the responsibility of the Assembly of the SCJ, in as much as it is their exclusive competence. It is comprised of the President of the SCJ, the Court Presidents of the SCJ, the Attorney general of the Nation, the Attorney of Administration and the President of the National College of Lawyers.<sup>21</sup> 45

The basic function of this instance is to ensure the effectiveness, discipline and propriety of the tribunals. Originally, The Judiciary Council would hear denounces or complaints for faults to judiciary ethics posed against any official of the Judiciary and of the Attorney General and, in its case, it would apply the corresponding sanctions, including those for the accuser who formulates evidently false charges. However, SCJ rejected this competence as unconstitutional and established that the one who should hear the supposed faults to judiciary ethics is the hierarchical superior or appointing body.<sup>22</sup> This way, an important opportunity to establish the judiciary ethics and make it be respected by means of a special body with higher independence on the Judiciary was wasted.

Denounces cannot be anonymous:

- The accuser must disclose his name and general data written down in a paper enclosed with the formal denounce.
- All denounces must contain the corresponding evidence to sustain their argument, in order to proceed then to ratify them under oath.

The sanction will depend on the judge who, in observance of the regulations and with critical criteria, is supposed to discriminate when the fault committed is framed within a disciplinary process or a fault against ethics, since the first implies breaking the legal canons, regulations, commands or orders, and the second leads to guiding human behavior in the channels of morality, of professional performance with service vocation, quality, dignity and propriety. This situation is criticized in the report of ACPJ which classifies the situation as confusing and maintains this erodes the trust that institutions of justice should generate.<sup>23</sup> 47

Violations to judiciary ethics are punished with public amonestation or fines higher than US \$ 500, suspension from the position for one or two months or destitution, depending on the seriousness of the case.

Within disciplinary processes, the separation of the civil servants from the rank of The Judiciary<sup>2</sup> is included. The same thing happens in the case of administrative and disciplinary supervision and in the established cases of

---

<sup>2</sup> This Article refers to the public servants that belong to the judiciary grade promotion system. Therefore it excludes Magistrates of SCJ, the Attorney General of the Nation, the Attorney of Administration and the personnel of the Secretariat of service immediately

incompatibility by Article 209 of the Political Constitution of the Republic of Panama and in those of Article 60 of The Judiciary Code.

At present time there are no statistics that allow knowing the exact number of processes for fault against ethics or discipline registered in the Judiciary and the Attorney General. Neither the length of time those processes last is known, nor the number of sanctioned officials or the sanctions that are applied.<sup>24</sup> 48

**Alternative Methods of conflict ruling**

The alarming increase of criminal activity has provoked a noticeable increase of judiciary activity. It becomes necessary the implementation of alternative methods so that the judiciary operators can solve their differences by pacific means with the help of a third party (facilitator), as it is the case of conciliation and mediation.

Law No. 5 of July 8, 1999 establishes the legal and ethical principles that guide the arbitration, conciliation and mediation process in Panama. In addition, after the recent constitutional reforms, this type of measures for the solution of conflicts has acquired a constitutional range:

Article 202 of the Political Constitution of the Republic of Panama establishes that: “The administration of justice can also be exercised by the arbitration jurisdiction as the law determines. The arbitration tribunals will be able to hear and decide for themselves about their own competence[...]”.

The mentioned Law No. 5 states that the effects of arbitration will be substantial, since they force the parties to comply with what was agreed in the arbitration process; as well as procedural, since the ordinary tribunals of justice must decline their competence on the dealt matter in favor of the arbitration tribunal.

The execution of the ruling by arbitration will be carried out by the judge of the civil circuit corresponding to the place where it is dictated with the same established procedure in order to execute firm judiciary sentences. In addition, the sentences dictated outside the territory of the Republic of Panama will be recognized and executed according to the treaties and agreements of which that country is signatory.

Differently from arbitration, the conciliation and mediation processes are characterized by solving controversies by means of an assisted negotiation of the parties in which these both decide how to resolve the conflict, not the mediator.

**Table 2: Mediation centers, 2005**

Name	Internet address and/or e-mail
Ombudsman of Panama	www.defensoriadelpueblo.gob.pa defensor@defensoriadelpueblo.gob.pa
Center of Mediation of the Panamanian Chamber of Construction (CAPAC)	cescon@capac.org
International Institute of Negotiation, Mediation and Arbitration	iinmaPanama@cableonda.net
Center of Conciliation and Arbitration of Panama (CeCAP)	www.panacamara.com arbitraje@panacamara.org

**Source:** Report on Justice, Center for Studies on Justice of the Americas, Second Edition (2004-2005), [http://www.cejamerica.org/reporte/muestra\\_portada.php?idioma=espanol&tiporeport=REPORTE2](http://www.cejamerica.org/reporte/muestra_portada.php?idioma=espanol&tiporeport=REPORTE2)

The alternative methods of conflict ruling are usually more expeditious than the ordinary tribunals. However, they are a lot more expensive and they are still perceived with incredulity by many citizens.<sup>25</sup> 49

**Accountability**

The Assembly of the SCJ has the power to require accountability on common crimes or faults committed by the Ministers of the State, the Attorney general of the Nation, the Attorney of Administration, the Members of the Legislature, the Commandants and Members of the Major State of the Public Force, the General Comptroller of the Republic and the Magistrates of the ET, or committed in any time by a person that is exercising some of these positions at the time of his judgement.<sup>26</sup> 50

The Fourth Court of General Businesses is responsible for “[...] evacuating the reports that the Executive, the Legislature and the Attorney general of the Nation require from the Court regarding the administration of justice, the organization and system of the tribunals and the economical matters of the same ones”.<sup>27</sup> 51 In addition, it is their

---

attributed to the public servants that are not part of the Judiciary Career, which includes clerks, assistants, drivers, appointers and porters. These subordinated officials will be of free appointment and remotion by the holder of the office, but will have the other rights, obligations and prohibitions that the laws of the field assign to the other officials of the Judiciary organism and of the Public Attorney

duty to render account, to the Legislature, on the gaps, contradictions and inconveniences that may arise in the enforcement of laws.

## **Public Attorney**

The Public Attorney's Office of the Nation has among its constitutional and legal faculties: to pursue crime and exercise the penal action before the tribunals. Regarding crime prevention, fight and suppression, it acts in the suppression phase, that is to say, when the criminal action has already been carried out.

The Political Constitution of the Republic of Panama erects the Public Attorney into an autonomous institution in operation and budget matters. The members of the Public Attorney enjoy the same conditions and privileges as the members of the Judiciary.

Their general attributions are:

1. To defend the interests of the State or the municipality;
2. To promote the execution or enforcement of laws, legal sentences and administrative dispositions;
3. To supervise the official behavior of public officials and make sure they all correctly perform their duty;
4. To pursue crimes and violations of constitutional or legal dispositions; and,
5. To act as legal consultants to administrative officials.

The Public Attorney's Office is directed by the Attorney General of the Nation, the Attorney of Administration, the district attorneys and functionaries, and by other officials as established in the law. The agents of the Public Attorney can exercise in representation, as law determines.

## **Attorney General of the Nation**

The Attorney General of the Nation is an official appointed by means of an agreement of the Council of Cabinet, under approval of the Legislature for a period of 10 years. He/she presides over the Attorney General Office and among his functions are included the one of instructing the indictments and, in general, to exercise the penal action in the processes for crimes whose taking notice is attributed to SCJ or its Penal Court.

Before the Assembly of the SCJ, the Attorney general of the Nation exercises penal action in the processes for common crimes or faults committed by the Ministries of State, the Members of the Legislature, the Attorney of Administration, the General Comptroller of the Republic, Magistrates of the ET and the criminal causes against archbishops, bishops and ecclesiastical governors.

## **Attorney general of Administration**

The Attorney general of Administration promotes and defends the rule of law and cooperates with Public Administration to develop its management following the principles of legality, quality, transparency, efficiency, effectiveness and morality in the provision of public services.<sup>28 52</sup>

Law No. 38 of July 31, 2000 establishes the Organic Statute of Attorney General of Administration and points out that said institution is included in the Attorney General Office, that it exercises its functions with competence all over the national territory and grants it functional, administrative and budgetary independence. The characteristic scope of action is defined as the legal-administrative one of the State, which excludes jurisdictional, legislative functions and any other that has been assigned to other official bodies.

Sections 5 and 7 of Article 6 of the mentioned law point out two attributions of particular relevance. According to these dispositions, the Attorney General of Administration is responsible for "[...] offering information, orientation and legal administrative training, by means of prevention programs and development of procedures, for the improvement of the quality of the public management" and "[...] assisting, in prevention, the complaints that are presented against civil servants, managing to stop the causes that motivate them, whenever these are founded, and exercising the corresponding actions; for this, it shall execute the proceedings and measures that it considers convenient".

