

THE ANTI-CORRUPTION BULLETIN



BULLETIN OF THE CENTRAL ANTI-CORRUPTION BUREAU



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Asset Declarations

WARSAW 2019

The Central Anti-Corruption Bureau has the pleasure of presenting a new edition of the Anti-Corruption Bulletin devoted to the subject of asset declarations. The content of the magazine is the result of international cooperation between services and specialised anti-corruption institutions of the countries of our region. The Bulletin contains the original versions of the articles.

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Foreword

Dear Readers,

The latest edition of the popular science journal of the Central Anti-Corruption Bureau, “The Anti-Corruption Bulletin”, is entirely devoted to the subject of asset declarations. To prepare the publication, we invited representatives of services and specialised anti-corruption institutions of the countries of our region to cooperate with us. The publication presents legal and organisational solutions functioning in Croatia, Estonia, Hungary, Latvia, Lithuania, Romania, Slovenia and Ukraine.

The continuation of the hitherto strategic anti-corruption measures taken by the state is – established on 6th of January 2018 under a Resolution No. 207 of the Council of Ministers of 19th December 2017 – the Governmental Anti-Corruption Program for 2018–2020. The primary goal of the Program prepared by the CBA, in which priorities were selected and the number of tasks limited, is to take real initiatives and, thus, to limit the phenomenon of corruption.

To counteract corruption effectively, competences, powers, political will and determination are needed. We must remember that efficient criminal repression, understood as the inevitability and severity of punishment, is an indispensable element of this fight. Besides, there is a whole range of preventive activities.

The first task, which – as part of the Governmental Anti-Corruption Program for 2018–2020 – the CBA set for itself, is to create a uniform system of submitting and analysing the asset declarations of persons performing public functions. Currently, more than 20 legal acts regulate issues related to submission of asset declarations and there are 16 different forms of this document. Regulation of this issue, creation of a uniform template form of the asset declaration and implementation of the obligation to submit it in electronic form is our priority.

The Central Anti-Corruption Bureau is the only special service in Poland with a tool in the form of control of asset declarations and economic decisions. For this reason, in the publication has been also included an article prepared by the officers of the Bureau, whose more than 11 years’ professional experience is an important voice in the light of planned changes to national law.

Ernest Bejda
Head of the Central Anti-Corruption Bureau

CROATIA

Ministry of the Interior of the Republic of Croatia

1. Legal basis for submitting asset declarations

Legal basis for submitting asset declarations is the Act on Preventing of the Conflict of Interest.

2. List of persons obliged to submit asset declarations

- 1) The President of the Republic of Croatia;
- 2) The President and Vice-Presidents of the Croatian Parliament;
- 3) Deputies of the Croatian Parliament;
- 4) The President and the Members of the Government of the Republic of Croatia (Vice-Presidents and Ministers in the Government of the Republic of Croatia);
- 5) The President and the Judges of the Constitutional Court of the Republic of Croatia;
- 6) Deputy Ministers;
- 7) The Head of the Office of the Prime Minister of the Republic of Croatia;
- 8) The Heads of State Offices;
- 9) The General Police Director;
- 10) The Director of the Tax Administration;
- 11) The Director of the Customs Administration;
- 12) The Chief Inspector of the State Inspectorate;
- 13) The General State Auditor and his or her deputies;
- 14) The Governor, Deputy Governor and Vice-Governor of the Croatian National Bank;
- 15) The Ombudsman and deputies;
- 16) The Attorney for children and his or her deputies;
- 17) The Attorney engaged in cases of equality of sexes and his or her deputy;
- 18) The Ombudsman for persons with disabilities and his or her deputy;
- 19) The Secretary of the Croatian Parliament;
- 20) The Secretary of the Government of the Republic of Croatia;
- 21) The Secretary General of the Constitutional court of the Republic of Croatia;
- 22) The Secretary of the Supreme Court of the Republic of Croatia;
- 23) The Deputy Secretary of the Croatian Parliament;
- 24) The Deputy General Secretary of the Government of the Republic of Croatia;
- 25) The Deputy Head of Office of the President of the Republic of Croatia;
- 26) Assistants Ministers;
- 27) The Spokesperson of the Government of the Republic of Croatia;
- 28) The Head of state administrative organisations;
- 29) The Director and Deputy Director of the State Property Management Agency;
- 30) The Head and Assistants to the Head of the Croatian Pension Insurance Fund;
- 31) The Head, Deputy Head and Assistant Heads of the Croatian Institute for Health Insurance;
- 32) The Head and Assistant Head of the Croatian Employment Institute;
- 33) The Chief State Treasurer;
- 34) The Head of the Office of the President of the Croatian Parliament;

- 35) The Heads of Agencies and Directorates of the Government of the Republic of Croatia and the Heads of the Institutes appointed by the Government of the Republic of Croatia;
- 36) The Officials in the Office of the President of the Republic of Croatia appointed by the President of the Republic of Croatia in accordance with the provisions of special law and other legal acts;
- 37) The Chief and Deputy chiefs of General Staff Headquarters of the Armed Forces of the Republic of Croatia;
- 38) The Chief Defence Inspector;
- 39) Commanders and deputy commanders of branches of the armed forces of the Republic of Croatia and of the Command for logistic support, the Head and deputy Head of the Croatian Military Academy and the Commander of the Coast Guard of the Republic of Croatia;
- 40) The President, Vice-Presidents and the members of the State Electoral Commission of the Republic of Croatia;
- 41) The President and members of the boards of companies majority owned by the state;
- 42) Prefects and the major of the city of Zagreb, and their deputies;
- 43) Majors, heads of municipalities and their deputies;
- 44) Members of the State Commission for the Supervision of Public Procurement Procedure;
- 45) Members of the Commission for Conflict of Interest.

3. Types of asset declarations and deadlines for submitting them (initial declaration, in case of leaving the position, resulting from significant changes that have occurred in the property of a person who is obliged to submit asset declaration)

1. The Officials shall be obliged to submit a report to the Commission within 30

days of assuming office with data on: the office they perform on a professional or non-professional basis; other performed duties or activities; the activity they performed prior to assuming their office, including data on their assets of their spouse or common law partner and children under the age of 18, with the situation on the day of submission.

2. Officials shall be obliged to submit a report to the Commission within 30 days of the day when they cease to exercise public office, with data on their assets. If a significant change in the data in respect of the assets occurred during the exercise of public office, officials shall also be obliged to submit a declaration thereof to the Commission by the end of the year during which the change took place.

Data on acquired assets includes data on:

- real estates acquired by purchase, exchange, as a gift, by conferral and appropriation or real estates from a company, real estate acquired in a liquidation or bankruptcy procedure, real estate acquired on the basis of a ruling of a court or other body, by restitution of the property acquired in a denationalisation process, and real estate acquired in any other way from other persons;
- movable assets of greater value;
- business share and stocks in companies;
- shares owned by other business entities;
- savings deposits if they exceed the annual net income of the official;
- due payments/debts, assumed guarantees and other liabilities;
- incomes from paid employment, income from self-employment, income from property and proprietary rights, income from capital, income from insurance and other income;
- receipts which are not considered as income and receipts for which no income tax is charged.

4. The consequences of failure to submit a property declaration on time (types of sanctions)

For the purpose of implementing this Act, a Commission for Conflict of Interest shall be formed.

The Commission is a standing, independent and autonomous state body performing tasks in its remit and competence, as determined in this Act. Any form of influence on the work of the commission which could threaten its autonomy and independence in making decisions within its remit shall be prohibited.

The Commission shall be composed of the President of the Commission and four members of the commission.

The President and the members of the commission shall be elected for a term of office of 5 years in a manner and according to the procedure specified in this Act.

For violation of the provision of this Act, the Commission may impose the following sanctions on persons referred to in Article 3 of this Act:

- 1) reprimand,
- 2) suspension of payment of part of a net monthly salary,
- 3) public announcement of the decision of the Commission.

5. Scope of asset declarations (what information should be included in the asset declaration)

See item 3.

6. Type of personal assets (personal property, property covered by a matrimonial property partnership, assets of immediate family members, etc.)

See item 3.

7. Submission of asset declaration (form-written, electronic, attachments, publishing, e.g. publishing requirements – existing restrictions)

Report on asset declaration is submitted only on electronic form which is published on the Internet page of the Commission.

8. Type of personal assets (personal property, property covered by a matrimonial property partnership, assets of immediate family members, etc.)

The Commission shall be competent for the following:

- instigating conflict of interest proceedings and rendering decisions on whether a particular action or the failure to act of an official represents an infringement of the provisions of this Act.
- checking data from the declarations of assets of officials pursuant to the provisions of this Act.

In criminal legislation of the Republic of Croatia, the so-called corruptive criminal offences are laid down by the Act on Office for Suppression of Corruption and Organised Crime: Malpractice in Bankruptcy Proceedings as stated in Art. 283, paragraph 2 and 3, Unfair Competition in Foreign Trade Operations as stated in Art. 289, paragraph 2, Abuse in Performing Governmental Duties as stated in Art. 338 of the Penal Code, Illegal Intercession as stated in Art. 343 of the Penal Code, Accepting a Bribe as stated in Art. 347 of the Penal Code, Accepting a Bribe in Economic Business Operations as stated in Art. 294a of the Penal Code, Offering a Bribe as stated in Art. 348 of the Penal Code and Offering a Bribe in Economic Business Operations as stated in Art. 294 b of the Penal Code and others. □

ESTONIA

Estonian Internal Security Service

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1. Legal basis for submitting asset declarations

Chapter 3 Disclosure of Interests of Officials of the Anti-Corruption Act regulates submission of asset declarations.¹

2. List of persons obliged to submit asset declarations

Anti-Corruption Act

§ 13. Submission and administration of declarations

(1) A declaration shall be submitted by:

- 1) the President of the Republic, members of the Riigikogu, members of the Government of the Republic, judges, Auditor General, Legal Chancellor, members of the managing body of Eesti Pank, Director of the Office of the President of the Republic, Secretary General of the Riigikogu, Heads of government agencies, Secretaries General of Ministries, Director of the Government Office;
- 2) members of local government councils, members of rural municipality or city governments, rural municipality or city district elders, managers of rural municipality or city agencies;
- 3) court officials, if the chairman of the court establishes such obligation;
- 4) officials of the Chancellery of the Riigikogu, if the director of the Chancellery of the Riigikogu establishes such obligation;
- 5) officials of the Office of the President of the Republic, if the Director of the Office of the President of the Republic establishes such obligation;
- 6) officials of the State Audit Office, if the Auditor General establishes such obligation;
- 7) officials of the Office of the Chancellor of Justice, if the Legal Chancellor establishes such obligation;
- 8) officials of Eesti Pank, if the president of Eesti Pank establishes such obligation;
- 9) officials of government agencies, if heads of government agencies or secretaries general of ministries establish such obligation. This obligation shall not be established for officials of security authorities and officials of structural units of other government agencies if the membership of the structural unit is a state secret. The heads of security authorities or other government agencies in the case of which the membership of their structural units is a state secret may require submission of the information required to be submitted in a declaration as an internal audit measure of the agency;
- 10) officials of agencies administered by government agencies or agencies representing the state belonging to the area of government of another government agency, if the head of the government agency administering the agency or exercising supervision over the agency or Secretary General of Ministry establishes such obligation;
- 11) officials of rural municipalities or cities, if local government council thereof establishes such obligation;
- 12) officials of legal persons in public law, if the minister exercising supervision over the legal person in public law or the supervisory board or comparable bodies of the legal persons in public law establishes such obligation;

- 13) members of the management bodies of public undertakings for the purposes of the Competition Act, if such obligation is established by the minister exercising dominant influence of the state in the undertaking, the local government council if the local government has dominant influence on the undertaking or the supervisory board or comparable body of a legal person in public law, if the legal person in public law has dominant influence over the undertaking;
- 14) members of management bodies of foundations established by the state, local governments or a legal persons in public law, if such obligation is established by the minister exercising the rights of the state, local government council or the supervisory board or comparable bodies of the legal persons in public law;
- 15) persons to whom the competence of making the decision or performing the act in the case of performance of public duties has been delegated by law or a contract under public law, if such obligation is established by the minister exercising supervision over the person, local government council or the supervisory board or comparable bodies of the legal persons in public law.

3. Types of asset declarations and deadlines for submitting them

One general asset declaration is foreseen. A declaration shall be submitted within four months from assuming an office or from arising of the obligation to submit a declaration and thereafter by 31 May each year. If a declarant assumes a new office, the declarant shall not submit more than one declaration during a calendar year. An office is a position resulting in an obligation to submit declarations. (3) The obligation to submit declarations shall terminate when a declarant submits a declaration in a calendar year following the year when he or she leaves the office.

4. The consequences of failure to submit declaration

Failure to submit a declaration by the due date without a good reason, concealment of information significant for assessment of risks of corruption and submission of false information in the declaration is prohibited. Illness of an official or other circumstances independent of such official which prevent him or her from submitting the declaration by the due date are deemed to be good reasons. The declaration shall be submitted without delay when the hindering circumstances cease to exist.

Misdemeanor liability is not foreseen in case of failure to submit declaration. Officials, who will not submit declarations might commit a disciplinary offence according to **Public Services Act**.

