

Recommendations presented by Seeds for Democracy

NATIONAL OBSERVATORY OF POLITICAL FINANCING (ONAFIP)

The following are some recommendations to improve the National Observatory of Political Financing (ONAFIP) of the Superior Court of Electoral Justice (TSJE):

ONAFIP makes data freely available for citizen consultations in open data format, but they also request the identification of the person requesting it, name and ID number. This should be fully open access, without the need to complete any form or require the identification of the citizen requesting the information.

We are faced with the reality that a large number of candidates do not present their accounts in accordance with the law. In the case of internal elections, it is the parties themselves who must sanction their candidates. Therefore, it is necessary for the parties to have a public registry available online of the candidates of the party that have been sanctioned and the fine imposed. This is also because non-compliance with the transparency rule does not entail an electoral offense that may be disqualifying, such as the non-registration of candidacies or the annulment of the registrations made.

Likewise, and taking into account the general elections, it is suggested to introduce a modification in the norm and that its total or partial non-compliance constitutes a punishable act, providing sanctions to the elected candidates, as well as to those who were not elected. Here the competence of the prosecutor's office and the electoral courts should be determined as responsible for the study of the correspondence of the data included. Once this competence is granted, it should not be ruled out the possibility that these electoral magistrates may request to the Chambers of Congress - in the case that the candidates have already been elected and have taken office - the loss of office for the most serious cases involving money laundering and financing of terrorism, as well as the suspension or prohibition to run for other offices within a certain term for those cases of lesser gravity.

The amendment of the law should establish a joint work between the economic crimes and anticorruption units and the electoral prosecutor's office in order to cover the two aspects that constitute the constitutional flagrancy required for the loss of office: on the one hand, the link to cases in which the unquestionable existence of a violation of the Constitution is evident.

participation in any degree of the citizen subject to passive vote and on the other hand, the consequent nullity in the electoral process of that instrument that will proclaim him winner of a uninominal or plurinominal space resulting from the immediately preceding election.

The justification for this modification is mainly based on providing a framework of necessary coercion to the fact of non-compliance with the rules established in the political financing law. Due to the very fluidity and speed of the electoral campaign, those legal acts whose illegality can be proved, even after the proclamation, must be subject to the absolute concordance of the values that the political financing law expresses in its spirit and letter.

Adequate inter-institutional coordination must be ensured to guarantee that the information collected by the TSJE is analyzed by other related institutions, such as the Comptroller General's Office and SEPRELAD.

We consider it essential for the TSJE to carry out forensic audits, performing a complete analysis of the candidate's financing and background, taking into account data from previous financial statements, sworn statements of assets and Declarations of Binding Economic Interest (DIEV) from previous years and even from other positions held. The audits may be carried out by sampling or initiated in case of complaints.

For this purpose, it is necessary to provide the TSJE with qualified personnel, as well as the necessary technology to carry out audits and coordinate actions with the Public Prosecutor's Office,

It is also necessary to know the progress in the implementation of the political parties in a comprehensive system for the Prevention of Money Laundering (LA) and Financing of Terrorism (FT), that these are public and accessible from the web, to know what precautions are taken by the parties when receiving donations and contributions, as well as the number of Suspicious Transaction Reports (STR) sent by the parties to SEPRELAD.

The most evident threat is the use of assets of illicit origin, mainly from criminal organizations to finance campaigns and candidates that respond to and act on the basis of their interests.

In this context, it must be understood that within the operational and conceptual dynamics of the money laundering process, these criminal organizations proceed to stratify and diversify their assets, usually within the operations and economic flow of licit commercial activities, i.e., they seek to give a licit appearance to assets of licit origin.



illicit. For this reason, the control associated with money laundering and terrorist financing must go beyond mere identification and transparency as to who is a contributor, since we must be able to investigate and, eventually, determine whether these assets come from previous punishable acts of money laundering and are used in campaigns and electoral processes.

The law establishes that political organizations are regulated entities, which is why more effective actions must be taken to ensure that they comply with the regulatory parameters issued by SEPRELAD, including the incorporation of a Compliance Officer, the design of an annual work plan for due diligence, keeping adequate and detailed records of all transactions, the preparation of Suspicious Transaction Reports (STR), operational reports, and the promotion of an annual training program, among others.