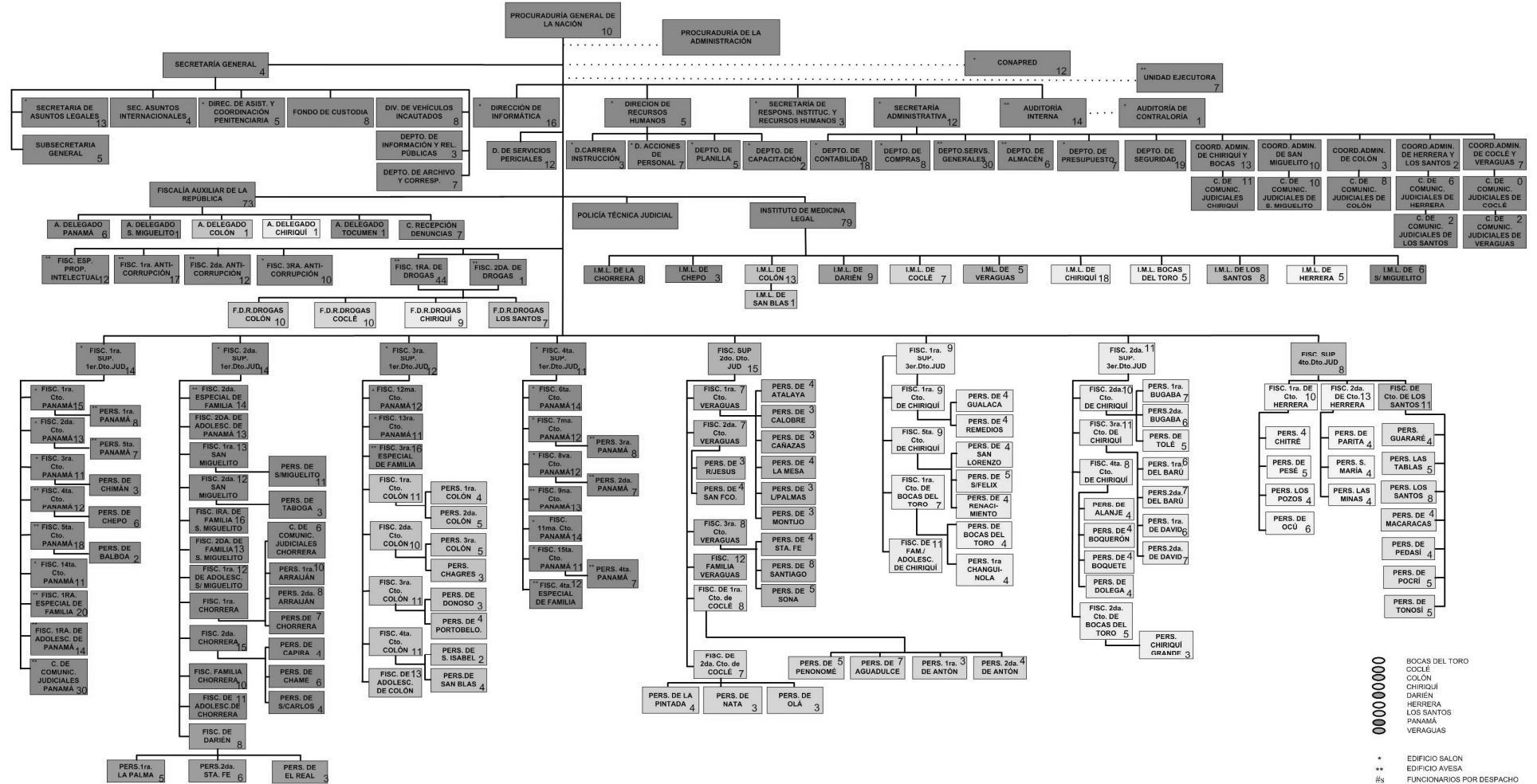
Attorney General of Administration acts fundamentally as an advisor and consultant, which could have a positive impact on the fight against corruption. In other words, the Attorney of Administration acts as a permanent defender of Public Administration in the administrative processes that are two kinds:

1. Those in which any natural or legal person requires the annulment of an administrative act with general effects, because of considering it violation for a legal rule;
2. Those in which a person, affected by an administrative act that he considers illegal, demands Public Administration requesting amends of his particular rights allegedly injured.

Under the Attorney of Administration are subordinated, with exception of the Attorney general of the Nation, the rest of servants of the Attorney General.

Figure 3: Attorney General. Organization chart (year 2006)

# MINISTERIO PÚBLICO



Source: Attorney General of the Nation. URL: <http://www.ministeriopublico.gob.pa/organigrama.html>

### **Anti-corruption prosecutors offices**

The Public Attorney of Panama has three anti-corruption prosecutors offices that have autohority and jurisdiction in the national scope, that is to say, they take notice of crimes against Public Administration committed within the territory of the Republic. Among its functions, we can mention:

- To practice all the necessary proceedings in order to clear up crimes against Public Administration or when, for any other circumstance, assets of the State, or of the municipalities, communal meetings, autonomous or semi-autonomous institutions and in general of any public body are considered affected;
- To instruct the corresponding indictment, practice the necessary proceedings for the clearing up of the criminal act and discover the authors, accomplices or those who cover up the act.
- To Investigate crimes that the Attorney general of the Nation assigns him/her in representation.
- To put out of commerce the assets of any public body in order to recover them or those of the individual coming from the criminal act investigated.
- Exercise the penal action as a consequence of the investigated indictments.

According to statistical data, in 2004 anti-corruption prosecutor's offices I and II received a total of 1744 cases against Public Administration, related to assets of the State and to crimes of undue retention. During the first semester of 2005 this prosecutor's offices have received 890 cases.<sup>29</sup> 53 That is to say, during the last year and a half 2634 cases entered to be instructed by these agencies.

### **Technical Judiciary Police**

Technical Judiciary Police (TJP) is an auxiliary body of the Public Attorney and the Judiciary. Its functions are focused in investigation, prosecution and sanction of crimes, as well as in the execution of the orders and decisions imparted by the Judges and Magistrates of the Judiciary. This public institution is under the dependence, direction, surveillance and control of the Attorney General.

Article 20 of Law No. 16 of July 9, 1991 points out that the Director, Subdirector and General Secretary of the Technical Judiciary Police will be of free appointment and removal by the Assembly of the SCJ. The chiefs of different divisions and agencies, department chiefs and other sections will be appointed and removed according to the law by the General Director of TJP, previous concept of the Attorney.<sup>30</sup> 54

Article 42 of said law establishes a Department of Professional Accountability which has as a mission to detect and help the Director of TJP to correct abuses that may affect public trust in the administration of justice.<sup>31</sup> 55 The Department of Professional Accountability relies on independent investigation personnel and has administrative authority to begin internal investigations. Also relies on a defined legal process.

TJP has a Code of Ethics and an internal regulation to help it drive the professional behavior of the officials of this institution.

In spite of the legislation in force, the Annual Report on Human rights Practices in 2005 in Panama highlights that "[...] by June of 2004, the Direction of Professional Accountability of TJP had carried out 128 investigations, which resulted in the dismissal of 16 agents", and it concludes that: "Corruption among the agents of the police kept on being a problem. Although the directors of PNP and TJP sometimes applied disciplinary measures against the agents whose participation in illicit activities was proven, in general, both organizations only took corrective measures as a reaction to the cases involving serious abuses."<sup>32</sup>

### **Budget**

As previously mentioned, the Political Constitution of the Republic of Panama orders that the combined budgets of The Judiciary and the Attorney General cannot be lower than two percent of the Central Government's regular budget. In fact, the budget never surpasses that quantity, and The Judiciary greatly depends on external attendance to carry out activities.<sup>33</sup> 57

As for the budget specifically assigned to the anti-corruption prosecutor's offices, that is to say, the resource that the State invests by means of the Public Attorney to pursue these cases and other, it was hardly US \$ 792,932.00. For this reason, the General Attorney of the Nation has repeatedly affirmed that the institution he directs lacks an appropriate endowment of resources to repress crimes related to corruption, among other.

**Table 3: Ordinary income of the Central Government and budget of operation of the Public Attorney, period 2004-2006 (in USA dollars)**

Detail	Budget 2004	Budget 2005	Budget 2006	Relative Variation (2005-2006)
Central Government Common Income	2,228,508,791	2,125,526,200	2,633,775,089	23.9%
Proportion	2,31%	2,05%	1,84 total	
Total	51,552,549	43,631,666	48,539,100	11.2%
Attorney General and others	33,561,559	25,180,720	28,652,800	13.8%
Attorney General of Administration	1,856,444	2,034,680	2,021,100	-0.7%
Technical Judiciary Police	16,134,546	16,416,266	17,865,200	8.8%

source: General Budget of the State: 2004, 2005 and 2006.