§ 69. Disciplinary offence

A disciplinary offence is the wrongful breach of duties.

§ 70. Types of disciplinary penalty

The types of a disciplinary penalty are:

- 1) a reprimand;
- 2) a reduction of the basic salary by up to 30 percent for up to six months;
- 3) a release from service.

5. Scope of asset declarations and type of personal assets

Anti-Corruption Act

§ 14. Content of declaration

(1) A declaration shall contain information as at the day of declaring about the following assets of the declarants:

- 1) immovable property ownership and limited real rights established over the immovable property entered in land register in favour of the person. The location and intended purpose of the immovable property and the type of the right shall be set out in the declaration;
- 2) vehicles entered in the state register. The type of the vehicle, its make and year of

initial registration shall be set out in the declaration;

- 3) securities for the purposes of the Securities Market Act, with the exception of funded pension units, holdings in companies and such holdings in companies in which at least 1/10 of the holding belongs to a company connected to the official. The name of each issuer, the type and number of the securities shall be set out in the declaration concerning securities, and the name of the company and nominal value of the holding concerning holdings in companies;
- 4) proprietary claims against other persons, with the exception of credit institutions, which value exceeds four times the minimum monthly wages established by the Government of the Republic pursuant to the Employment Contracts Act; claims against one person shall be added. The value of the claims, names of debtors and the basis of the claims shall be set out in the declaration;
- 5) proprietary obligations to other persons, which value exceeds four times the minimum monthly wages established by the Government of the Republic pursuant to the Employment Contracts Act; obligations to one person shall be added. The value of the obligations, names of creditors and the basis of the obligations shall be set out in the declaration.

(2) A declaration shall contain information concerning any proprietary and other benefits received by the declarant during the calendar year preceding the submission of the declaration that may potentially have an impact on the performance of the official duties of the declarant and the value of which exceeds the salaries of high-ranking state public servants applicable during the preceding year by a factor of 1.0. Benefits received from persons specified in clause (6) 3) of this section and the place of work of the declarant shall not be declared. The persons who grant the benefits and the value thereof shall be set out in the declaration.

(3) A declaration shall contain information concerning the income received by the declarant during the calendar year preceding the submission of the declaration and declarable in the income tax return and dividend income paid to the declarant during the same period in Estonia and abroad.

(4) A declaration shall contain the information specified in subsection (1) of this section concerning the immovable property and vehicles entered in the state register which were in the possession of the declarant in total for at least six months during the previous year. The declaration shall not set out the information concerning any immovable property and vehicles entered in the state register which were transferred into the possession of the declarant by his or her employer.

(5) The provisions of subsections (1) and (4) of this section shall also apply to accounts with credit institutions located in foreign states and holdings in companies and plots of land, construction works and vehicles located in foreign states.

(6) A declaration shall set out:

- 1) the name and information concerning the official title of the declarant;
- 2) the personal identification code and residential address of the declarant;
- 3) the name and personal identification code or date of birth of the person married to the declarant and of parents and relatives of the declarant in descending line and of persons who have a shared household with the declarant, and their relationship with the declarant.

(7) A declaration shall set out the following information:

- 1) concerning the ancillary activities which the declarant has engaged in during the calendar year preceding the submission of the declaration outside his or her official duties based on a contract of employment or contract for provision of services or in an elected or appointed office, as an undertaking or a general partner in a general or limited partnership or a member of the

management or controlling body of a legal person and any other ancillary activities, if this involves receipt of income;

- 2) concerning other circumstances, which to the declarant's knowledge may bring about breach of official duties, preclude the declarant's impartiality and objectivity or bring about the risk of corruption, provided that the collection of such information shall not violate the rights of the declarant.

(8) Things, rights and obligations in joint ownership shall be declared, setting out, if possible, the share of the declarant in the joint ownership. If an official has entered into a marital property contract, the information for the identification thereof shall be added to the declaration.

6. Submission of asset declarations

Anti-Corruption Act

§ 13. Submission and administration of declarations

(2) A declarant shall submit the declaration of interests to the register of declarations (hereinafter register).

(3) The right specified in clauses (1) 3) to 15) of this section to establish the obligation to submit a declaration exists only in the case if an official has the competence to dispose of public resources or conduct proceedings concerning an offence or administrative proceedings and there are no measures that are more efficient for prevention of the risk of corruption. The obligation has no retroactive effect.

(4) The Government of the Republic shall establish a register by a regulation for enabling electronic submission, maintenance, administration, verification and publication of declarations and the statutes of the register.

(5) The statutes of the register designates the competent authorities which submit the information to the register concerning declarants within one month from commencement of the declarants' obligation to submit decla-

rations and inform the register immediately of cancellation of the declarants' obligation to submit declarations and of the declarants leaving the office. If the declarant specified in clauses (1) 3) to 15) of this section submits a declaration to the register, the person having established the obligation shall have the rights and obligations of the competent authority.

(6) The registrar has the right to obtain information from the state database about the declarants and the information declared by them for the application of this Act.

7. Analysis of asset declarations

Anti-Corruption Act

§ 15. Verification of declarations

(1) A selected committee or an official authorised by it shall have:

- 1) an exclusive right to verify the declarations of the declarants specified in clause 13 (1) 1) of this Act;
- 2) a right to verify all the declarations submitted to the register.

(2) A committee formed by a local government council has the right to verify:

- 1) declarations of the declarants specified in clauses 13 (1) 2) and 11) of this Act;
- 2) declarations of the declarants specified in clauses 13 (1) 13) to 15) of this Act, if the local government has dominant influence over the undertaking in public law, is a founder of a foundation or a delegated public duties supervisory authority.

(3) The person establishing the obligation to submit declarations or an official authorised by it shall have the right to verify the declarations of the declarants specified in clauses 13 (1) 3) to 12) of this Act.

(4) Ministers or officials authorised by the minister shall have the right to verify:

- 1) declarations of the declarants specified in clause 13 (1) 12) of this Act upon exercise of supervision over legal persons in public law;
- 2) declarations of the declarants specified in clause 13 (1) 13) of this Act upon exer-

cise of dominant influence of the state in a public undertaking;

- 3) declarations of the declarants specified in clause 13 (1) 14) of this Act upon exercise of the rights of founders of foundations;
- 4) declarations of the declarants specified in clause 13 (1) 15) of this Act upon acting as a delegated public duties supervisory authority.

(5) The supervisory board of a legal person in public law, a comparable body or an official authorised by it has the right to verify the declarations of the declarants specified in clauses 13 (1) 13) to 15) of this Act if the legal person in public law has dominant influence on the public undertaking, is a founder of a foundation or a delegated public duties supervisory authority.

(6) The person exercising supervision specified in subsections (1) to (5) of this section has the right:

- 1) to request explanations from declarants and any third persons concerning the contents of the declarations and disregard of the date for submission of the declaration or reasons for failure to submit the declaration;
- 2) to make inquiries and receive information concerning declarants from credit institutions and the databases of the state and local governments to the extent necessary for verification of declarations.

(7) The person carrying out the verifications specified in subsections (1) to (5) of this section shall:

- 1) record in minutes the verification acts specified in subsection (6) of this section and inform the declarant and the registrar of verification of declarations and the verification acts specified in subsection (6) of this section;
- 2) forward the declaration verification materials to the Prosecutor's Office or a body conducting extra-judicial proceedings, if an offence is suspected as a result of verification of the declaration of an official.

(8) The person carrying out the verifications specified in subsections (1) to (5) of this section has the right to obtain information from the registrar concerning the submission of the declarations verified by it and the verification thereof. The Ministry of Justice has the right to obtain information from the registrar concerning the submission and verification of declarations for the performance of the function specified in § 8 of this Act.

Declaration of interest in details introduced as well in English in <http://www.korruptsioon.ee/en/declaration-interests>. Webpage www.korruptsioon.ee is administered by Ministry of Justice of Estonia. □

¹ <https://www.riigiteataja.ee/en/eli/523112017002/consolide> [accessed: 23.10.2018].

HUNGARY

National Protective Service

1. Legal basis for submitting asset declarations

The rules of submitting asset declarations regarding all public officials in Hungary are stipulated in the Act CLII of 2007 (hereinafter referred to as: Vnytv.) on certain obligations related to asset declarations.

Article 1 (1) – In order to ensure the impartial and objective enforcement of fundamental rights and duties, and the purity of public life and to prevent corruption, a person who performs his or her duties as public servant – individually or as a member of a team – is entitled to propose or make decisions or supervise public administration (hereinafter referred jointly to as: obligated) – in cases stipulated in this Act asset declarations has to be submitted. The person obligated and his or her relative(s) – who live in the same household – have to fill out the Asset Declaration Form which can be found in the *Annex* of this Act. The data content – set out in the Asset Declaration Form – has reference to income, interests and financial conditions.

(2) It is not obligatory to submit an asset declaration according to this Act for a person who otherwise is obligated to submit the asset declaration under separate act.¹

Article 2 – Explanatory regulations

- a) public official definition includes the following:
 - service members of law enforcement agencies, including the National Tax and Customs,
 - professional and contracted soldiers at the Hungarian Armed Forces,
 - public employees,
 - civilian public officials,

- members of the Public Prosecution Service,
- professionals with justice service status, and
- employees of the Hungarian Central Bank, with the exception of the members of the Monetary Board of the Hungarian Central Bank;

- b) relative: spouse, life-partner, parent, child – including the adopted or foster child, child of the spouse who are living in the same household with the requested person.

2. List of persons obliged to submit asset declarations

Article 3 (1) – Those persons are obligated to submit asset declarations who individually or as a member of a team are entitled to propose or make decisions or supervise:

- a) in public administration and misdemeanour procedures,
- b) in public procurement process,
- c) in the performance of his or her duties the person is entitled to dispose of public funding, especially state subventions, managing state or local government assets, state funds and municipal financial support funds,
- d) in the course of proceedings for discrete state or local government subventions, or
- e) in the procedure of examination and account for the expenditure of state or local government subventions.

(2) Notwithstanding the provisions of paragraph (1), asset declarations have to be submitted by:

- a) under-secretaries of public administration, deputy under-secretaries,
- b) heads of departments or those who hold adequate or higher positions within the law enforcement bodies established in the Act 43 of 1996 on the service of the personnel of law enforcement bodies; permanent posts of ranks of general and colonel established in the Act 205 of 2012 on the status of Armed Forces,
- c) political consultants and advisers, governmental and ministerial consultants or advisers,
- d) public and government servants who hold executive posts,
- e) public and government servants who fall under national security clearance as stipulated by law,
- f) public prosecutors,
- g) notaries, and
- h) bailiffs.

(3) Notwithstanding the provisions of paragraph (1), asset declaration has to be submitted by:

- a) general manager of the Hungarian Development Bank Ltd., president and member of the Board of Directors and the Supervisory Board,
- b) member of the Supervisory Board and the Audit Committee of the Hungarian National Asset Management Inc.,
- c) member and official of the Supervisory Board of a majority state-owned company,
- d) member and official of the Management Board of a public foundation founded by the Parliament and the Government, and
- e) person who performs his or her duties not as public servant – individually or as a member of a team – and is entitled to propose or make decisions or supervise public administration
 - ea) in public procurement procedure conducted by the state, local government, budgetary institution and the majority of state-owned and majority local

government-owned companies, and the public foundation established by the Parliament, the Government and the local government,

- eb) in the performance of his or her duties, in respect of budgetary or other funds, as well as for the management of state or local government assets, as well as separate state funds, municipal financial support funds and public funds established by the Parliament, the Government and the local government subventions,
- ec) in conducting a procedure for deciding on discrete state or local government subvention, or
- ed) examination and account for the expenditure of the use of public foundations established by the state, local governments, the Parliament, the Government and the local government.

3. Deadline for submitting declarations

The due date of asset declarations²

Article 5 (1) – The obligated person has to submit an asset declaration:

- a) with the exception of Article 6 (2), prior to establish legal relationship, position, appointment to the job that requests it,
- b) within 15 days after the termination of the legal relationship, position and appointment to such jobs, and
- c) with different frequency depending on the type of job or position.

(2) Asset declarations shall be completed and submitted by 30th June in the year of due date in the case referred to in paragraph (1) c).

(3) No asset declaration is required pursuant to paragraph (1) a) in the event of change in position, work or function of public servant and in the event of termination of legal relationship and simultaneous establishment of a new legal relationship if the former and the new legal relationship, function or job requires asset declaration.

(4) No asset declaration is required in the event of termination of position, work or function of public servant by relocation if asset declaration is requested by the new job or function.

4. Consequences of failure to submit an asset declaration on time

Obligation to submit asset declaration

Article 8 (1) – The obligation is fulfilled in the event of submitting a true content of an asset declaration till due date. The person responsible for guarding – see Article 13 – is entitled to check the correct content of the declaration.

(2) The asset declaration shall be completed on the basis of the interest and financial situation existing on the date of the asset declaration and any income from any legal relationship acquired in the five calendar years preceding the date of the declaration of asset declaration.

(3) The content of an asset declaration:

- a) name, place and date of birth of the obliged person, his or her mother's name, address and details of the employer,
- b) name, place and date of birth of the relative(s) concerned living in the same household, the name of his or her mother,
- c) data on income, interest and property of the obligated and the relative(s) concerned living in the same household.