The annual average growth rate of the budget of the Public Attorney is slight but positive with 0.9%. The amount assigned to the Attorney General increased 13% in 2006 with respect to the number assigned in 2005, the same as the one assigned to the Technical Judiciary Police. In the period 2004-2005, the budget decreased 25%.

It is necessary to mention that the common expenditure of the Public Attorney takes up 96% of its yearly budget and is 21 times higher than the capital expenditure.

#### Appointments and Judiciary Career

In order to be Attorney general of the Nation and Attorney of Administration the same requirements are needed as to be a Magistrate of the SCJ. Both attorneys are appointed for a ten-year period by the President of the Republic, in agreement with the Council of Cabinet and under approval of the Legislature.<sup>34</sup>

The prosecutors and other officials are appointed by their hierarchical superiors. The subordinate personnel is chosen by the Prosecutor or corresponding official and all these appointments will be made in accordance with The Judiciary Career.

#### Accountability

The officials of the Public Attorney obey the dispositions of Code of Ethics of the civil servants of the Central Government. Before this incorporation (carried out on July 6, 2005) they were guided by the Behavior Regulations developed in Chapter II of Title XVI of Book I of The Judiciary Code; the most of which are related to the performances of the holders of the jurisdictional power and not to the behavior regulations that should be respected by the rest of the members of the Judiciary and the Public Attorney.

Every year, the Attorney General of the Nation must render a report, before the Executive, on the course of justice in relation to his corresponding limitations and indicate suitable reforms.<sup>35</sup> 59

All the agents of the Public Attorney have the duty of informing their hierarchical superior on the state of the objects received by them and deposited as effects that keep a relation to the investigated crimes.<sup>36</sup> 60

The forensic physicians at all hierarchy levels are forced to surrender motivated reports and to present technical conclusions in their specialty fields in the cases that, by law, should be submitted to them.<sup>37</sup> 61

Nevertheless, there is a perception that abuses persist in the preventive detentions and that the opportunity principle is not being appropriately applied. Civic Auditor of the Penal Justice in Panama, elaborated by Civic Alliance Pro Justice, concludes that:

There is an excess of functions of legal nature that the regulation grants the Attorney General, without jurisdictional control, such as: to order preventive detentions, personal precautionary measures, entries, confiscation, among other. Such a situation is not acceptable in a system of guarantees, because it is not conceivable the impartiality of an instruction agent (prosecutor or official) that can investigate, collect evidence, deprive of freedom and, at last, accuse. The result is that almost 50% of the detainees preventively are under the orders of the Public Attorney.<sup>38</sup> 62

The same document points out other factors that hinder the appropriate accountability, as the nonexistence of studies or statistics that help determine the time that the instruction of an indictment in the anti-corruption prosecutor's offices takes, the lack of a system of indicators on the investigated and processed cases that have to do with corruption and the lack of clear statistics on the sanctions or condemnations that the Judiciary imposes.<sup>39</sup> 63

Article 22 of Law No. 16 of July 9, 1991 indicates that the General Director of TJP must surrender, before the President of the Republic, the Ministers of State, The Judiciary or administrative authorities, or of the Public Attorney, and the Public Force, the reports and certificates they require regarding the exercise of his functions. In addition, every year he must surrender a report before the Attorney general of the Nation and SCJ on the course of the institution and it must indicate suitable reforms.<sup>40</sup> 64

## **Ethics and Transparency Net**<sup>41</sup> 65

On March 17, 2005 the first meeting of the Ethics and Transparency Net was carried out, comprised of state institutions. Its main objective is the fulfilment of the Uniform Code of Ethics of the Civil servants that work in the Central Government's bodies. It also focuses its efforts in the procedure simplification for a major transparency in the public management.

The Ethics and Transparency Net is a space for the coordinated construction of a standard of ethical behavior in Public Administration where permanent actions on ethics and transparency of the public management are developed. It consists on an interinstitutional coloboration working team integrated to transmit knowledge, methodologies for the execution of activities impeling ethics as a cross axis in the development of general principles of civil servants.

It consists of an Advisory Committee, comprised of representatives of different sectors of the country committed with the strengthening of public ethics; of a Technical Committee, comprised of professionals with formation and/or experience in the area of ethics and/or public management; and of an Interinstitutional Coordination, constituted by Attorney General of Administration and the institutional representatives appointed by the ministers and heads of institutions.

At the moment, the Ethics and Transparency Net has 100 institutions registered, including ministers, municipalities and decentralized institutions, and is in force up to 2015.

## **Electoral Tribunal**

The Electoral Tribunal (ET) is the highest authority in charge of guaranteeing the political rights in Panama. According to the Political Constitution of the Republic of Panama, it is an autonomous and independent tribunal, with jurisdiction all over the Republic, which is granted legal personality, own patrimony and the right to administer it.

The Superior Direction of the ET works on the following structure:

- Agreement Court. The Magistrates take the decisions and acts by means of the majority of their members' votes.<sup>42</sup> 66 The Agreement Court shall exercise their regulating, administrative and jurisdictional functions by means of agreements, decrees and rulings.
- Executive Direction. Executioner branch of the Agreement Court. It coordinates and supervises the technical and administrative activities of the institution in the national scope.
- Superior Direction. Comprised of the General Secretariat which daily reports, to the Magistrates on the matters that are promoted before it, shall ratify by its signature all the jurisdictional acts of the institution, shall keep documentation related to political parties and shall serve as a receiving body of all the correspondence the institution receives, with exception of that one corresponding to the Directions of the Civil Registry, Identification and Electoral Organization.<sup>43</sup> 67

### **Competence of the Electoral Tribunal**

Article 143 of the Political Constitution of the Republic of Panama establishes the attributions of the ET:

The Electoral Tribunal shall have, besides the ones the law confers, the following attributions which it will exclusively exercise, except those consigned in sections 5, 7 and 10.

1. To carry out the registrations of births, marriages, deaths, naturalizations and other legal acts related to the civil status of people, and to do the proper annotations in the corresponding registrations.
2. To issue the personal IDs (cedulas).
3. To set rules for the Electoral Law, interpret it and apply it, and to hear the controversies that its application may originate.
4. To sanction faults and crimes against the freedom and purity of vote, according to the Law, guaranteeing the double instance.
5. To issue the Electoral Register.
6. To Organize, direct and investigate the registration of voters and to solve the controversies, complaints and denounces that may occur about it.
7. To process the files of migration and naturalization applications.

8. To appoint the members of the electoral corporations, in which the representation of political parties legally constituted shall be guaranteed. The law shall regulate this matter.
9. To formulate its budget and opportunately submit it to the Executive to be included in the Bill of General Budget of the State.
10. To exclusiveley hear the appeals and deeds presented against the rulings of the penal electoral tribunals and of the General Electoral Supervision.

### **Electoral Supervision**

The General Electoral Supervision is an agency of independent preliminary investigation helping the ET.

The Electoral Supervisor is, by a constitutional mandate, an high hierarchy official that is comparable to the Magistrates of the SCJ and the ET, and due to the functions exercised he is also comparable to the Attorney general of the Nation who investigates crimes, and to Attorney General of Administration when he objectively gives his opinion on administrative electoral processes.

Article 144 of the Political Constitution of the Republic of Panama establishes the attributions of the Electoral Supervision:

- To safeguard political rights of the citizens.
- To watch the official behavior of public officials regarding electoral political rights and duties.
- To prosecute electoral crimes and violations.
- .To Exercise the other functions established in the law.