(4) The person in charge of guarding shall inform the obligated person minimum 30 days before the due date of the asset declaration, with the exception of the establishment of a legal relationship, assignment, position as stipulated in Article 5 (1) b) 15 days before the due date the obligated has to be informed.

(5) The information specified in paragraph 4 shall include:

- a) the form as Annex to this Act,
- b) a guidance note for completing the form,
- c) a warning about the legal consequences of breaching the rules concerning the submission of asset declarations.

The legal consequences of breaching the rules concerning the submission of asset declarations

Article 9 (1) – Any person who refuses to fulfil his or her obligation to submit asset declaration shall cease his or her mandate or legal relationship based on this obligation, irrespective of the grounds for termination specified in separate legislation and for three years from the date of termination of the legal relationship. He or she will not be able to establish legal relationship in public service, government service, state service, and may not perform a job, function, activity or position which is the basis for the obligation to declare the assets under this Act.

(2) If the obligation to submit an asset declaration is denied by the obliged person pursuant to Article 3 (3), the legal relationship or mandate of the obligation shall cease by virtue of this Act. The person responsible for guarding has to inform the obligated person within three working days of the date of refusal.

Article 10 (1) – If the person obligated does not submit an asset declaration, the guardian shall be obliged to make a written request to the person concerned to fulfil his or her obligation within eight days after receiving the written request.

(2) If the period referred to in paragraph (1) is ineffective, it shall be deemed to be a refusal of the asset declaration unless the obligated has failed to fulfil his/her obligation beyond his/her own fault.

(3) In the case specified in paragraph 2, the person obligated shall comply with his or her obligation to submit an asset declaration within eight days from the end of the obstruction; the failure to comply shall be deemed to be a denial of the asset declaration.

5. Scope of asset declarations

The aim of an asset declaration is the supervision of enrichment in order to prevent

illicit enrichment. Accordingly, the assets and financial interest existing on the day of the declaration and all incomes that have occurred in the five years prior to the day of the declaration have to be declared. Prevention of conflict of interest between activities in and outside the public service fall under the scope of the conflict of interest procedure that is detailed above.

6. Type of personal assets

See Annex of the Act CLII of 2007 on certain obligations related to asset declarations.

7. Submission of asset declarations

Article 11 (1) – The asset declaration shall be completed according to the guidance note in duplicate as specified in the Annex to this Act and shall be enclosed in separate sealed envelopes signed by the obligated person.

(2) The asset declaration can be submitted in electronic format.

8. Analysis of assets declarations

Article 13 – The fulfilment of asset declaration shall be verified by the person responsible for guarding. The content of the declaration can be known by this person in the event of he or she has to decide on the enrichment verification procedure in accordance with the provisions of Article 14.

Enrichment verification procedure

Article 14 (1) – The content of the declaration is verified by the person responsible for guarding

- a) within one year of the termination of legal relationship, position, job or function, or
- b) upon notification if it can be reasonably assumed that the enrichment cannot be explained by the legal partnership, or other legal sources known by the person responsible for guarding.

(2) In the event of the verification procedure referred to in paragraph 1 (b), the person

obligated shall be heard by the person responsible for guarding. Hearing is not initiated if the notification was made anonymously, or if the notification is obviously unfounded, or refers to a fact or a circumstance which was clarified by the person responsible for guarding at a previous hearing. Hearing may take place at the request of the person obligated – in the presence of a representative of business federation body or another person entrusted by the person obligated – with taking minutes.

(3) Additional rules on hearing shall be established by the person or body responsible for guarding in consultation with the business federation.

(4) The person responsible for guarding, by sending the asset declaration without delay, initiates the enrichment verification procedure according to the Government Decree on the details of the tax administration against the person obligated and the relative(s) living in the same household in the event if:

- a) according to paragraph (1) a), in the event of the enrichment verification procedure it can be reasonably assumed from the contents of the asset declaration that the property of the person obligated cannot be justified on the basis of his or her legal relationship or the other legitimate income known by the person responsible for guarding,
- b) the person obligated has not fulfilled his or her obligation under Article 5 (1) b) within the prescribed period, or
- c) after the hearing pursuant to paragraph 2, the facts, data and circumstances contained in the notification shall not be credibly cleared.

(5) The person responsible for guarding may initiate the enrichment verification procedure against the person obligated and the relative(s) living in the same household – to be delivered by the National Tax and Customs Authority in case of wealth of the person obligated derived from an activity subject to reporting obligation but the person has failed to report it.

(6) On the initiative of the person responsible for guarding pursuant to paragraph 4, the National Tax and Customs Authority conducts the enrichment verification procedure as set out in the Government Decree on the detailed rules of the tax administration procedure.

Article 15 – Closing the enrichment verification procedure in the resolution of the National Tax and Customs Authority establishes the amount of income needed to cover the lifestyle over the legal income of the person obligated and his or her relative(s) living in the same household.

(2) The National Tax and Customs Authority shall inform the person responsible for guarding by sending the non-appealable resolution and returning the asset declaration.

(3) If the person obligated has filed an administrative action against the findings of the non-appealable resolution under paragraph 1, he or she shall be notified about this by sending a copy of the statement of claim. The National Tax and Customs Authority shall inform the person responsible for guarding by sending the final decision closing the procedure.

Article 16 (1) – If the amount established by the National Tax and Customs Authority exceeds the amount of the mandatory minimum wage on the first day of the year of the declarations on the first day of the bill of asset declarations in the calendar year preceding the year of the asset declarations and the non-appealable resolution resulted of the enrichment verification procedure – if it is appealed against in administrative proceeding – on the first day of the second month following the receipt of the court decision by the person responsible for guarding:

- a) the legal relationship or mandate of the person obligated under Article 3 (3) shall be ceased by course of this Act, the person obligated shall be notified by the person responsible for guarding within three working days,
- b) the mandate or legal relationship of the person obligated – who does not fall within the scope of subsection a) – shall be terminated irrespective of the reasons for the cancellation provided for in separate legislation.

(2) Paragraph 1 shall not apply if the person obligated proves that he or she has acted as it may be expected from that particular situation.

(3) The person obligated whose legal relationship has been terminated as defined in paragraph 1, he or she shall not be entitled to engage in activity requiring asset declaration specified in this Act for three years. □

¹ See the list enclosed.

² Annually declare their assets – those who fulfil the above mentioned jobs in public procurements, the deputy minister, the state secretary, and those who fulfil one of the above mentioned jobs at budgetary organisations, at companies majority owned by a municipality, furthermore, those who fulfil one of the above mentioned jobs in public procurement procedures managed by the a public foundation established by the Parliament, the Government or a municipality.

Biannually declare their assets those – not mentioned in the previous paragraph – who dispose of or supervise the disposal of state subventions.

All other requested officials declare their assets every 5 years.

ASSET DECLARATION

Reference number of the asset declaration: □□□□□□

**PERSONAL DATA, DATA ON INCOME, INTEREST
AND FINANCIAL STANDING OF THE DECLARANT OBLIGATED***Part I.*
PERSONAL DATA

Name:

Place and date of birth:

Mother's name:

Address:

of the person obligated.

Part II.
DECLARATION OF INCOME

Total yearly income of the declarant:

1. year, HUF
2. year, HUF
3. year, HUF
4. year, HUF
5. year, HUF

Sources of the income – divided into activities:

1. year

Activity	Income
	HUF
	HUF
	HUF
	HUF
	HUF

2. year

Activity	Income
	HUF
	HUF
	HUF

	HUF
	HUF

3. year

Activity	Income
	HUF
	HUF
	HUF
	HUF
	HUF

4. year

Activity	Income
	HUF
	HUF
	HUF
	HUF
	HUF

5. year

Activity	Income
	HUF
	HUF
	HUF
	HUF
	HUF

Part III.**DECLARATION ON PROPERTY****A) Real estate**

1. Housing and housing property (or constant or long-term requisition; right of usufruct, right of trusteeship, right of beneficiary):

a) Address: city/village Rd/Str.

Total size: m², owned percentage:

Date of acquisition, by right of:

b) Address: city/village Rd/Str.

Total size:..... m², owned percentage:

Date of acquisition, by right of:

c) Address: city/village Rd/Str.

Total size:..... m², owned percentage:

Date of acquisition, by right of:

2. Holiday property and ground-plot (or constant or long-term requisition; right of usufruct, right of trusteeship, right of beneficiary):

a) Address: city/village Rd/Str.

Total size:..... m², owned percentage:

Date of acquisition, by right of:

b) Address: city/village Rd/Str.

Total size:..... m², owned percentage:

Date of acquisition, by right of:

c) Address: /village Rd/Str.

Total size:..... m², owned percentage:

Date of acquisition, by right of:

3. Ownership or shared ownership of other, non-residential building (or constant requisition; right of usufruct, right of trusteeship, right of beneficiary):

a) Type (enclosed garden structure, workshop, commercial location, studio, surgery, garage etc.):

Address: city/village Rd/Str.

Total size:..... m², owned percentage:

Date of acquisition, by right of:

b) Type:

Address: city/village Rd/Str.

Total size:..... m², owned percentage:

Date of acquisition, by right of:

c) Type:

Address: city/village Rd/Str.

Total size:..... m², owned percentage:

Date of acquisition, by right of:

4. Arable ownership (or constant requisition; right of usufruct, right of trusteeship, right of beneficiary):

a) Denomination:

Address: city/village; topographical lot number:

Size: m²

Land use: owned percentage:

Date of acquisition, by right of:

Gold crown value¹:

b) Denomination:

Address: city/village; topographical lot number:

Size: m²

Land use: owned percentage:

Date of acquisition, by right of:

Gold crown value:

c) Denomination:

Address: city/village; topographical lot number:

Size: m²

Land use: owned percentage:

Date of acquisition, by right of:

Gold crown value:

B) Movable assets of great value (including the assets of leased and asset-trustee trusted or acquired as beneficiary of such asset which are not included in above-mentioned points):

1. Motor vehicles:

a) Passenger-car: Type Registration number

Date of acquisition, by right of:

Type Registration number

Date of acquisition, by right of:

Type Registration number

Date of acquisition, by right of:

b) Other motor vehicle:

Date of acquisition, by right of:

Date of acquisition, by right of:

Date of acquisition, by right of:

2. Protected work of art and collection:

a) Non-series works of art:

Maker Title Registration number

Date of acquisition, by right of:

Maker Title Registration number

Date of acquisition, by right of:

Maker Title Registration number

Date of acquisition, by right of:

b) Collection:

Denomination: Piece Registration number

Date of acquisition, by right of:

.....

¹ Measurement unit of the quality of arable in Hungary

Denomination:..... Piece Registration number

Date of acquisition, by right of:

Denomination:..... Piece Registration number

Date of acquisition, by right of:

3. Other – asset per item or sets (per collections) which value is 10 times higher than the amount of mandatory minimum wage on the first day of the month:

a) Denomination: Identifier data

Date of acquisition, by right of:

b) Denomination: Identifier data

Date of acquisition, by right of:

c) Denomination: Identifier data

Date of acquisition, by right of:

d) Denomination: Identifier data

Date of acquisition, by right of:

e) Denomination: Identifier data

Date of acquisition, by right of:

4. Savings in securities (shares, bonds, treasury bills, stocks etc.):

Denomination:..... Number..... Face value

Denomination:..... Number..... Face value

Denomination:..... Number Face value

Denomination:..... Number Face value

Denomination:..... Number Face value

5. Savings in deposit:

Financial institution Account no Amount

Financial institution Account no Amount

Financial institution Account no Amount

Financial institution Account no Amount

Financial institution Account no Amount

6. On the first day of the month a valid mandatory minimum wage monthly amount ten times higher amount in cash: HUF

7. The total amount of mandatory minimum wage applicable on the first day of the month is more than ten times the amount of the bank account or other contractual cash claim:

Financial institution Account no Amount

Financial institution Account no Amount

Financial institution Account no Amount

Financial institution Account no Amount

Financial institution Account no Amount

Pecuniary demand	Name and address of the debtor	Amount of claim	Contract (claim)	
			date	expiration date

8. Other assets, on the first day of the month a valid mandatory minimum wage monthly amount of more than twice the value of assets if their combined value is the first day of the month a valid mandatory minimum wage monthly amount is exceeded ten times:

Denomination..... Identifier data
 Denomination..... Identifier data
 Denomination..... Identifier data
 Denomination..... Identifier data
 Denomination..... Identifier data

Part IV. **LIABILITIES**

1. Creditor (Financial institution):

Type of loan	Amount of loan	Loan	
		Date	Expiration date

2. Creditor (Private person):

Name and address of the debtor	Amount of loan	Loan	
		Date	Expiration date

Part V.
DECLARATION ON ECONOMIC INTEREST

Position or interest (including the interest of trust property as a trustee or the benefit of shareholder's trustee which are not included in above-mentioned points) in economic company (including companies operating in state-owned holding):

A)

1. Company's registration number:
2. Name of the company:
3. Registered office:
4. Form of interest:
5. Proportion of ownership at joining: %
6. Current proportion of ownership: %
7. Profit share: %
8. Position in the economic company:

B)

1. Company's registration number:
2. Name of the company:
3. Registered office:
4. Form of interest:
5. Proportion of ownership at joining: %
6. Current proportion of ownership: %
7. Profit share: %
8. Position in the economic company:

C)

1. Company's registration number:
2. Name of the company:
3. Registered office:
4. Form of interest:
5. Proportion of ownership at joining: %
6. Current proportion of ownership: %
7. Profit share: %
8. Position in the economic company:

LATVIA

Corruption Prevention and Combating Bureau

1. Legal basis for submitting asset declarations

The Law “On Prevention of Conflict of Interest in Activities of Public Officials”¹ and Regulation No. 478 “Procedure for Completion, Submission, Registration and Keeping of Declarations of Public Officials and for Drawing up and Submission of Lists of Persons Holding the Office of a Public Official”.²

2. List of persons obliged to submit asset declarations

All public officials have to submit a declaration upon starting the duties at office, a declaration for the current year, a declaration upon ending the duties at office.