### **Appointments**

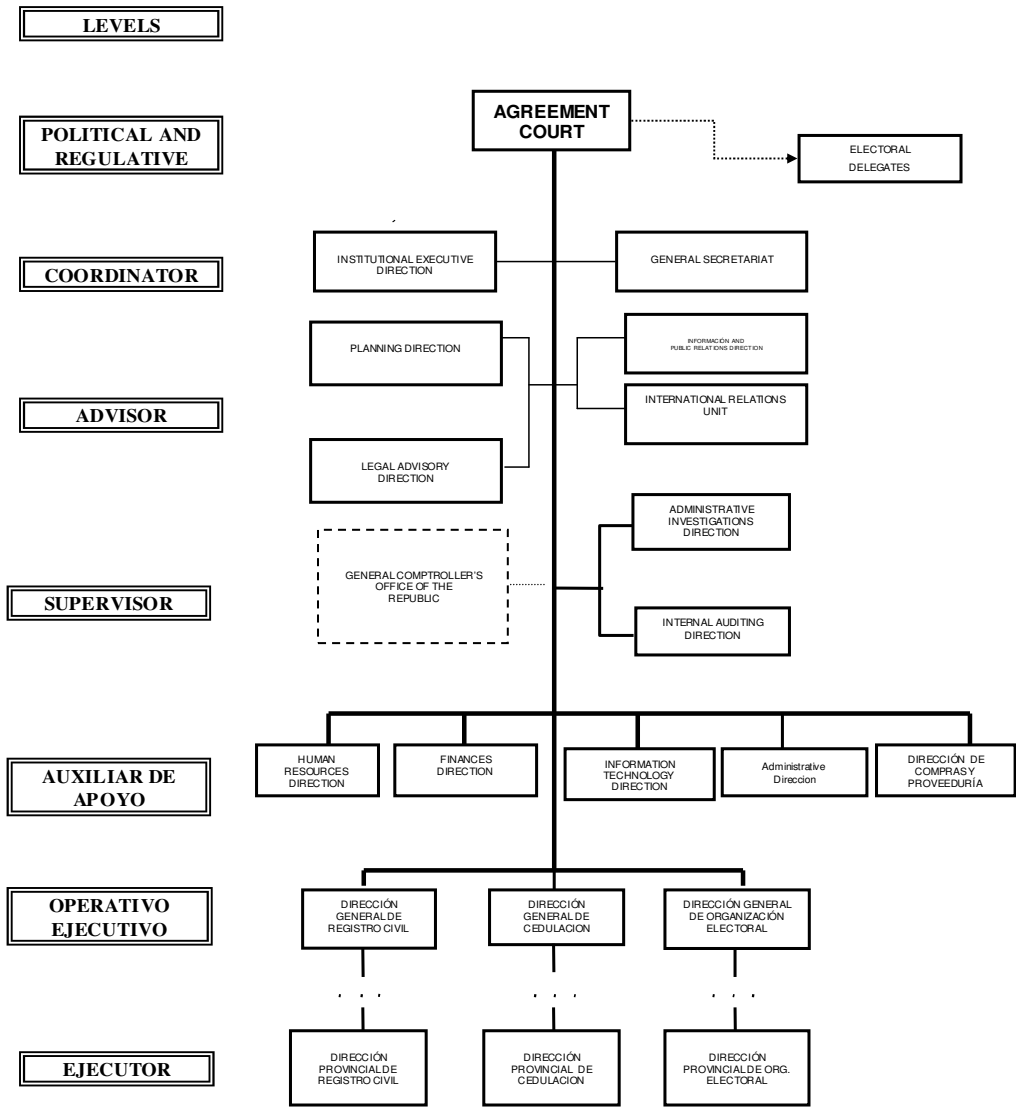
The Electoral Tribunal is comprised of three Magistrates that are appointed for a ten-year period; one shall be selected by the Legislature, another one by the Executive and the last one by the Supreme Court of Justice.

The General Electoral Supervisor shall be appointed by the Executive under the approval of the Legislature, for a ten-year period; he shall fulfill the same requirements as to become a Magistrate of the SCJ and will have the same restrictions.

**REVISION HASTA AQUI**

**Figure 4: Electoral Tribunal. Organization chart (year 2006)**

# ELECTORAL TRIBUNAL OF PANAMA



Source: Electoral Tribunal. [www.tribunal-electoral.gob.pa/administracion/organigrama.html](http://www.tribunal-electoral.gob.pa/administracion/organigrama.html)

Sou

Budget En virtue of the autonomous one that Article grants him/her 136 of the Political Constitution of the Republic of Panama, the ET is authorized the cost of the services that he/she lends to establish and to administer the funds that it collects as those that the Executive should put to its disposition According to the Law of General Budget of the State, so much the one which to be assigned to the monthly ET, According to its needs.

The actions of personnel, such as appointments, deprivations, salary adjustments, bonuses and promotions that carry out the ET and Electoral Supervision, as well as the changes in their structures, only requerirn for their procedure a motivated ruling of Court of Agreements or of Electoral Supervision, According to the case, whenever the departures are included in the corresponding budget, and that the one mounts of the increase or of the creation of positions new is financed with decreases or eliminations of positions. Such decisions ET enviarn to the Ministry of Economy and

Finances for their knowledge, and to CGR for their registration and prompt incorporation to the corresponding schedule.

When the he/she has ET an evident urgency that hinders him/her to follow the ordinary procedures of the contration public, the one which to be declared by motivated ruling of the Court of Agreements, will be able to lease, to hire services and to procure materials and teams directly, for the inherent works to their functions, including those of Civil Register, Cedulaion, Electoral Padrn and the organization and celebration of elections and referendos.<sup>44</sup>

### **Independence of the Electoral Tribunal and Electoral Supervision**

Apart from the references made on the budget of the ET, in Panama legal dispositions that guarantee the independence of the ET as regards interpretation of the electoral regulations exist:

1. 1.La competence of the Electoral Tribunal in the cases established by The Political Constitution of the Republic of Panama is exclusive, that is to say, they can only interpret and to apply the Electoral Law;
2. 2.Las decisions in electoral matter of the ET only is recurribles before same I and, once compliments the law procedures, definitive, irrevocable and obligatory will be;
3. 3.Contra these decisions single will be able to be admitted the unconstitutionality resource;<sup>45</sup>
4. 4.The ET to take privativamente of all the processes and electoral reclamations, except for the cases in that The Political Constitution of the Republic of Panama, Electoral Code and special laws prepare expressly the opposite,<sup>46</sup> and
5. 5.Las authorities public are forced to accept and to complete the orders and the officials' of the electoral jurisdiction emanated decisions, lending to these the obedience, cooperation and he/she helps that they require for the performance of their attributions. The omission or negligence in the execution of such an obligation to be sanctioned of agreement with what prepares the law.<sup>47</sup>

Other advantages of the system Panamanian are that their regulating one electoral it picks up in a special code the penal types of crimes and electoral faults, because these have never been part of the classification penal ordinary legal.

In addition, Electoral Supervision is an body specialized in the penal electoral topic. It is an independent body whose permanent functions are to investigate crimes and the electoral faults and to exercise the penal electoral action before an Electoral Tribunal,“[...] with exclusive competences to interpret and to apply the electoral law and that in turn, it sanctions crimes and faults that are made in breaking to the electoral legislation, that is to say that Electoral Supervision investigates and it recommends, and the Electoral Tribunal judges and he/she decides”.<sup>48</sup>

### **Accountability**

From April of 2002, the it publishes ET in the pgina in Internet of the Defender the Town<sup>49</sup> registrations of the up-to-date databases corresponding to their schedules, the financial information corresponding to the weekly list of payments to their suppliers and third, as well as information of the procurement in process.

In accordance with the section one 9 of Article 161 of the Political Constitution of the Republic of Panama, the Magistrates of they can be mentioned ET before the Legislature so that they surrender the verbal reports or writings on the matters characteristic of their competence that the Assembly requires for the bis performance in its functions or to know the administration acts.<sup>50</sup>

The new constitutional reform included to the Electoral District attorney as responsible before SCJ:

The Magistrates of the ET and the General Electoral District attorney are responsible before SCJ for the faults or crimes made in the exercise of their functions, and they are they applicable the same prohibitions and prerogatives that this Constitution establishes for the Magistrates of the SCJ.<sup>51</sup>

As for the expenditure carried out to finance the electoral activities, during the year immediately previous to the general elections and until the closing of the electoral period, the ET to be investigated by CGR, solely mediating the later control.

### **Party political**

The free and pluralistic manifestation of the will policy is guaranteed by The Political Constitution of the Republic of Panama and it is expressed mainly by means of the participation in having left political, except when these they have like base the discrimination for sex, race, religin or that they spread to destroy the system government democrritical.

Articles 38 at the 40 of Electoral Code conceptualize the nature and funcin of the parties political like an asociation of citizens with principles, objectives and defined programs that should fight for the plurality of the ideas policies, the invigoration in government's Republic an way and the national sovereign's defense.<sup>52</sup>

The parties political are sovereign institutions with right to postulate candidates to all the positions of popular election. However, their internal rgimen should undergo the considerations of Electoral Code.