3. Types of asset declarations and deadlines for submitting them (e.g. initial declaration, in case of leaving the position, resulting from significant changes that have occurred in the property of the person who is obligated to submit an asset declaration, etc.)

Types of declarations are as follows: an initial declaration, a declaration for the current year, a declaration upon ending the duties at office.

Concerning deadlines for submitting asset declarations:

1. A person, upon assuming the office, shall submit a declaration within one month from the day when the decision on his or

her appointment was taken, election or approval in the office of the public official or from the day the term of office of members of the Saeima or the councillors of local government city councils has begun in accordance with law mentioned before. A person to whom the status of a public official has been determined after the decision on his or her appointment, election or approval in office has been taken shall submit the declaration within one month from the day when he or she has been included in the list of public officials. A public official shall submit the declaration if he or she is fulfilling the relevant duties of an office for more than one month.

2. Each year from 15 February until 1 April public officials shall submit the declaration for the current year.
3. If a person has held the office of a public official for more than three months, he or she, upon ending the duties of office of the public official, shall submit the declaration within two months after the last day of the performance of duties of the office.
4. The declarations of public officials shall not be submitted if the public official continues to hold another office of public official or assumes a new office of public official.
5. The President, members of the Saeima, Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments, and Parliamentary Secretaries, chairpersons of the local government councils and executive directors of local governments shall submit the declara-

tion if they have performed duties of the relevant office longer than three months. Such declaration shall be submitted for the period of 24 months following the termination of performance of duties of office of public official. The declaration for the first 12 months shall be submitted not later than in the 15th month, and for the next 12 months – not later than in the 27th month after termination of performance of duties of office of public official.

6. The declarations may be updated by applying in writing to the institution where the declaration was submitted and by justifying the updates not later than within one month after publication of the declaration part to be published.

4. The consequences of failure to submit an asset declaration on time (types of sanctions, authority responsible for verification of the declaration, etc.)

Concerning consequences of failure to submit a property declaration on time:

According to the Latvian Administrative Violations Code³ – in case of failure to submit an declaration by a State official within a specified period of time, non-observance of the procedures for completing and submission of the declaration or making false statements in the declaration – a fine in the amount of up to EUR 350 shall be imposed.

According to The Criminal Law⁴ – for a person who intentionally sets out false statement in a declaration of income, property or transactions, or other declaration of a financial nature specified in the law, if false information is indicated regarding property or other income on a large scale, the applicable punishment is a temporary deprivation of liberty or community service, or a fine.

For a person who does not indicate the source of origin of the property or other income to be declared as indicated in the law,

or provides false information regarding the source of origin of the property or other income, if such information has been requested by the relevant authorised State institution in accordance with procedures laid down in the law, and if a false information is indicated regarding property or other income on a large scale, the applicable punishment is deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or community service, or a fine, with or without the confiscation of property.

Concerning authorities responsible for verification:

According to the Law “On Prevention of Conflict of Interest in Activities of Public Officials”⁵, the State Revenue Service, the Constitution Protection Bureau, the Prime Minister or his or her authorized person in conformity with the procedures for the submission of declarations shall verify the declarations of public officials. The Corruption Prevention and Combating Bureau shall verify all of the public officials’ declarations in conformity with the competence provided for in Section 28 of the Law mentioned above (please see Annex No.1).

5. Scope of an asset declaration (what information should be included in the asset declaration) and types of personal assets (personal property, property covered by a matrimonial property partnership, assets of immediate family members, etc.)

A public official is obliged to specify the following information on:

- relatives,
- positions that the public official holds in addition to the position as a public official,
- real estate owned or used by the public official,
- commercial companies where the public official is a shareholder, stockholder or partner,

- financial instruments (bonds, investment certificates, money market instruments etc.),
- vehicles owned or used by the public official,
- cash and non-cash savings if the amount exceeds twenty minimum monthly wages (EUR 20 x 430 = EUR 8600),
- all kind of income obtained during the period of declaration,
- transactions performed if the amount of them exceeds twenty minimum monthly wages,
- information on beneficial ownership of the public official,
- debts amount which exceeds twenty minimum monthly wages,
- loans given if the total amount of such loans exceeds twenty minimum monthly wages,
- savings in private pension funds or life insurances.

6. Submission of an asset declaration (form – written, electronic, attachments, publicity e.g. publishing requirements – existing restrictions)

The asset declaration should be submitted to the State Revenue Service in electronic form.

Exceptions: intelligence officers and other secret employees working with national security issues etc.

7. Analysis of asset declarations – authorized authorities, responsible persons, consequences for providing false information (e.g. criminal liability)

The State Revenue Service controls:

- procedure of completing declarations,
- timely submission of declarations,
- list of public officials, its modification and submission,

– infringements:

- of non-compliance with deadlines,
- of failure to submit the list of public officials on time or its incompleteness.

KNAB controls:

- public officials' compliance with restrictions and prohibitions,
- infringements:
 - of violation of restrictions and prohibitions, as well as of conflict of interests.

Concerning the consequences for providing false information – a person shall be held liable for violations as laid down in laws (according to the Latvian Administrative Violations Code and The Criminal Law mentioned before).

Annex No.1

Section 28. Verification of Declarations and Facts

(1) The State Revenue Service, the Constitution Protection Bureau, the Prime Minister or his or her authorised person in conformity with the jurisdiction of the submission of declarations provided for in Section 23, Paragraphs two, three and four of this Law have an obligation in cases provided for in this Law to verify whether the declaration:

- 1) has been submitted and completed in accordance with the determined procedures;
- 2) has been submitted within the specified time period.

(2) The Constitution Protection Bureau, the Prime Minister or his or her authorised person in conformity with the jurisdiction of the submission of declarations provided for in Section 23, Paragraphs two, three and four of this Law, as well as the Corruption Prevention and Combating Bureau in cases provided for Section 23, Paragraph two of this Law have an obligation to verify whether the declarations contain information that is indicative of violation of the restrictions laid down in this Law.

(3) The State Revenue Service and the Constitution Protection Bureau have an obligation to verify whether:

1) the head of an institution of a public person has submitted the lists of public officials within the specified time period and in accordance with the procedures stipulated by the Cabinet;

2) the lists of public officials submitted by the head of an institution of a public person have been completed correctly and are complete.

(4) If necessary, in the course of verification of a declaration the Corruption Prevention and Combating Bureau, the Constitution Protection Bureau, the State Revenue Service or the Prime Minister have the right to request and receive information and documents from the relevant public official, institutions of a public person, merchants, public or political organisations and associations thereof, religious organisations or other institutions, as well as from persons that are indicated or in accordance with the provisions of this Law should have been indicated in the relevant declaration.

(5) If in the course of the verification of a declaration facts are discovered that indicate that the public official has used property, including financial resources, exceeding the sources of income determined in the declaration of such public official and permitted in accordance with this Law, as well as in cases where information has been received on the possibility of such facts, the Corruption Prevention and Combating Bureau, the Constitution Protection Bureau or the Prime Minister have an obligation to perform verification of

the relevant facts or information. Within the limits of verification the Corruption Prevention and Combating Bureau, the Constitution Protection Bureau or the Prime Minister have the right, if necessary, to request and receive explanations in writing and documents from any person, as well as to verify the legality of acquisition of the property by the official by involving the State Revenue Service.

(6) If in the course of the verification of a declaration violations are discovered, the examination of which is not in the competence of the authority or public officials performing the verification, or if facts are discovered the evaluation of which is not in the competence of the authority or public officials performing the verification, or if information is received on the existence of such facts, the relevant authority or public official shall inform, in accordance with the procedures laid down in this Law and other laws and regulations, the authority or public official whose competence includes further examination or verification of facts. □

¹ <https://likumi.lv/ta/en/en/id/61913> [accessed: 23.10.2018].

² <https://likumi.lv/ta/en/en/id/67750> [accessed: 23.10.2018].

³ <https://likumi.lv/ta/en/en/id/89648> [accessed: 23.10.2018].

⁴ <https://likumi.lv/ta/en/en/id/88966> [accessed: 23.10.2018].

⁵ <https://likumi.lv/ta/en/en/id/61913> [accessed: 23.10.2018].

LITHUANIA

State Tax Inspectorate

The Law on Declaration of the Property of Residents of 16 May 1996 serves as the legal basis for submitting property declarations.

The declaration of the property is obligatory to politicians (Members of the Seimas, Members of the European Parliament, President, etc.), ministers, heads of state and municipal institutions and companies, officials and civil servants, as well as their spouses.


The declaration of resident's or of the family property may be submitted. The data of the declarations submitted can be revised for the previous five calendar years, starting from the calendar year preceding the calendar year in which declaration is being revised. Thereafter, the limitation period of the declaration expires and such declaration can neither be corrected nor revised. The property declaration shall be submitted to the State Tax Inspectorate on annual basis until the 1st of May of a calendar year following a calendar year for which the property held is declared.

The persons or entities who failed to submit the declarations until the indicated date or failed to submit the declarations shall be held responsible in accordance with the legal acts. The default administrative liability is a warning or a fine. The Central Tax Administrator (State Tax Inspectorate) is the responsible official body.

The property declaration shall be used for declaring of the following declarable property: movable (e.g. road vehicle) and immovable (land and real estate) property that is subject to a mandatory registration, securities, works of art, jewellery, cash held in a bank and outside the bank, loans received and granted. The property located both in Lithuania and a foreign state is subject to a mandatory declaration.

The Resident Property Declaration shall be used for declaring resident's and/or his or her child's (children's) property in separate lines only. The Family Property Declaration shall be used for declaring all family property: it shall specify a value of the part of the resident's, his or her spouse's or children's property (the spouse's, child's property shall be declared in separated lines).

The declaration can be lodged in paper format and by electronic mean. The declaration of a specific format shall be used in all cases.

The State Tax Inspectorate is responsible for conducting the analysis of property declarations. Declarations are selected for the analysis as per certain criteria set out by the STI. Failure of the residents to specify correct data in a declaration shall give rise to disciplinary actions in accordance with the administrative or criminal procedure. 

ROMANIA

National Integrity Agency

1. Legal framework of the National Integrity Agency

The National Integrity Agency (ANI) is an autonomous administrative authority with legal personality, operating nationally as a single structure, the institution in Romania with exclusive competence in managing the system of asset and interest disclosures and identifying, preventing and combating integrity incidents.

In observance of the principles with which it was invested by law, the main objective of the Agency is to ensure integrity in the exercise of public offices and dignities and to prevent institutional corruption by evaluating asset disclosures, data and information about asset and changes in properties, incompatibilities and conflicts of interest.

The National Integrity Agency was established through Law no. 144/2007 regarding the establishment, organization and functioning of the National Integrity Agency.

ANI's legislative framework is also comprised of Law no. 176/2010 regarding the integrity in exercising the public officials and dignities, in order to modify and complete Law no. 144/2007 regarding the establishment, organization and functioning of the National Integrity Agency, as well as for the modification and completion of other normative acts.

The Agency's main attributions, as to the law, are:

- collecting, archiving and evaluating asset and interest disclosures;
- providing public access to asset and interest disclosures;
- controlling the submission within the legal term of asset and interest disclosures;
- applying sanctions provided by the law;
- providing guidance on demand for individuals who have the obligation, by law, to submit asset and interest disclosures;
- notifying prosecutors in cases of misconduct which may constitute criminal offenses;
- organizing prevention and awareness activities to promote the observance of the integrity framework.

In this regard, we note that the Romanian legislation provisions two types of disclosures to be filled in and submitted: asset disclosures and interest disclosures.