The parties political are associations with personera legal and, in such a condition, they are entitled the following:<sup>53</sup>

1. 1.Adquirir and to have in property goods furniture and properties and to administer and to have them;
2. 2.Realizar acts and agreement contracts with the right common;
3. 3.Intervenir in the life of the State by means of the active participation of the citizens, the training of their members so that they intervene in the life public and the selection of their bis men for the government's exercise;
4. 4.Realizar proselytizing activities and campaas policies, without other limitations that those sealadas in The Political Constitution of the Republic of Panama;
5. 5.De agreement with that established in Article 38 of the Political Constitution of the Republic of Panama and according to that prepared in Electoral Code, to carry out meetings indoors or outdoors of any nature, parades, manifestations and other proselytizing activities, as well as assemblies, conventions or congresses of their corresponding bodies;
6. 6.Reformar their statutes, their declaration of principles or their program;
7. 7.Modificar or to change their appoint, smbolo and distinguishing characteristics;
8. 8.Fijar and to receive the quotas of their members;
9. 9.Recibir inheritances, legacies and donations;
10. 10.Formar coalitions or alliances and to agree their fusin or their dissolution;
11. 11.Sancionar disciplinariamente or to expel their members in the cases and with the formalities foreseen in the statutes, provided they are guaranteed the due defense right;
12. 12.Difundir freely their doctrine and programs, and to develop the spread actions to their organization and invigoration;
13. 13.Recibir the subsidies of the State of conformity with Chapter First of Title V of Electoral Code;
14. 14.Utilizar the means of social communication that the central government administers. Him ET to regulate the exercise of this right;
15. 15.Realizar campaas of internal afiliation of members, without these they are considered as inscribed for the effects of the ET;
16. 16.Los right other recognized by Electoral Code and other laws.

All party constituted political to come from agreement with the will of the majority of their members and ET to govern for their statutes that will have law force among their members. According to Electoral Code, they are autonomous and independent and will not be able to be intervened neither investigated in their internal rgimen by ningn body and section of the State, except for the ET in the handling of the funds that provides the State for their expenditure in the electoral processes and in the other trminos that Code establishes.<sup>54</sup>

The parties political are the main instruments to determine and to implement the national policy and to guarantee the pluralism in the taking of decisions inside a rgimen democritical. In addition, the administration of the power for their members is called to look after the national inters, including the one of ET lessen them that, for any razn, have been to the margin of the electoral processes.

The mediation that the parties political make between the citizen and the power forges knots of trust, reciprocity and cooperation that facilitate the elaboration and implementation of policies public and, so, satisfies the needs efficiently to short, medium and release term of the communities.

The participation in having left political has increased considerably. According to statisticc of the ET, today gives, the parties political have 1,008,028 adherent (58% of the poblacion mature Panamanian) in comparison with a little less than 700,000 by the middle of 2000 (39.41%).

**Table 4: Number of adherent effective for party, years 2004-2006**

Constituted Party	Jun-04	Jun-05	Jun-06	Variation 2004-2006	Variation 2005-2006
Revolutionary Party					
Democritical (PRD)	429,368	459,552	461,841	7.6%	0.5%
Popular (PP) Party	49,916	49,242	45,495	-8.9%	-7.6%
Republic an Nationalist (Molirena) Liberal Movement	104,430	91,294	82,117	-21.4%	-10.1%
Party Panamaeista (PP)	187,559	164,258	189,806	1.2%	15.6%
Party Solidarity (PS)	72,023	66,847	58,935	-18.2%	-11.8%

Liberal National (PLN) Party	77,081	71,347	65,694	-14.8%	-7.9%
Party Changes Democratical (PCD)	55,774	53,246	65,453	17.4%	22.9%
Liberal (PL) Party	49,357	45,956	38,687	-21.6%	-15.8%
Total	1,025,508	1,001,742	1,008,028		

**Source:** Characteristic elaboration with base in data of the Electoral Tribunal of Panama.

The parties political, especially the consolidated most, they show is they of better preparations being, of to be strong most and to be better financed that those of previous generations to support their candidates before and after consenting to the power public.

In spite of these advances, serious problems that put in risk the system of representative democracy exist and that they arise of the hard task that have the parties political to generate trust and cooperation, as well as to promote the pluralism political and the values democraticals inside a society every time complex most.

In the first place, the sultry corruption scandals that have involved officials of the highest hierarchy directly in The Judiciary, Legislative bodies and The Executive puts in evidence that who they administer the power of the State Panamanian actan unpunishedly to obtain personal benefits and they are indifferent to the consequences that take place on the government's genuineness and envelope the values that ET/they want to socialize.

During the InterUSA Forum on Party Political of OAS (FIAPP), numerous members of having left Latin USA political concluded that the transparency lack or the association of the activity policy with corruption<sup>55</sup> is one of the problems serious most that face the parties at the present time. The surveys show that, year after year, the citizen considers to the parties political like one of the institutions corrupt most inside the community.<sup>56</sup> this has eroded in an inclement way the trust public in the effectiveness with which the parties can complete their constitutional command.

Another problem is the growing cost of the electoral campaaas that can make that candidates and parties establish agreements with those who have financed its campaa, in the sense of legislating to its favor once candidate has been chosen. In addition, the secretismo in the electoral campaaas makes them vulnerable to the control on the part of the organized crime and the narcotrffico.

### Financing

The parties political Panamanians finance their activities with a combination of funds and private incentives and public. Both types of financing are subject to the supervision of the ET.

The support of funds public belongs together with the electoral received support and it includes expenditure concerning especificos to the operation of offices, to the relative activity to the internal elections and the training of the leaders.

The contribution for the expenditure of the parties political and candidates of free postulation the har the ET in departures that ET entregarn in the following way:

1. 1.A each candidate of free postulation an initial sum of thirty cents of balboa (US \$ 0.30) for each adherent one that has inscribed for their postulation;
2. 2.A the parties political that qualify for the agreement subsidy with Article 168 to be given, for same parts, an initial sum that to be similar to l 40% of the contribution assigned to the ET inside the General Budget of the State for this end, of conformity with Article 167 of Electoral Code, so:
  - to) Ten percent ET (10%) to distribute, for parts similar to each party, as contribution for the expenditure of the conventions or primary elections in that harm their postulations;
  - b) Thirty percent ET (30%) to distribute for parts similar to each party, as contribution for their expenditure of publicity; and
  - c) The balance of the subsidy to be given to the parties political that have subsisted and to candidates of free postulation that has been proclaimed in funcin of the number of votes that ET/they have obtained.

### Rendicin of

cuentasThe classification of the subsidy forces quarterly to the parties political to present before the ET a report where they are proven the expenditure in that it has been incurred. Everything should be sustained it in the previous presentation of a budget that to fulfill transparent procedures in the different criminals related to the systems than financial administration.

In the classification of the subsidy state also several regulations that allow to investigate the utilization prstina of the funds public have established. Equally, ET to incorporate to the regulating one the relative thing to the execution of the principle of publicity that allows to know the utilization and the destination of the funds dedicated to such an end.

According to the legislation electoral Panamanian, the parties political and candidates to positions of election popular are forced to register the private contributions that ET/they receive for their operation and campaaas. The information

corresponding to the origin of the private contributions that collect or the parties political and candidates register to be managed in a confidential way by the ET and used exclusively to determine that there are not indications of violations to the penal law, limitndose to give the relative information to investigated people or processed to the authorities of the Attorney General or of the Judiciary, to stas requirement.

As regards divulgation of the alone donations publicitado in favor donations is had when donors' detentions have taken place by reason of narcotrificio and laundry of money.

## Procurement

publicLa contratation public are one of the instruments important most that uses the State, as administration, to execute their budget, and it is protected by means of regulationore than obligatory execution and codes of behavior tico.

The regulations for the recruitings public in Panama are not faulty, but s possesses substantial gaps that several times have taken to sealar the need of changes or regulations.

The decentralization of the system of contratation public, Not carried out by means of the Law. 56 of December of 1995, 27 dot of bigger autonomous to the institutions for the realization of their recruitings with the objective of speeding up the processes. However, before the lack of guidelines and clear and uniform approaches, he/she took place a coordination lack that, in turn, it drove to a structural desorganization: the different institutions demand requirements and very different evaluations for the same types of contracts, and the payment of prices is excessively disparate for the same product or services or for the execution of works.

Last month of June ET aprob a new law that regulates the contratation public in Panama. The Law No. 22 of June 27 2006 show up as the opportunity of approving a regulating mark that introduces transparency approaches, efficiency, effectiveness and coordination, of the hand of the avances tecnolgicos.

This law focuses novel and modern tools, such as:

- .1La creation of an body autonomous with the ability of regulating, to interpret, to investigate and to advise in the procedures of contractor's selection that ET/they carry out the state institutions;
- .2Nuevos procedures that garantizarn as much the agility as the transparency of the acts public;
- .3La creation of a place of Internet denominated System Electronico of Recruitings Public PanamaCompra;
- .4La creation of Catlogo Electronico of Goods and Services, a virtual cabinet that contains all the products and services that use the government bodies in massive and daily form; and
- .5La creation of a Tribunal of Recruitings Public that guarantees balance and transparency in the acts so much public of adquisicin of goods, works and services, as of disposition of assets of the State.