2. Categories of persons under the obligation to submit asset and interest disclosures

The legal framework – Law no. 176/2010, establishes the obligation to declare assets and interest for a number of 39 categories of persons, as follows:

- the President of Romania, as well as presidential and state advisers;
- Members of Parliament;
- Members from Romania in the European Parliament and Members in the European Committee on behalf of Romania;
- Members of the Government, state secretaries and under-secretaries as well as persons in similar positions and advisers to the prime minister;
- Members of the Superior Council of Magistracy;
- judges, prosecutors, assistant magistrates, similar functions, as well as judicial assis-

tants and specialized auxiliary personnel in courts and prosecutor's offices;

- Constitutional Court judges;
- Members of the Court of Audits and the personnel thereof;
- President of the Legislative Council and presidents of sections, the Ombudsman and the deputies thereof, the president and vice-president of the National Authority for Personal Data Protection;
- Members of the Competition Council, the College of the National Council for the Study of the "Security" Archives, the Council of the National Securities Commission, of the Economic and Social Council, of the Council of the Insurance Supervision Commission, of the Council of the Private Pension System Supervision Commission, the National Council for Combating Discrimination, the National Audiovisual Council, the managing councils of the national television and radio broadcasting companies;
- President and Vice-President of the National Integrity Agency as well as members of the National Integrity Council;
- General Manager and members of the managing council of the National Press Agency AGERPRES;
- Managers of the Romanian Intelligence Service, the Foreign Intelligence Service, the Special Telecommunications Service and the Protection and Guard Service, as well as their deputies;
- Diplomatic and Consular personnel;
- locally elected officials;
- persons holding management and control positions as well as public servants with special status performing their activity in central or local public authorities or in all public institutions; persons with managerial and control functions in public education and state medical units;
- staff working in dignitaries' and prefect's offices;
- members of managing councils or supervisory commissions – and persons holding

management positions – in state companies of national or local interest, in national or trading companies where the state or a governmental agency is a significant or majority shareholder;

- Governor, First Vice-Governor, Vice-Governors of the National Bank of Romania, as well as the personnel of the banks where the state is a shareholder;
- personnel of public institutions, including employees with individual employment contract, involved in the privatization process as well as the personnel of government institutions, including employees with individual employment contract, that manage or implement programs or projects funded from external or budgetary funds;
- Presidents, Vice-Presidents, Secretaries, federations and confederations of trade unions;
- Prefects and Deputy-Prefects;
- candidates running for the position of the President of Romania, Deputy, Senator, Local Counselor, Chairman Of The County Council and Mayors.

The obligation to declare assets and interests also returns to other categories of persons, who are appointed by the President of Romania, by the Parliament, Government or Prime Minister, except those who occupy positions in religious cults.

On average, each year, around 350 thousand persons have the obligation to submit assets and interest disclosures, and in the electoral years the number of deponents can go as high as 1 million submitted disclosures. For example, only in 2016, as for the two rounds of elections – local and parliamentary, around 1,3 million disclosures have been submitted.

All of the disclosures submitted before the Agency by public officials that have this obligation, are published on the public Portal of assets and interest disclosures (<http://declaratii.integritate.eu/>). Since 2007, more than 7,6 million assets and interest disclosures were published on the Portal.

3. Information included in the disclosures

The introductory section of an asset disclosure shall include identification data relating to the person who is the subject of the disclosure. This information refers to the name of the declarant, position, personal numeric code and his or her residence.

The first category of assets disclosed in the form includes real estate, namely land and buildings and addresses thereof, type of property (agricultural, urban, etc.), the year of acquisition, the area, share held by the declarant, the way of acquisition and full ownership.

The second rubric refers to movable goods such as motor vehicles/cars, tractors, agricultural machinery, boats, yachts and other means of transport that are subject to registration by law. The declarant must fill in the form with the nature of the good, the brand or trademark, the number of items, the year of manufacture and the manner of acquisition. Other goods that must be declared are precious metals, jewellery, art and worship pieces, collections of art and numismatics, objects which are part of the national or universal cultural heritage, which total value exceeds EUR 5 000. The declarant will describe the goods, mention the year of acquisition, and the estimated value of these assets.

The third category refers to movable assets which individual value exceeds EUR 3 000 and were disposed in the previous year. The asset disclosure contains headings related to financial assets such as bank accounts, investment funds, credit cards, etc., but also investments, direct investments and loans granted with the aggregate market value of over EUR 5 000.

An important part of the disclosure are liabilities of the declarant, such as debts, mortgages or guaranteed leases with aggregate value exceeding the threshold of EUR 5 000.

On the other hand, the identification of potential incompatibilities and conflicts of interest by integrity inspectors through the evaluation procedure is performed through the analysis of the interest disclosure.

The interest disclosure includes sections on the capacity of shareholder in companies, national companies, credit institutions, economic interest groups and membership associations, foundations or other non-governmental organizations, membership in governing, management and control bodies of companies, autonomous regimes, national companies, credit institutions, economic interest groups, associations or foundations or other NGOs, membership in professional associations and/or trade unions, membership in governing, management and control, bodies of political parties, whether remunerated or unpaid, the position held and the name of the party, contracts, including legal assistance, legal advice, consulting and service contracts, completed or in progress during office, guarantees or significant public funding received from the state budget, local and foreign funds, agreements with companies with state capital or where the state is a majority/minority shareholder.

The information included in the disclosures also refers to the spouse and first degree relatives (dependent children) of the declarant.

4. Submitting asset and interest disclosures

Assets and interests disclosures shall be submitted:

- annually, no later than June 15;
- within 30 days from the date of appointment or election in the respective position or from the date of commencement of work;
- in case of suspension from exercising the positions or dignity of public office for a period covering the full fiscal year, within 30 days after termination of the suspension;
- no later than 30 days from the date of termination or cessation of office;
- for candidates to the positions of the President of Romania, Deputy, Senator, Romanian Member in the European

Parliament, County Councilor, Alderman, Chairman of the County Council or Mayor, together with the declaration of application acceptance. The Central Election Office and the Election District Office send a copy of the asset and interest disclosures to the Agency within 48 hours of submission.

According to the Romanian legislation, the disclosures must be hand-signed.

However, the National Integrity Agency has implemented, as part of an EU funded project, electronic intelligent forms (e-forms) that are aimed at facilitating the process of filling in asset and interest disclosures by the relevant categories that allow standardized filling in, either online with electronic signature, or offline with handwritten signature, that automatically generates a barcode.

The National Integrity Agency is a Romanian institution responsible for the collection, storage and ensuring public access of asset and interest disclosures.

In addition to ANI, each public entity must designate one person to be responsible for the collection of disclosures submitted by its staff and to be a counterpart of the ANI. This individual must answer directly to the head of the public entity, and both are held responsible for the sound functioning of the system.

Therefore, according to article 6, para. (1) of the Law no. 176/2010, the persons responsible for implementing the provisions on asset and interest disclosures have the following obligations:

a) Receive, record the asset and interest disclosures and issue at the submission date a proof of receipt;

(...)

e) Ensure and maintain the display of the asset and interest disclosures provided in Annexes 1 and 2, on the website of the institution, if any, or its bulletin board, not later than 30 days after the receipt by anonymous address declared for the buildings, except the city location, the address of the institution

that manages assets financial as well as the personal identification number and signature. Asset and interest disclosures are kept on the website of the institution and of the Agency for the entire duration or term in the office and three years after their termination and then these will be filed according to law;

(...)

f) Submit to the Agency in order to perform the evaluation duties certified copies of asset and interest disclosures already submitted together with a certified copy of Asset Disclosures Register and Interest Disclosures Register within 10 days of receipt.

(...)

In this regard, according to article 5, para. (2) and (4) of Law 176/2010, asset and interest disclosures shall be submitted in the following manner:

(2)

a) The President of Romania, Presidential Advisors and State Counselors submits to the person designated by the Head of Chancery of the Presidential Administration;

b) The Presidents of the Chambers of Parliament, Deputies and Senators – to the person designated by the Secretary General of the Chamber of which they belong to;

c) The Romanian Members of the European Parliament and the Romanian Members of the European Commission – to the Permanent Election Authority;

d) The Prime-Minister, Members of Government, State Secretaries, State Deputy-Secretaries and the comparable, as well as State Counselors from the working cabinet of the Prime Minister – to the person designated by the Government General Secretary;

e) Members of the Superior Council of Magistrates, judges, prosecutors, judicial assistants and assistant-magistrates – to the person designated by the Secretary General of the Supreme Council of Magistrates;

f) Members of the National Integrity Council as well as the President and Vice-President – to the person designated by the General Secretary of the Senate;

g) *County and Local Councilors, Mayors as well as Presidents of County Council – to the person designated by the secretaries of administrative-territorial units;*

h) *Prefects and deputy-prefects – to the person designated by the Prefect Secretary Chancery;*

i) *Other categories of persons foreseen by the law – to the person designated by the Head of the Human Resources Department or, where appropriate, the Head of the Secretariat of public authorities, public institutions or units to which they belong to.*

(4) *In the period of travelling or delegation, persons who are required to submit asset and interest disclosures have to submit them to the institution from which they were delegated or seconded.*

At the same time, according to article 3, para. (4) and (5) of Law no. 176/2010:

(4) *Persons applying for positions of the President of Romania, Deputy, Senator, Romanian Member in the European Parliament, County Councilor, Alderman, Chairman of The County Council or Mayor are required to declare their assets and interests.*

(5) *Asset and interest disclosures of persons referred to in paragraph (4) shall be submitted to the Central Election Office or, where applicable, the Election District Office, with the declaration of application acceptance, in duplicate. The Central Election Office and the Election District Office send a copy of the asset and interest disclosures to the Agency within 48 hours of submission.*

All of the categories of persons under article 1 of Law 176/2010 that have the obligation to submit disclosures fill in the same asset and interest disclosure form and are all made available to the public on the website of the institution and of the National Integrity Agency for the entire duration or term in the office and three years after their termination.

The only information that shall be anonymized is that related to personal data protection (e.g. personal identification number, signature, personal address, etc.). However,

all of these personal information is available, at any time, to the integrity inspectors for evaluation purposes.

5. Sanctions

According to the legal provisions, ANI can apply the following sanctions:

- fine up to approx. EUR 450 for failure to file or delay in filing the asset and interest disclosures (in such case the verification procedure may be initiated);
- fine up to approx. EUR 450 for non-compliance with their obligations by persons in public institutions assigned to implement the legal provisions on asset and interest disclosures;
- fine up to approx. EUR 450 for failure to apply disciplinary action or for failure to ascertain the termination of the public position when the assessment report remained definitive;
- civil fine of approx. EUR 45 per each day of delay when the obligation to answer ANI's requests is not observed (e.g. requests related to sending of relevant documents for an assessment file). In such a case, the information notice is prepared by the Agency's integrity inspector.

According to article 30 of Law no. 176/2010, finding and sanctioning violations of the law shall be made by persons empowered within the Agency according to the Government Ordinance no. 2/2001 regarding the legal regime of contraventions, approved with amendments by Law no. 180/2002, with subsequent amendments.

Administrative fines applied by the ANI between September 6, 2010 (adoption of Law 176/2010) – March 31, 2018:

- 5 324 (for failure to submit asset and interest disclosures in legal terms);
- 232 (for non-disciplinary sanctions applied after the ascertaining act remained final);
- 195 (for failure to comply with legal provisions by the head of institution).

- 80 (for persons responsible of ensuring the implementation of legal provisions regarding asset and interest disclosures within public entities).

6. Evaluation of asset and interest disclosures

By the Law, the evaluation of asset and interest disclosures, as well as of potential incompatibilities can be initiated either following the notifications by natural persons or legal entities, or following an *ex officio* notification.

Nonetheless, the designated persons from each institution, responsible for the collection of disclosures submitted by its staff, send to the ANI a list of persons who have failed to submit within the deadline or those that have submitted late their asset and interest disclosures, together with their received points of view.

Yearly, the integrity inspectors tackle and finalize around 2 000 files. At the same time, the designated persons from each institution, responsible for the collection of disclosures submitted by its staff, advise on the content and application of legal provisions concerning the disclosure and evaluation of assets, conflicts of interest and incompatibilities, at the request of persons who are responsible for filing asset and interest disclosures.

According to article 11 of Law no. 176/2010, the evaluation of asset disclosures, data and information on existing wealth and patrimonial changes occurring during the exercise of public position or dignity, and the evaluation of conflicts of interest and incompatibilities shall be done during the exercise of public dignities, and within three years after their termination.

The work carried out on the aforementioned period consists in the evaluation of the assets disclosures, the data and information on existing wealth and patrimonial changes occurred, conflicts of interest and

incompatibilities, only for the exercise of public positions or dignities.

During the course of evaluation of assets and interest disclosures, the integrity inspectors can obtain information from several databases, such as: fiscal registries, database of the population registry, land registries, car registry, real estate registry, as well as other property registries. Moreover, it can be noted that bank secrecy is not opposable to the Agency in this matter.

Also, the integrity inspectors may request information from other private or public entities, which are obliged to provide data within thirty days of the receipt of the request. Expert opinions may only be requested and used with the prior approval of the verified person. If denied, the ANI has the possibility to request the Courts of law access to this information.

Asset disclosures serve for the verification of discrepancies between acquired assets and obtained incomes, and may lead to the ascertainment of an unjustified wealth.

The concept of unjustified wealth covers significant differences between the acquired assets and income. This is a difference in excess of EUR 10 000 or the equivalent in lei of this amount between the assets acquired while exercising public positions and dignities and revenues in the same period.

As mentioned previously, the evaluation procedure for an unjustified wealth is started *ex officio* or following a complaint made by a natural or legal person, and allows the integrity inspector to evaluate asset disclosures, data, information and changes in existing assets. If the evaluation results in significant differences between the acquired assets and income, the integrity inspector shall invite the person under evaluation to provide a point of view and defend their situation by submitting data or information they deem relevant. They also have the right to be assisted or represented by a lawyer or to send a written point of view.

If significant differences are found after the defence of the evaluated person and after a motivated request by the integrity inspector

of documents and information from institutions and public authorities, natural or legal persons, they shall draw up an evaluation report and communicate it to the evaluated person and to the Wealth Investigation Commission in the competent Court of Appeal.

These commissions are made up of two judges of the Court of Appeal appointed by the president, including one as President, and a prosecutor from the Prosecutor's Office attached to the Court of Appeal, appointed by the first prosecutor of the Prosecutor's Office.

If the Commission, finds in the course of investigation that the acquired assets are not justified, it notifies the Court of Appeal and its decision can be appealed to the High Court of Cassation and Justice. If a final and irrevocable disposition is issued by the High Court to confiscate unjustified wealth, the National Integrity Agency will have the court decision published in the Official Gazette, and request the National Agency for Fiscal Administration to start confiscation proceedings.

At the same time, the person for whom significant differences between the assets and income gained have been ascertained, is irrevocably considered incompatible and receives an interdiction to hold public positions or offices for a period of three years.

If, after the evaluation of the interest disclosure and other data and information, the integrity inspector found the absence of unjustified differences between the acquired assets and income, they will draw up a report in this regard, which is sent to the evaluated person. This report may include, if appropriate, a mention of errors in terms of inadequate preparation of asset disclosures and suggestions for correction.

The National Integrity Agency has ascertained 152 cases of significant differences between the acquired assets and income from 2007 to the present, amounting to over EUR 28 million.

The investigation procedure regarding a conflict of interest or incompatibility is carried out through the evaluation of the interest

disclosure. If elements regarding either conflict of interest or incompatibility are identified, the integrity inspector shall notify the person under evaluation, and ask him or her to present an opinion on the inspector's findings, either personally or in writing.

If within 15 days from the information receipt confirmation by the evaluated person, or following his or her expressed opinion, the integrity inspector further notes the existence of elements of conflict of interest or incompatibility, they will file in an evaluation report. In the absence of the above-mentioned confirmation, the integrity inspector may develop an evaluation report after finalization of a new communication procedure.

If the incompatibility report is not contested within the legal term of 15 days in an administrative court, the Agency should notify competent authorities to initiate disciplinary procedure, 15 days from the expiry of the above-mentioned term. Moreover, if the case may be, within six months the Agency may notify the administrative court, seeking annulment of the documents issued, taken or made in violation of legal provisions on incompatibilities.

Regarding the evaluation report for conflicts of interest, if undisputed within the legal term of 15 days in administrative court, within six months the Agency notifies the competent authorities to initiate a disciplinary procedure and, where appropriate, the administrative court, seeking annulment of the documents issued, taken or made in violation of legal provisions regarding conflict of interest.

All legal or administrative acts in violation with legal provisions regarding conflict of interest, concluded directly or through intermediaries, if related to this situation, are null and void. Even if the person no longer holds that position, an action to declare the absolute nullity of legal or administrative documents concluded in violation of the legal provisions regarding conflict of interest can be introduced by the Agency. Moreover, the

court may order the motivated reinstatement and recover of the parties' former state.

If, after the evaluation of the interest disclosure and other data and information the integrity, inspector found the absence of a state of incompatibility or conflict of interest, they will produce a report in this regard, which is passed on to the evaluated person. This report may include, if appropriate, a mention of errors in terms of inadequate preparation of interest disclosures and suggestions for correction.


At the same time, after an evaluation report regarding an incompatibility or a conflict of interest ascertained by the ANI remained definitive and irrevocable, the Agency proceeds to notify the disciplinary bodies of the institutions where the evaluated person works, for applying sanctions, such as dismissal from office, salary decrease, suspension of the right to advance in payment grade or in office for a specific period of time, verbal or written warnings, etc., according to article 25 of Law no. 176/2010.

In the same regard, while evaluating a possible integrity incident, the integrity inspectors within the ANI may find a solid suspicions of committing criminal offenses (false statements, abuse of office) by a person holding a public dignity or office. In these cases, the Agency sends its findings before the competent criminal prosecutions bodies.

Up to the present time, the National Integrity Agency has finalized around 15 000 files. At the same time, the Agency has ascertained 1 703 cases of incompatibilities, 596 cases of administrative conflicts of interest, 152 cases of unjustified wealth (amounting to over EUR 28 million) as well as 671 cases of possible criminal deeds.

Among these cases, 920 cases of incompatibilities have remained definitive, 320 cases of administrative conflicts of interest, 22 cases of unjustified wealth that have resulted in the confiscation of almost 4,5 million Euros. At the same time, regarding the criminal cases the ANI has sent before the Prosecutor's Office for further investigations and of which the Courts have been notified, there where 41 convictions to imprisonment.

In case of definitive incompatibilities, the Disciplinary Commissions have dismissed the evaluated person from office in 219 cases, while in 40 cases a salary decrease between 5% and 20% has been applied, for a defined period of time (from 1 to 6 months) and in 8 cases the evaluated person's right to advance in grade of payment or to get a promotion in a public office for a period of one year was suspended. At the same time, in other 13 cases the Disciplinary Commission has applied verbal or written warnings, the allowance of the evaluated person was withdrawn for one meeting etc.

In the definitive administrative conflicts of interest cases the Disciplinary Commissions have dismissed the evaluated person from office in 64 cases, while in 25 cases a salary decrease between 5% and 20% has been applied, for a defined period of time (from 1 to 6 months) and in 4 cases the allowance of the evaluated person was withdrawn for one meeting. At the same time, in other 2 cases the Disciplinary Commission decided to suspend the evaluated person from the public position, or have suspended their right to get a promotion in a public office for a period of 3 years. 

SLOVENIA

Commission for the Prevention of Corruption

7

Rules and obligations regarding assets declaration system in the Republic Slovenia are defined in the Integrity and Prevention of Corruption Act (hereinafter IPCA) which was adopted in 2010. Please see attached law in English. The Commission for the prevention of corruption of the Republic of Slovenia is an institution responsible for implementation and monitoring (and issuing sanctions) according to this act.

Oversight of assets of persons under obligation is one of the basic conditions of transparency and trust in public offices, so it represents an inseparable part of the integrity of the public sector. Monitoring and overseeing assets serve to promote and enhance transparency in processes and procedures of exercising executive power, in performing public offices and in managing public affairs. With such we can also identify illicit enrichments, incompatibilities of functions, conflict of interests, etc.

The Commission which is the responsible institution for collecting and analysing asset and interest declarations, uses data from declarations and performs different proactive analysis with the aim to identify possible violations.

1. Persons under obligation to declare assets (Article 41 IPCA):

Section V of the IPCA regulates control over assets of persons under obligation, who are defined as professional officials, non-professional mayors and deputy mayors, high-ranking civil servants (director generals, secretary generals of ministries, heads of

constituent ministerial bodies, heads of government departments, heads of administrative units, directors and secretaries of municipal administrations), managers (directors and members of collective management bodies of public agencies, public funds, public institutes, public commercial institutes and other entities of public law that are indirect users of the national budget or self-governing local community budgets and public enterprises and commercial companies in which the State or a self-governing local community holds a majority interest and dominant influence), persons responsible for public procurement (which includes persons that in accordance with this definition participate in public procurement and are not employed by the contracting authority), civil servants of the National Review Commission for Reviewing Public Procurement Award Procedures, citizens of the Republic of Slovenia who hold office in EU institutions, other EU bodies and other international institutions to which they have been appointed or elected on the basis of secondment or a proposal from the Government of the Republic of Slovenia or the National Assembly and whose obligation to declare their assets is not otherwise regulated by the documents of EU institutions, EU bodies and other international institutions for which they perform duties of the office.

In this regard, the IPCA regulates precisely the duty to report assets, which data is classed as data on assets, the time for reporting data to the CPC and changes to data, and it also defines the procedure in the event of the CPC determining that since the last reporting the assets

of an official have grown disproportionately, while it also lays down generally the public nature of officials' assets and exceptions to this rule. Since 1 July 2011, it has been obligatory to report data on assets using the e-form accessible on the CPC website.

Regarding the obligation of declaring assets by family members of persons under the obligation: generally they do not have to declare their assets, but as provided by the fifth paragraph of Article 43 of the IPCA, if on the basis of a comparison between the information provided in an asset declaration and the actual situation it is reasonable to infer that the person under obligation is transferring their property or income to family members for the purpose of evading supervision under the IPCA, the CPC may request that they submit the data on assets and incomes within one month of receiving the request.

2. Information that must be declared (Article 42 IPCA)

Data on assets of a person under the obligation shall include the following:

- personal name;
- personal registration number (EMSO);
- address of permanent residence;
- tax ID number;
- information on the office or work;
- information on the work performed immediately before taking office;
- any other office held or activities performed;
- information on ownership or stakes, shares, management rights in a company, private institute or any other private

activity with a description of the activity, and a designation of the registered name or the name of the organisation;

- information on stakes, shares, and rights that the entities referred to in the preceding indent have in another company, institute or private activity with the designation of the registered name or the name of the organisation (hereinafter: indirect ownership);
- information on taxable income under the law governing personal income tax that is not exempt from personal income tax;
- information on immovable property with all the land register information on land plots;
- monetary assets deposited in banks, savings banks and savings and loan undertakings, the total value of which in an individual account exceeds EUR 10 000;
- the total value of cash if it exceeds EUR 10 000;
- types and values of securities if, at the time of the declaration of assets, their total value exceeded EUR 10 000;
- debts, obligations or assumed guarantees and loans given, the value of which exceeds EUR 10 000;
- movable property, the value of which exceeds EUR 10 000; and
- any other information in relation to assets that the person with obligations wishes to provide.

3. Frequency of declarations required

The IPCA lays down the obligation both for a) persons under the obligation to report

Table 1. The number of persons with obligation to declare assets throughout the years:

Year	2011	2012	2013	2014	2015	2016
Number of person obliged to submit data on their assets	between 10 000 and 13 000*	between 10 000 and 12 000*	between 10 000 and 12 000*	between 10 000 and 12 000*	13 976	14 627

their assets and for b) bodies employing persons under obligation and contracting authorities, which are to submit lists of such persons to the CPC.

List of persons under the obligation must be submitted to the CPC by bodies at which such persons are employed, contracting authorities operating under the regulations governing public procurement, the Government and National Assembly for Slovenian citizens who hold office in EU institutions or other bodies or other international bodies and were appointed or elected on the basis of secondment or proposal of the Government or the National Assembly. Lists of persons under the obligation must be kept up to date. Any change must be reported to the CPC within 30 days (para. 5 of Article 41 of the IPCA). These lists must contain personal name, permanent residence address, national ID number and tax number of the person under obligation, their office or position and the date of taking up their duties and the date of the termination of office or position. The exception to this is reporting lists of persons responsible for public procurement.

Persons under the obligation (with the exception of persons responsible for public procurement and officials of the National Review Commission) report information on their assets to the CPC immediately or within one month of taking up or ceasing to hold office or perform work, and one year after ceasing to hold office or perform work (para. 2 of Article 41 of the IPCA). Any change to the assets above that exceeds EUR 10 000 has to be reported by 31st January of the current year for the previous year (para. 2 of Article 43 IPCA). The Commission may at any time request the person under obligation to submit the data referred to in Article 42 of the IPCA – the person shall submit this data by no longer than within 15 days of receipt of the request (para. 4 of Article 43 of the IPCA).

4. Submission of a declaration

In February 2012 an online declaration system was introduced and all persons under

the obligation are required to submit their declarations in the new system (e-forms) and also send a hand-signed paper format to the CPC. Special guidelines are available for officials for filling out the forms, besides, the Commission's staff is always available for assistance (via phone, e-mails, in person). As regards giving advices to officials in general sense (conflict of interests, incompatibilities) it is the same – the CPC's staff is available for that too. Besides, the CPC issues lots of publications and advices – please see the information provided under Article 5, Paragraph 2 and Article 8, Paragraph 4.

5. Public availability of asset declarations

Publication of the declarations: the IPCA stipulates that the data on the income and assets of the persons with obligations, with the exception of persons responsible for public procurement and civil servants of the National Review Commission, shall be made publicly available in the part relating to income and assets obtained during the period of holding a public office or performing an activity and within one year after the termination of the office or activity, irrespective of the restrictions stipulated in the law governing the protection of personal information and the law governing the protection of confidential tax information. The data shall be made publicly available for 24 months after the date of the termination of the office or work (para. 1 of Article 46 of the IPCA).

On its website, the CPC shall publish data on income and assets obtained during the period of holding a public office or performance of an activity and within one year after the termination of the office or activity; the data shall include the following:

- the personal name and office of the person under obligation;
- the ownership or stakes and the number of shares and rights in a company, institute or private activity with the designation of

the registered name or the name of the organisation;

- the ownership or stakes, shares and management rights in a company, private institute or any other private activity with the designation of the registered name or the name of the organisation;
- the number and value of immovable properties without land registry information on land plots;
- the total value of monetary assets deposited in banks, savings banks and savings and loan undertakings if it exceeds EUR 10 000 in value;
- the total value of cash if it exceeds EUR 10 000 in value;
- the total value of securities if it exceeds EUR 10 000 in value;
- the total value of debts, obligations or guarantees assumed if it exceeds EUR 10 000 in value;
- the total value of loans given if it exceeds EUR 10 000 in value; and
- movable property, the value of which exceeds EUR 10 000, in a manner that does not allow for the property's identification (para. 2 of Article 46 of the IPCA).