The Law of Recruitings Public establishes that the public officials will not be able to participate in the celebration of acts public with the State neither to third people's travs. Neither will be able to participate in the sig nature of contracts in proprietors' of contracting companies quality as partners, shareholders, administrators, managers, directors or as legal representatives. The disposition also to be applicable to the members of the meetings and of the directive comits of bodies and companies in that the State is part.

Also, he/she establishes that the officials are forced to offer the execution of the ends of the contratation and legally responsible will be for their unlawful actions or omissions without damage to the penal or administrative responsibility.

This Law to govern starting from January of 2007, but still has not been regulated. A great part of the success or failure of the introduced modifications depends on their correct regulation.

### General Direction of Contratation

Publiccegn the Law of Recruitings Public, General Direction of Contratation Public is an body autonomous whose abilities include to regulate, to interpret, to investigate and to advise in the procedures of contractor's ""selection that ET/they carry out the state institutions.

However, all the concerning one to the operation and structure of General Direction of Contratation Public to be regulated and supervised by the Executive by means of the Ministry of Economy and Finances.

Their mission is to establish and to investigate the execution of the regulations and legal and administrative dispositions that regulate the processes of adquisicin of goods and services of the State.

Among their functions, the following ones are included:

1. 1.Interpretar the law and their regulation;
2. 2.Dictar administrative acts that guarantee the aplicacion of the law and their regulation and that they facilitate the operation of Direction and their interrelation with the other bodies;

3. 3.Absolver all the consultations that arise in relation to the contration public;
4. 4.Asesorar to the public bodies in the planification and management of their processes of recruitings;
5. 5.Estandarizar the general aspects of the Sheets of Positions of each type of act public and in each contration way including forms and instructive;
6. 6.Emitir the policies and general limits for the diseo, implementation, operation and operation of the system electronic of contration denominated public PanamaCompra in coordination with it Secreted it of The Executive for Government Innovation;
7. 7.Llevar to end the Bids of Agreement Marco and it Auctions in Reverse of agreement with what establishes this law and their regulation;
8. 8.Establecer the estimation price for the procurement of goods and the provision of services;
9. 9.Fiscalizar, in the warehouses or places of delivery of the public bodies, the quality of the goods that the contractors product of awards of the Bids of Agreement give Marco;
10. 10.Confeccionar, to structure and to administer the catlogo electronic of products and services;
11. 11.Promover the highest possible competence in the acts of contration of Public Administration, developing initiatives to incorporate the biggest quantity in offerers. In addition, duty to exercise a difusin work toward the potential suppliers of Administration, of the regulating ones, procedures and technologists used by this;
12. 12.Resolver in unique instance the birdcall actions that show up in the processes of contractors' selection made in the public bodies;
13. 13.Ordenar the procedures realization fixed by the different procedures of contractor's selection that have been omitted, as well as also the correction or suspension of those carried out in breaking to this law or their regulation, of occupation or to peticin of anyone of the participants in such procedures;
14. 14.Las other attributions that are conferred them by the law and the regulation;
15. 15.Implementar and to establish the operation conditions and organization of the Registration of Proposers for recruitings electronicas, registration of contracts and disabled contractors' registration and sanctioned;

With relation to this last point, the public bodies that ET/they carry out the procedures of contractor's will be selection the competent ones to disable the contractors for nonfulfillment of contracts or orders of procurement.

The Tribunal of Recruitings Public is believed, as independent and impartial body that will have jurisdiction in the whole territory of the Republic , with headquarters in the city of Panama. This tribunal to take in unique instance of the impugnation resource against any adjudication act related to the procedures of contractor's selection. In addition, to take, in unique instance, the reclamations that are made against the acts that General Direction of Recruitings carries out Public.

Given the growing inters on the part of the citizen and the government authorities of having institutions public that operate with transparency and that better practices and technologists incorporate, the Government of Panama cre the pgina of Internet PanamaCompra. Their objectives include:

- .1Promover the transparency in the government management by means of the citizen's participation in the process of government procurement;
- .2Mejorar the conditions of quality and price of the procurement that he/she carries out the sector public;
- .3Promover the culture tecnologica in the government and private sector, and to save time in the procedures of state procurement; and
- .4Consolidar the procurement with scale (sure, telefona, information technology) Economys.

The pgina of Internet PanamaCompra and their forced use for all the state bodies not only transform into a positive tool for the contractors but for own Administration that will be able to plan their recruitings starting from a complete registration on a certain bidding and to obtain, simultneamente, information centralized on the prices to those that procure their goods, services and they hire their works public all the institutions of the State, as well as the modifications that are carried out to the contracts, the nonfulfillments, disqualifications and another outstanding information.

In spite of these advances as regards transparency, the problems than administrative nature persist, as the slowness of the general process. In addition, a low informatization level exists in the ministries and decentralized bodies, what blocks the coordination and information actualization, and the positive evolution of the tools tecnologicas. This case is specially serious in the decentralized levels where many intents to incorporate to the private sector in the provisoin of municipal services have failed for the incompetence tecnica and human that prevails in these institutions.

#### **Social Security Depository (Public Health Depository)**

The Public Health Depository represents more than 20% of the government procurement.

The members of the Directive Meeting of the Public Health Depository will not be able to take place, by themselves or had interposed people, contract some with this, neither to negotiate for Bill of third businesses before the institution.

The following cases are excepted:

- .1When the member of the Directive, main or substitute Meeting, make use of the services or carries out average operations with the Public Health Depository in his insured condition;
- .2When is about contracts taken place with the Public Health Depository mediating bidding, for societies of any type and of those which the member of the Directive, main or substitute Meeting, be partner, director, dignitary or shareholder, whenever this contract has been awarded more than three years before its election for the position.

### **General Comptroller of**

Republic La General Comptroller of the Republic (CGR) is one of the pillars important more than the system of accountability in Panama.

Article 17 of the Organic Law of CGR establishes:

All person that receives, manages, guards or administers funds or public goods, is in the obligation of surrendering bills to General Comptroller, in the form and term that this, by means of regulation, determines.<sup>57</sup>

It is a state independent body and of technical nature whose mission is to investigate, to regulate and to control the movements of the funds and public goods, besides examining, to intervene, to finish and to judge the relative bills to these. CGR also takes accounting national public, it prescribes the methods and systems for accounting of the public sections, and it directs and forms the national statistics.

### **Appointments**

Comptroller and Sub-Comptroller are appointed by the Legislature.<sup>58</sup> The merit is not a condition to choose Comptroller; however, the last reforms constitutional established that candidate have been condemn by deceitful crime with exclusive penalty of the freedom of five years or more. Not ningn impediment exists so that a Comptroller belongs to a party political.

The personnel of CGR depend and is appointed by the General Comptroller, who determines the requirements for the performance of their positions.<sup>59</sup>