The data referred to in the preceding paragraph shall be published in a manner that facilitates a comparison of the data (para. 3 of Article 46 of the IPCA).

In reality, the income and assets are not made publicly available since the CPC established when supervising the implementation of the provisions regarding the obligation to declare income and assets that in 60% of cases these declaration forms are filled out in a wrong manner (some assets are not reported, assets of family members are reported while they should not be and as a consequence should not be made publicly available).

6. Mechanism of monitoring an asset declaration

The CPC is the responsible body for the implementation and supervision of the imple-

mentation of the provisions of this Act (Article 80 of the IPCA). Therefore, the CPC is responsible for reviewing, verifying or otherwise checking whether the information in the declaration form is complete and accurate. Information shall be communicated to the CPC via electronic form.

The CPC may obtain any information referred to in the declaration of assets that can be obtained from the official records to verify the accuracy of the statements of the person under obligation (cross-check analysis). If the CPC finds any inconsistencies between the information referred to in the declaration of assets and other information, it may request the person under obligation to enclose relevant evidence supporting the information (Paragraphs 2 and 3 of Article 42 of the IPCA).

The CPC is responsible for reviewing the accuracy of asset declarations and currently employs 2 persons for this purpose. Given the great number of declarations received, the CPC uses a combination of random checks and the selection of a different group of target officials each year, which are checked more thoroughly. Asset declaration falls under the punctuality check, but not all persons under the obligation of asset declaration are checked through random checks and the targeted check (in these checks the completion and accuracy is checked). In complete check the following methods are used: cross-check with external databases, comparisons across years, identification of possible incompatible functions and conflict of interest, internal consistency etc.).

Unfortunately, the Commission does not have a special automated system which could provide cross-check analysis in real time in one place (with one click). This is a future plan for the CPC. Currently the CPC has:

- automated check of in-time reporting (if officials declared assets or not),
- online access to majority of external databases (data on aircrafts, vehicles, weapons, shares, real estate ownerships, register of companies),

Table 2. Number of checks:

Year	2012	2013	2014	2015	2016
Number of checks	50*	9*	37*	103*	28*

* Each check includes more than one person. For example, the total number of person under check in 2016 includes controls upon 980 persons under obligation.

- the CPC can receive bank details, records on animals, land registers, investment funds, stock exchanges, boats on demand.

Additional information on illicit enrichment:

If during an investigation, the CPC determines that there has been a disproportionate growth of one's assets, it notifies the state prosecutor's office which is responsible for initiating the procedure of confiscation of illicit assets. Note, however, that such a procedure can be imposed only on a person indicted in a criminal procedure or on persons that have obtained the alleged illicit asset from the indicted person.

Please also note that our legal system provides for three procedures regarding illegal enrichment:

- The first one is actually a part of criminal procedure; if a court determines that the convicted person obtained assets from a criminal act, such assets are confiscated. As we believe that this procedure is not of your interest, it will be omitted in this questionnaire;
- The second procedure is conducted by the CPC, whereby the CPC investigates whether the increase in one's assets was disproportionate to their incomes. If such a growth is ascertained during the procedure, the CPC may publish its findings, but it cannot confiscate the illegally obtained assets. The aim of such procedures is mainly to raise transparency and to promote political accountability and the integrity of the public sector.
- The third procedure is conducted as litigation in front of a civil court of law in

which the public prosecutor files a lawsuit against an individual who has to prove that their assets were obtained in a legal way. If the defendant does not succeed, the assets are confiscated. Such procedure may be held only against a person who was indicted in a criminal procedure, however, there is no need that the person is convicted in order for the prosecutor to succeed. The prosecutor may file the lawsuit after receiving a notification from the CPC that a case of disproportionate growth of one's assets was ascertained.

In the past five years, the CPC has conducted 6 cases of disproportionate growth. Two cases have become final with the outcome of the defendant's assets being confiscated by the courts of law.

Even though there are very few cases where illegal enrichment was ascertained in practice, it is undeniable that the asset declaration system was a cornerstone in these cases. Therefore it is safe to claim that our legal system enables the monitoring of public officials' wealth to a certain extent, and facilitates identification and prosecution of illicit enrichment.

7. Accountability and enforcement mechanisms

A person under the obligation to declare assets is liable for the offence if he or she fails to provide the necessary data or provides false data in the declaration of assets or its supplements. If on the basis of data on assets or other information, the CPC finds that, since the last declaration, the assets of the person under the obligation have increased disproportionately compared to

his or her income derived from the performance of his or her duties of office or an activity in accordance with the provisions and restrictions laid down in the IPCA and other acts, or that the value of the person's actual assets, which is the basis for the assessment of tax liabilities, considerably exceeds the declared value of the person's assets, it shall invite the person under the obligation to explain the increase in assets or the difference between the actual value and the declared value of assets by no later than within 15 days. If the person under the obligation fails to explain the increase in assets or the difference between the actual value and the declared value of assets, or fails to do so in a comprehensible manner, the CPC shall notify the body in which the person concerned holds office or the body responsible for the election or appointment of the person concerned, and, in the event of a suspicion held that other violations are being committed, it shall also notify other competent authorities (Paragraphs 1 and 2 of Article 45 of the Integrity and Prevention of Corruption Act).

If the CPC finds that the person under the obligation has not provided data on his or her office, activities, assets and income in accordance with the IPCA, it shall invite the responsible person to submit the data required within

a time limit that may not be shorter than 15 days or longer than 30 days in duration. If the person with obligations fails to submit the required data within this time limit, the CPC shall decide that this person's salary or salary compensation should be reduced by 10 percent of his or her basic salary each month after the expiry of the time limit, but to no less than the minimum salary level. This decision shall be implemented by the employer (Paragraphs 1 and 2 of Article 44 of the IPCA).

Liability for an offence:

A fine of between EUR 400 and EUR 1 200 shall be imposed on an individual who:

- fails to communicate information on his or her assets to the Commission,
- fails to provide the necessary data, or provides false data, in the declaration of assets referred to in Articles 42 and 43 of the Integrity and Prevention of Corruption Act or its supplements.

Administrative measures based on a previously conducted procedure to decide in an administrative matter pursuant to the act governing general administrative procedure, as follows:

- a decision reducing the salary or compensation of a person under the obligation for

Table 3. Number of minor offence decisions in regard to failure to comply with obligation to disclose, for disclosing incomplete or inaccurate information

Year	2012	2013	2014	2015	2016
Number of minor offence decisions					
Failure to disclose	2	44	6	24	262
Disclosing incomplete or inaccurate information	1	8	3	6	3
Failure to submit a list of persons with obligations to the CPC	/	2	/	/	/
Number of warnings					
Failure to disclose	/	3	14	9	79
Disclosing incomplete or inaccurate information	/	1	/	3	24
Failure to submit a list of persons with obligations to the CPC	/	/	/	/	/

refusing to report information on offices, activities, assets and income in compliance with the law (Article 44 of the IPCA).

8. Providing advisory services/advice on an asset declaration

Persons under the obligation to declare assets can obtain advice on rules and on the expected conduct by requesting the CPC to issue a legal opinion and by contacting the CPC via telephone in business hours (every Tuesday and Thursday). Opinions of the CPC are also available on the CPCs' web site. Persons are also able to educate themselves by attending the CPCs' lectures, given for the specific needs of state bodies, if requested and by general lectures on the IPCA, that are given at least two times every year by the CPC employees.

9. The number of employees in the CPC

Currently 2 persons are employed for reviewing, verifying or otherwise checking declaration forms and the data they contain. They are also the ones responsible for conducting ad hoc checks upon the decision of the CPC.

Statistics concerning asset declarations:

Most common irregularities detected with regard to filing asset declaration forms are as follows:

- wrong electronic forms are used or the data is provided without using the electronic format;
- incorrect and/or incomplete data provided in electronic forms;
- yearly reporting on all assets and not merely on changes on assets;
- providing incorrect dates of taking and leaving office;
- filling out forms for registering or cancellation of a person obliged to report on assets under paragraph 5 of Article 41 of the IPCA that should be done by a state body and not the person itself;
- late submission or lack of submission of asset declaration forms.

In year 2017 the CPC prepared statistics regarding the compliance rate for filing, irregularities detected in asset declarations for persons on top executive functions for the last 5 years. The statistics showed:

Table 4. Mandate 10.02.2012 – 20.03.2013

All violations in totals	28
All declaration forms in total	120
All violations in total according to the publicly accessible ** data in %	23,33%

Table 5. Mandate 20.03.2013 – 18.09.2014

All violations in totals	33
All declaration forms in total	153
All violations in total according to the publicly accessible ** data in %	21,57%

Table 6. Mandate 18.09.2014 –

All violations in totals	25
All declaration forms in total	150
All violations in total according to the publicly accessible ** data in %	16,67%

A concrete example of reviewing the information provided by the persons obliged to submit data on their assets:

In 2012, the CPC conducted an ad hoc procedure for reviewing data submitted in their asset declaration forms by heads of parliamentary groups. The process was concluded in the beginning of 2013 and with regard to the above mentioned heads of parliamentary groups a need to conduct hearings before the senate of the CPC was identified in two cases. None of them provided sufficient additional clarification or responded in a sufficient manner with regard to the allegations of reporting violations with regard to their assets presented by the CPC. During the ad hoc procedure the CPC also identified situations with corruption risks. After the CPC issued a final report both, persons started an administrative dispute and used other possible legal remedies. Currently, the cases are being adjudicated before the Administrative Court. □

UKRAINE

National Agency on Corruption Prevention

Electronic declarations in Ukraine: Regulation, Content and Practice

Nowadays, one of the most effective tools of corruption prevention, for the public sector, is considered to be tough financial control and accountability of persons or subjects authorized to perform duties of the state or local self-governance, as well as other subjects whose professional occupation area and level of authority is akin to the initially mentioned.

The electronic declaration of civil servants' revenue and expenditure is one of the most prominent measures of anti-corruption, since the system is already capable of monitoring and detecting unlawful enrichment, as well as possible conflict of interest in more than 150 states worldwide, where it already proved its effectiveness. In most countries the e-declarations are publicly accessible, due to the fact that public access and ultimate scrutiny also tend to increase the anti-corruption value of the declarations.

Back in September 2016, after the Law of Ukraine "On corruption prevention" was codified, the electronic declaration of revenue and expenditure for civil servants became obligatory. It must be taken into account that the above-mentioned Law comprehensively includes all the "good" and effective practices, innovative approaches and ways of implementing such policies within the field of corruption prevention. The Law of Ukraine "On corruption prevention" has almost no rivals anywhere else in the world, therefore, is said to be one of the most advanced of the kind.

The Law encompasses the rules on the system of objective financial control over property status of persons authorized to perform functions of the state or local self-governance, as well as other subjects whose area of professional occupation and level of authority is akin to the formerly mentioned. In short, key points are as follows:

- obligation to submit an e-declaration annually, or on every occasion of change in: material status, household income, expenses and so on;
- strict procedure concerning the mechanism of verification of an e-declaration by an anti-corruption preventive state body – The National Agency on Corruption Prevention (The National Agency);
- mandatory disclosure and publication of the e-declarations in a specifically developed database: "Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Governance";
- expansion of and requirement for additional information to be reflected in the e-declaration; whilst establishing criminal responsibility for submission of knowingly false information in the e-declaration, etc.

In the context of the mentioned above, it is also vital to comprehend the concept and practice of regulatory framework for the electronic declarations. Pursuant to the Law of Ukraine "On Corruption prevention" and in order to ensure the effective functioning of the e-declaring in Ukraine, the NACP adopted the following legal acts:

- Decision of the National Agency on Corruption Prevention of June 10.06.2016 No. 2 “On the Start of the System for Submission and Publication of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government”, registered with the Ministry of Justice of Ukraine on 15.07.2016 under No. 958/29088;
- Decision of the National Agency on Corruption Prevention of 06.09.2016 No. 19 “On Approval of the Procedure for Verifying the Submission of Declarations by Subjects in Accordance with the Law of Ukraine “On Corruption Prevention” and reports from the National Agency on Corruption Prevention on cases of non-submission or late submission of such declarations”, registered with the Ministry of Justice of Ukraine on 15.11.2016 under No. 1479/29609;
- Decision of the National Agency on Corruption Prevention of 10.02.2017 No. 56 “On Approval of the Procedure for Controlling and Full Verification of the Declaration of a Person Authorized to Perform the Functions of the State or Local Self-Government”, registered with the Ministry of Justice of Ukraine on 13.02.2017 under No. 201/30069;
- Decision of the National Agency on Corruption Prevention of 10.06.2016 No. 3 “On the Functioning of the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-Government”, registered with the Ministry of Justice of Ukraine on July 15, 2016 under No. 959/29089.

Moreover, the final of the above-mentioned decisions, by the NACP, also gave way to the following developments:

- 1) the procedure for the formation, maintenance and disclosure/provision of information from the declarations for public scrutiny;
- 2) the type and format of the e-declaration itself;
- 3) the format of notification of significant changes in the asset/income status of a declarant.

Also worth mentioning is the Resolution of the National Agency on Corruption Prevention of 11.08.2016 No. 3, which approved the clarification of certain provisions on application of the Law of Ukraine “On Corruption Prevention” regarding the financial control tools and measures.