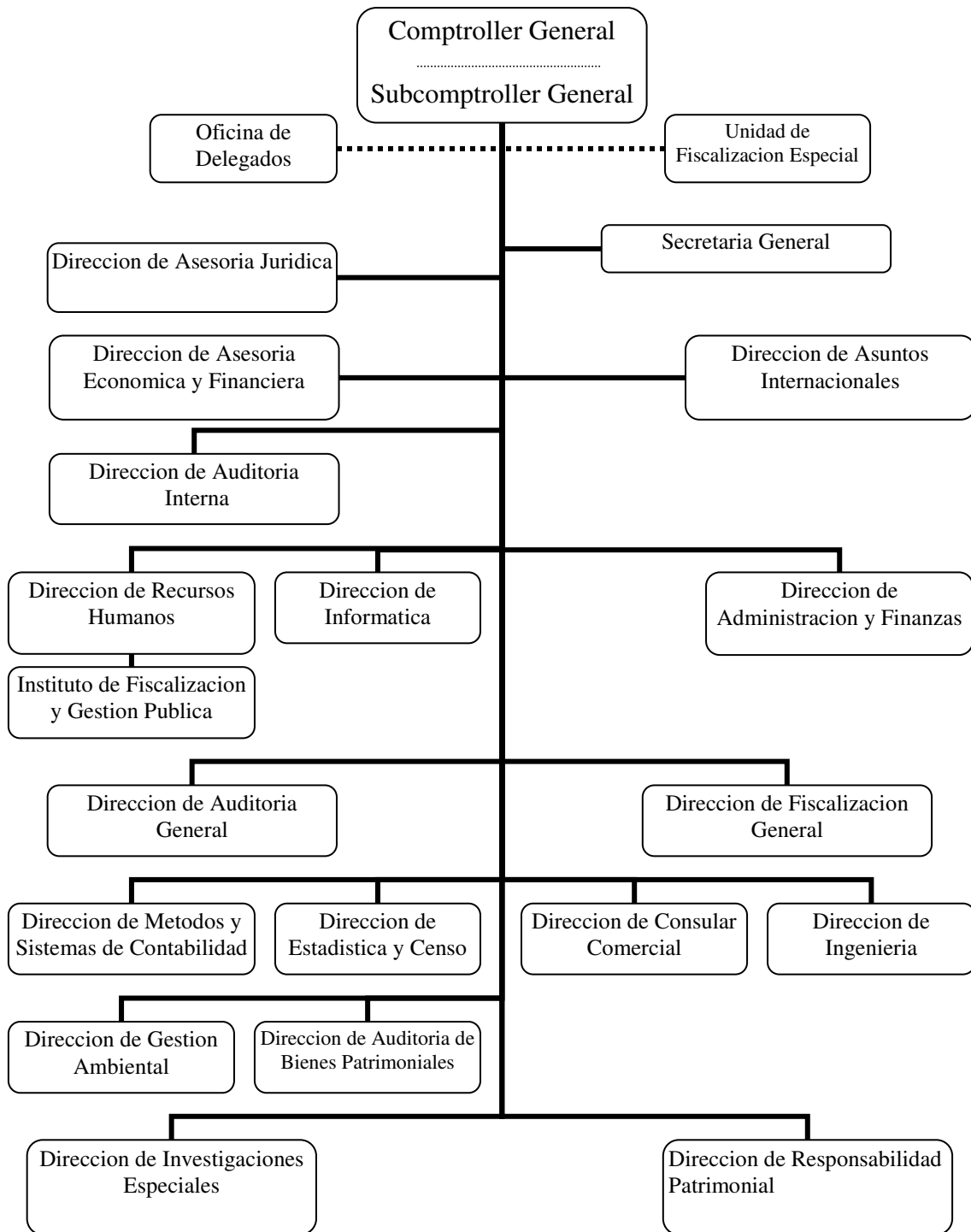
### **Organization**

General Comptroller of the Republic is comprised of the office of Comptroller, of Sub-Comptroller, Secreted it General, the Council of Directors and for the addresses and sections that are necessary for the appropriate execution of its mission, including those that are responsible for the judgement of the bills.

They are of particular relevance, for effects of the National Integrity System, the office of Comptroller, Direction of General Audits, Direction of Patrimonial (DRP) Responsibility, Direction of Special (DIE-CGR) Investigations and Direction of Information technology.

Besides to take the accounting national public and to prescribe the systems for accounting of the public sections, CGR is responsible to investigate, to regulate and to control the movements of the funds and public goods.<sup>60</sup>

**Figure 5: General Comptroller of the Republic. Organization chart (year 2004)**



<sup>1</sup> WATT, Linda. "Toward a culture democrtica". Speech in front of Cmara of Trade of Panam. *The Panama News*, Vol. 9 not. 19. October of 2003. URL: [http://www.thepanamanews.com/pn/v\\_09/issue\\_19/spanish\\_opinion\\_01.html](http://www.thepanamanews.com/pn/v_09/issue_19/spanish_opinion_01.html) These

<sup>2</sup> GONZLEZ, Jos. "Officials rot to get paid overtimes". Newspaper *The Press*, May 26 2006. URL: <http://mensual.prensa.com/mensual/contenido/2006/05/26/hoy/panorama/613547.html>

- <sup>3</sup> IACOVIELLO, M., ITURBURU, M. AND OF THE CROSS, I. "Diagnostico Sintesis. Case Panam". Captulo 14, Inform on the situation of the civil service in Latin Amrica. InterUSA Bank of Development. United States, 2006. Pgina 384.
- <sup>4</sup> The Executive Ordinance Not. December 246 2004. "For which Uniform Cdigo of tica of the public servants is dictated that you/they work in the central government's entities". Official Gazette not. December 25,199 2004.
- <sup>5</sup> Parentheses 1), 4), 6) and 18) of Article 137, Law Not. 9 of June of 1994, 20 "For which settles down and it regulates the Administrative Career". Official Gazette not. June 22,562 1994.
- <sup>6</sup> Article 138, Law not. 9 of June of 1994, 20 "For which settles down and it regulates the Administrative Career". Official Gazette not. June 22,562 1994.
- <sup>7</sup> Experts' of the Mechanism of Pursuit of the implementation of InterUSA Convencin Comit Against Corrupcin. "Final report on the implementation in Repblica of Panam of the dispositions of Convencin selected to be analyzed in the mark of the first beat". Washington, D.C. February of 2004. Pgina 6.
- <sup>8</sup> Articles 80 at the 88, Law Not. 38 of July of 2000, 31 "That it approves the Statute Orgnico of Procuradura of Administration, regulate the administrative general procedure and it dictates other special dispositions". Official Gazette not. August 24,109 2000. Pgina 21. URL: [http://www.asamblea.gob.pa/NORMAS/2000/2000/2000\\_515\\_5092.PDF](http://www.asamblea.gob.pa/NORMAS/2000/2000/2000_515_5092.PDF)
- <sup>9</sup> Comit of Experts of the Mechanism of Pursuit of the implementation of InterUSA Convencin Against Corrupcin. "Final report on the implementation in Repblica of Panam of the dispositions of Convencin selected to be analyzed in the mark of the first beat". Washington, D.C. February of 2004. [http://scm.oas.org/DOC\\_SEARCH\\_ENGINE/SPANISH/hist\\_04/dlci00239s02.doc](http://scm.oas.org/DOC_SEARCH_ENGINE/SPANISH/hist_04/dlci00239s02.doc).
- <sup>10</sup> Newspaper *The Press*, December 25 1997.
- <sup>11</sup> Newspaper *The Press*, January 8 2000.
- <sup>12</sup> Articles 34 at the 38, Not Decree The Executive. 246 of December of 2004, 15 "For the one which Uniform Cdigo of tica of the Public servants is dictated that work in the Central Government's entities". Official Gazette not. December 25,199 2004. URL: [http://www.asamblea.gob.pa/NORMAS/2000/2004/2004\\_540\\_0340.PDF](http://www.asamblea.gob.pa/NORMAS/2000/2004/2004_540_0340.PDF)
- <sup>13</sup> Regulate Internal of the National Assembly. National Assembly of Panam. URL: <http://www.asamblea.gob.pa/asamblea/reglamento/index1.htm>
- <sup>14</sup> Article 158, Constitution Policy of Repblica of Panam. Official Gazette not. 25,176 of November 15 2004.
- <sup>15</sup> GONZLEZ, Jos. "Tica Cdigo is dead letter". Newspaper *Crtica*. September 19 2005. URL: <http://www.critica.com.pa/archivo/09192005/pol02.html>
- <sup>16</sup> Numeral 3, Article 206, Constitution Policy of Repblica of Panam. Official Gazette not. 25,176 of November 15 2004.
- <sup>17</sup> 1, Law 25 of July 5 2006 "That it adds dispositions to Judiciary Cdigo, on the investigation and the prosecution of the Congressmen for criminal acts or policivos, in development of Articles 155 and 206, numeral 3 of Constitution Policy". Official Gazette not. July 25,582 2006.
- <sup>18</sup> MORENO P., Jos (compiler). *Judiciary Cdigo*. 13 edicin. Editorial Mizrachi & Pujol, S.A. Panam, 2002. P. 1136.
- <sup>19</sup> POPKIN, Margaret. "Initiatives to improve the Judiciary Independence in Latin Amrica: a comparative perspective". Published in *Rules for the promocin of judiciary independence and impartiality*. USAID. March of 2002. URL: [http://www.dplf.org/JIT/span/la\\_jit01/la\\_jit01\\_comparativo.pdf](http://www.dplf.org/JIT/span/la_jit01/la_jit01_comparativo.pdf)
- <sup>20</sup> Civic Audito of the Penal Justice in Panam: Conclusions. Civic Alliance Pro Justice. URL: <http://www.alianzaprojusticia.org.pa/conclusiones.pdf>
- <sup>21</sup> MORENO P., Jos (compiler). Article 440, captulo I, XVI ttulo of Judiciary Cdigo. 13 edicin. Editorial Mizrachi & Pujol, S.A. Panam, 2002. Pgina 108.
- <sup>22</sup> fail of CSJ, July 11 1994. Official Gazette not. 22,673 of November 30 1994. National Assembly. Panam.
- <sup>23</sup> Civic Audito of the Penal Justice in Panam: Conclusions. Alliance Civic pro Justice. URL: <http://www.alianzaprojusticia.org.pa/conclusiones.pdf>
- <sup>24</sup> Civic Auditor of the Penal Justice in Panam: Conclusions. Civic Alliance Pro Justice. URL:<http://www.alianzaprojusticia.org.pa/conclusiones.pdf>
- <sup>25</sup> "Preliminary Evaluation of the economa extralegal in 12 passes of Latinoamrica and Caribbean; it reports of the investigation in Panam". Institute of Freedom and Democracy. URL: [http://www.ild.org.pe/pdf/bid/pan\\_rep.pdf](http://www.ild.org.pe/pdf/bid/pan_rep.pdf)
- <sup>26</sup> MORENO P., Jos (compiler). Numeral 2, Article 86, captulo I, XVI ttulo of Judiciary Cdigo. 13 edicin. Editorial Mizrachi & Pujol, S.A. Panam, 2002. Pgina 19.
- <sup>27</sup> MORENO, P., Jos (compiler). Numeral 12, Article 100, captulo I, XVI ttulo of Judiciary Cdigo. 13 edicin. Editorial Mizrachi & Pujol, S.A. Panam, 2002. Pgina 25.
- <sup>28</sup> Law not. 38 of July 31 2000. "That it approves the Statute Orgnico of Procuradura of Administration, it regulates the administrative general procedure and it dictates special dispositions". Official Gazette not. 24,109 of August 2 2000. Panam. URL: [http://www.asamblea.gob.pa/NORMAS/2000/2000/2000\\_515\\_5092.PDF](http://www.asamblea.gob.pa/NORMAS/2000/2000/2000_515_5092.PDF)
- <sup>29</sup> Fiscalas I and II Anticorrupcin

- <sup>30</sup> Article 20, Law not. 16 of July 9 1991. "For the one which the Law Orgnica of Technical Judiciary Police is approved as a dependence of the Ministry Public". Official Gazette not. 21,830 of Tuesday July 16 1991. Pgina
- <sup>31</sup> Article 42, Law not. 16 of July 9 1991. "For the one which the Law Orgnica of Technical Judiciary Police is approved as a dependence of the Ministry Public". Official Gazette not. 21,830 of Tuesday July 16 1991. Pgina 18.
- <sup>32</sup> "Inform Annual on Practices of Human rights in 2005 in Panam." Department of State of the United States. March of 2006. URL:<http://panama.usembassy.gov/panama-esp/DerechosHumanos.html>
- <sup>33</sup> POPKIN, Margaret. "Initiatives to improve the Judiciary Independence in Latin Amrica: a comparative perspective". Published in *Rules for the promocin of judiciary independence and impartiality*. USAID. March of 2002. Pgina 30. URL: [http://www.dplf.org/JIT/span/la\\_jit01/la\\_jit01\\_comparativo](http://www.dplf.org/JIT/span/la_jit01/la_jit01_comparativo).
- <sup>34</sup> Article 200, Constitution Policy of Repblica of Panam. Official Gazette not. 25,176 of November 15 2004.
- <sup>35</sup> MORENO, Jos M. "Article 347, Judiciary Cdigo". 13 edicin. Editorial Mizrachi & Pujol, S.A. Panam, 2002. Pgina 89.
- <sup>36</sup> MORENO, Jos M. "Article 347, Judiciary Cdigo". 13 edicin. Editorial Mizrachi & Pujol, S.A. Panam, 2002. Pgina 89.
- <sup>37</sup> MORENO, Jos M. "Article 374, Judiciary Cdigo". 13 edicin. Editorial Mizrachi & Pujol, S.A. Panam, 2002. Pgina 97.
- <sup>38</sup> Civic Audito of the Penal Justice in Panam: Conclusions. Civic Alliance Pro Justice. URL: <http://www.alianzaprojusticia.org.pa/conclusiones.pdf>
- <sup>39</sup> *Idem*.
- <sup>40</sup> Numeral 8 and 9 of Article 22, Law Not. 16 of July 9 1991. "For the one which the Law Orgnica of Technical Judiciary Police is approved as a dependence of the Ministry Public". Official Gazette not. 21,830 of Tuesday July 16 1991. Pgina 12.
- <sup>41</sup> Net Interinstitucional of the tica Pblica and Transparency. Procuradura of Administration. URL: [http://www.procuraduria-admon.gob.pa/red\\_etica.htm](http://www.procuraduria-admon.gob.pa/red_etica.htm)
- <sup>42</sup> Law not. 4 of February 10 1978. Orgnica of the YOU and the Electoral District attorney. Official Gazette not. 18,516 of February 14 1978.
- <sup>43</sup> not Decree. 16 of 2002 for the one which the Internal Regulation of the YOU are adopted. Official Gazette not. ? URL: [www.tribunal-electoral.gob.pa/administracion/documentos/reglamento-internal-tep.doc](http://www.tribunal-electoral.gob.pa/administracion/documentos/reglamento-internal-tep.doc)
- <sup>44</sup> Article 118, Electoral Cdigo of Panam. Electoral Tribunal. Panam, 2003. URL: [www.tribunal-electoral.gob.pa/elecciones/docum\\_electoral/documentos/codigo-electoral-2003.pdf](http://www.tribunal-electoral.gob.pa/elecciones/docum_electoral/documentos/codigo-electoral-2003.pdf)
- <sup>45</sup> Article 142, Constitution Policy of Repblica of Panam. Official Gazette not. 25,176 of November 15 2004.
- <sup>46</sup> Article 390, Electoral Cdigo of Panam. Electoral Tribunal. Panam, 2003. URL: [www.tribunal-electoral.gob.pa/elecciones/docum\\_electoral/documentos/codigo-electoral-2003.pdf](http://www.tribunal-electoral.gob.pa/elecciones/docum_electoral/documentos/codigo-electoral-2003.pdf)
- <sup>47</sup> Article 145, Constitution Policy of Repblica of Panam. Official Gazette not. 25,176 of November 15 2004.
- <sup>48</sup> Electoral tribunal. Electoral Fiscala. URL: <http://www.tribunal-electoral.gob.pa/administracion/fiscalia-elect/funciones.html>
- <sup>49</sup> Agreement of cooperation tcnica between Defender of the Town and the Electoral Tribunal. Defender of the Town. URL: <http://www.defensoriadelpueblo.gob.pa/Transparencia/TElectoral/> the
- <sup>50</sup> Article 161, Constitution Policy of Repblica of Panam. Official Gazette not. 25,176 of November 15 2004.
- <sup>51</sup> Article 142, Constitution Policy of Repblica of Panam. Official Gazette not. 25,176 of November 15 2004.
- <sup>52</sup> Electoral Cdigo of Panam. Electoral Tribunal. Panam, 2003. URL: [www.tribunal-electoral.gob.pa/elecciones/docum\\_electoral/documentos/codigo-electoral-2003.pdf](http://www.tribunal-electoral.gob.pa/elecciones/docum_electoral/documentos/codigo-electoral-2003.pdf)
- <sup>53</sup> Article 93, Electoral Cdigo of Panam. Electoral Tribunal. Panam, 2003. URL: [http://www.tribunal-electoral.gob.pa/elecciones/docum\\_electoral/documentos/codigo-electoral-2003.pdf](http://www.tribunal-electoral.gob.pa/elecciones/docum_electoral/documentos/codigo-electoral-2003.pdf)
- <sup>54</sup> Article 87, Electoral Cdigo of Panam. Electoral Tribunal. Panam, 2003. URL: [http://www.tribunal-electoral.gob.pa/elecciones/docum\\_electoral/documentos/codigo-electoral-2003.pdf](http://www.tribunal-electoral.gob.pa/elecciones/docum_electoral/documentos/codigo-electoral-2003.pdf)
- <sup>55</sup> acts "The crisis of Party: Profundization or Does It Reform?" InterUSA forum on Party Political. OAS. URL: [www.sap.oas.org/events/2003/colombia/doc/doc\\_survey\\_spa.pdf](http://www.sap.oas.org/events/2003/colombia/doc/doc_survey_spa.pdf)
- <sup>56</sup> Global Barmetro of Corrupcin. International Transparency. Data of surveys: URL [www.transparency.org](http://www.transparency.org) all
- <sup>57</sup> Law not. 32 of November of 1984, 8 "For the one which the Law Orgnica of CGR is adopted". Official Gazette not. November 20,188 1984. Pgina 12.
- <sup>58</sup> Numeral 5, Article 161, Constitution Policy of Repblica of Panam. Official Gazette not. 25,176 of November 15 2004.
- <sup>59</sup> Article 5, Law not. 32 of November of 1984, 8 "For the one which the Law Orgnica of CGR is adopted". Official Gazette not. November 20,188 1984. Pgina 3.

<sup>60</sup> Article 1, Law not. 32 of November of 1984, 8 “For the one which the Law Orgnica of CGR is adopted”. Official Gazette not. November 20,188 1984. Pgina 1.