Those subjected to the yearly e-declaration submission may be tried in court for violation of the requirements of financial control, in particular regarding the submission of their declarations; and in accord with Article 1 of the Law of Ukraine “On Corruption Prevention” persons specified in paragraph 1, subparagraphs “a” and “c” of paragraph 2, paragraphs 4 and 5 of part one of Article 3 of this Law, other persons who are obliged to file a declaration in accordance with this Law, are:

- the President of Ukraine, the Speaker of the Verkhovna Rada of Ukraine, his First Deputy and Vice Deputy, the Prime Minister of Ukraine, the First Vice Prime Minister of Ukraine, the Vice Prime Ministers of Ukraine, ministers, other heads of central executive authorities, which are not part of the Cabinet of Ministers of Ukraine, and their deputies, the Head of the Security Service of Ukraine, the Attorney General, the Head of the National Bank of Ukraine, the Chairman and other members of the Accounting Chamber, the Ombudsman of the Verkhovna Rada of Ukraine, the Chairman of the Supreme Council of the Autonomous Republic of Crimea and the Prime Minister of Crimea correspondingly;
- people’s deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils, village, town and city mayors;
- civil servants, officials of local self-government;
- military officers of the Armed Forces of Ukraine, the State Service for Special Communications and Information Protection

of Ukraine, and other military formations formed in accordance with the laws, except military servicemen of regular military service, cadets of higher military educational institutions, cadets of higher educational institutions (which have military units institutes, cadets of faculties, departments and military training departments);

- judges, judges of the Constitutional Court of Ukraine, Chairman, Deputy Chairman, members, inspectors of the High Council for Justice, officials of the secretariat of the High Council of Justice, Chairman, Deputy Chairman, members, inspectors of the High Qualifications Commission of Judges of Ukraine, officials of the secretariat of this Commission, officials of the State the Judicial Administration of Ukraine, jurors (whilst exercising their duties in court);
- persons of ordinary and commanding members of the State criminal-executive service, Tax police, persons of the commanding staff of civil protection bodies and units, the State Bureau of Investigations, the National Anti-Corruption Bureau of Ukraine;
- officials and officers of: the Prosecutor's Office, the Security Service of Ukraine, the State Bureau of Investigations, the National Anti-Corruption Bureau of Ukraine, the diplomatic service, the state forest protection, the state protection of the nature reserve fund, the central executive authority, which ensures the formation and implementation of state tax policy and state policy in the field of state customs;
- Members of the National Agency on Corruption Prevention;
- Members of the Central Electoral Commission;
- the national police force;
- officials and officers of other state bodies, authorities of the Autonomous Republic of Crimea;
- members of collegiate state bodies;
- officials of legal entities of public law not specified in paragraph 1 of part one of this

article, persons who are members of the supervisory board of a state bank, state enterprise or state-owned organization which receive profits.

The list of subjects of declaration was also expanded in accordance with the Law of Ukraine of 23.03.2017, No. 1975-VIII. The list was expanded for the following citizen categories:

- representatives of public associations, scientific institutions, educational institutions, experts of the relevant qualification, other persons who are members of the competition commissions, public councils, councils of public control, formed by state bodies and involved in the preparation of decisions on personnel issues, preparation, monitoring, evaluation of implementation of anti-corruption programs;
- candidates for people's deputies of Ukraine, candidates for the post of the President of Ukraine, candidates for deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, regional, district, city, district in cities, village councils, candidates for the positions of village, settlement, city mayors and head of state;
- other individuals who:
 - receive funds, property in the framework of realization in Ukraine of programs (projects) of technical or other, including irreversible, assistance in the field of corruption prevention and the ultimate counteraction to corruption;
 - systematically, during the year, carry out work, provide services on the implementation of standards in the field of anti-corruption policy, monitoring of anti-corruption policy in Ukraine, preparation of proposals on the formation and implementation of such policies;
 - are heads or members of the supreme governing body, other bodies of public associations management, other non-profit associations engaged in activities related to the prevention

and counteraction to corruption, implementation of standards in the field of anti-corruption policy, monitoring of anti-corruption policy in Ukraine, preparation of proposals on the issues of the formation, implementation of such a policy, and/or participate, are involved in the implementation of measures related to corruption prevention and its steady elimination.

It is also vital to name the declaration types that the subjects submit in accord with the Law of Ukraine “On Corruption Prevention”, these are as follows:

- the annual declaration, which is submitted from 1st January till 1st April of the year following the reporting year. Such a declaration covers the reporting year (from 1st January till 31st December inclusive), preceding the year in which the declaration is submitted, and contains information as of 31st December;
- subjects to the e-declaration, those who terminate activities related to the performance of functions of the state or local self-governance, to be submitted no later than the day of such termination. If termination of these functions occurred on the initiative of the employer, the declaration shall be submitted not later than twenty working days from the day when the subject of the declaration has learned or should have learned about such termination.
- the declaration of the subject of the declaration, which terminated activities related to the performance of functions of the state or local self-government, submitted before April 1 of the year following the reporting year in which such activity was terminated. Such a declaration also covers the reporting year (from 1st January till December 31 inclusive), preceding the year in which the declaration is submitted,

and contains information as of December 31 of the financial year;

- the declaration of a declarant, who is applying for the positions specified in paragraph 1, sub-clause “a” of paragraph 2 of the first part of Article 3 of the Law, and the subject specified in paragraph 4 of part one of Article 3 of this Law (candidates for the position of deputies, the President), is submitted before the appointment of a person to the post. Such a declaration covers the reporting year (from 1st January to 31st December incl.), preceding the year in which the person applied for the post (participation in the competition), unless otherwise provided by law, and contains information as at 31 December of the reporting year.

The list of information to be indicated in the declaration is determined by Article 46 of the Law of Ukraine “On Corruption Prevention”. These details include obligatory indication of the following:

- identification data of the declarant (surname, name, patronymic, date of birth, registration number of the tax card’s account, etc.);
- list of family members of the declarant (the declaration also indicates information about the assets and financial status of its family members);
- information about real and personal property (vehicles) that is owned or used;
- information about real-estate objects, construction of which is yet to be completed;
- valuable personal belongings, the cost of which exceeds 100 subsistence minimum;
- promissory notes, treasury bills, commercial papers, government bills and bonds, crypto-currencies;
- corporate rights, legal entities, the ultimate beneficiary owner (controller) of which a declarant or members of his family are shareholders/owners;

- other possible sources of income, as well as gifts;
- available cash assets kept in the household;
- any sort of financial liabilities;
- expenses and all financial transactions throughout the reporting period, on the basis of which the subject of declaration creates or terminates the ownership, possession or use;
- information about the occupation or work that is performed fulltime or performed part-time;
- the declarants' entry/activity related to the governing, auditing or supervisory bodies of public associations, charitable organizations, self-regulatory or self-governing professional associations, membership in such associations (organizations).

Concerning the responsibility for violation of the order of the declaration submission we must dwell on the types of control that the National Agency on Corruption Prevention carries out in relation to those who violate the rules regarding:

- the time of submission;
- the accuracy and completeness of the e-declaration form;
- logical and arithmetic control.

The procedure for carrying out the specified types of control is determined by the NACP for the purpose of battling and preventing corruption in the short and in the long run. In case of liability, in accordance with Article 65 of the Law of Ukraine "On Corruption Prevention", for the commission of corruption or corruption-related offenses, persons specified in part one of Article 3 of this Law (including entities of declaration) are subject to criminal, administrative, civil and disciplinary liability in accordance with the procedure established by laws of Ukraine.

Therefore, for the violation of the legislation on financial control there could be

an administrative and criminal liability, particularly for the following actions:

- late declaration submission of a person authorized to perform functions of the state or local government (Article 172-6, paragraph 1, ALCU), is fined the equivalent of 50 to 100 tax-free individual minimum incomes;
- failure to notify or late notification of the opening of a foreign currency account in an institution of a non-resident bank or a substantial change in the property status shall be fined the equivalent of 100 to 200 tax-free minimum incomes (Part 2, Article 172-6, ALCO);
- submission of knowingly false information about a property/personal belonging in the amount of 100-250 minimum wages (or 138 – 344 thousand), a fine of 17 thousand to 42.5 thousand UAH is established. (Part II 172-6 of the ACU);
- submission by the declarant of deliberately false information or the deliberate failure to submit the subject of declaration of the said declaration (more than 344.5 thousand UAH) is punishable by a fine of 42.5-51 thousand UAH, public works for a term from one hundred and fifty up to two hundred and forty hours, or imprisonment for up to two years with the deprivation of the right to occupy certain positions or engage in certain activities in relation to civil service, for a term up to three years (366-1 of the Criminal Code);
- the acquisition by a person authorized to perform the functions of the state or local self-government, the ownership of assets at a considerable amount, the legality of the grounds for which the acquisition is not confirmed by evidence, as well as the transfer of such assets to any other person, shall be punishable by imprisonment for a term of up to two years with deprivation of the right to occupy certain positions or engage in certain activities for up to three years with the confiscation of all property (368-2 CCU). □

POLAND

CENTRAL ANTI-CORRUPTION BUREAU

Legal and practical aspects of the functioning of the system of submission and control of asset declarations in Poland

The concept of a declaration of financial status appeared for the first time in Polish legislation in the provisions of the Act of 5 June 1992 on the restriction on the conduct of business activity by persons performing public functions (Journal of Laws from 1992, No. 56, item 274, as amended) called the anti-corruption act. Art. 6 of this act initially imposed an obligation to submit an asset declaration on deputies, senators, persons holding managerial public positions, persons belonging to commune bodies, and employees of state offices and local government employees. Another legal act regulating the issue of asset declarations – Act of 21 August 1997 on restriction of conducting business activity by persons performing public functions (Journal of Laws of 2017, item 1393) – in its assumption, was to counteract corruption at the highest levels of power, preventing the mutual penetration of the sphere of public authority and the economy.¹ At the same time, it widened the catalog of persons obliged to submit declarations and up till today is the most comprehensive regulation referring to the issue of declarations of assets themselves.

This study presents issues related to asset declarations functioning in the current legal status.

1. Legal basis for submitting asset declarations

The legal regulations currently in force obliging persons holding public functions

to submit asset declarations are included in many legal acts. The individual provisions differentiate the scope of information to be included in the statements by individual professional groups, indicate the deadlines for submitting statements, as well as restrictions in conducting business activity by persons performing public functions and determine sanctions for attestation of an untruth. What is more, there are as many as 16 (!) different forms of asset declarations in legal system.

The following is a summary of the most important legal acts introducing the obligation to submit asset declarations by persons performing public functions, along with an indication of the current form:

1. Act of 21 August 1997 on restriction of conducting business activity by persons performing public functions (Journal of Laws of 2017, item 1393) – a template of an asset declaration is defined in the Regulation of the President of the Republic of Poland of 14 June 2017 on specifying forms for statements on conducting business activity and asset declaration (Journal of Laws of 2017, item 1162).
2. Act of 16 November 2016 on the National Revenue Administration (Journal of Laws of 2018, item 508, as amended) – a template of declaration as in the anti-corruption act.
3. Act of 11 September 2003 on the military service of professional soldiers (Journal of Laws of 2018, item 173, as amended) – a template of declaration as in the anti-corruption act.
4. Act of 29 August 1997 on court bailiffs and executions (Journal of Laws of 2018, item 1309, as amended) – a template of declaration as in the anti-corruption act.

5. Act of 24 May 2002 on the Internal Security Agency and the Intelligence Agency (Journal of Laws of 2017, item 1920, as amended) – a template of declaration as in the anti-corruption act.
6. Act of 9 June 2006 on the Central Anti-Corruption Bureau (Journal of Laws of 2018, item 2104, as amended) – a template of declaration as in the anti-corruption act.
7. Act of 9 June 2006 on the Military Counterintelligence Service and the Military Intelligence Service (Journal of Laws of 2017, item 1978, as amended) – a template of declaration as in the anti-corruption act.
8. Act of 9 April 2010 on the Prison Service (Journal of Laws of 2018, item 1542) – a template of declaration as in the anti-corruption act.
9. Act of 16 September 1982 on employees of state offices (Journal of Laws of 2017, item 2142, as amended) – a template of declaration as in the anti-corruption act.
10. Act of 9 May 1996 on the performance of a deputy's and senator's mandate (Journal of Laws of 2016, item 1510, as amended) – a template of asset declaration is specified in the annex to the act.
11. Act of 30 July 2004 on the salary of Members of the European Parliament elected in the Republic of Poland (Journal of Laws of 2004, No. 187, item 1925, as amended) – a template of asset declaration is specified in the annex to the act.
12. Act of 5 June 1998 on the local government of the voivodship (Journal of Laws of 2018, item 913, as amended) – templates of asset declarations are specified in annexes to the Regulation of the Prime Minister of 9 April 2009 on specifying the templates of asset declarations of voivodship councilor, member of the voivodship board, treasurer of the voivodship, voivodship secretary, head of the voivodship local government organisational unit, managing person and member of the governing body of the voivodship legal person and the person issuing administrative decisions on behalf of the voivodship marshal (Journal of Laws from 2017, item 2015), annex no. 1 – asset declaration template for the voivodship councilor, annex no. 2 – asset declaration template for the member of voivodship board, treasurer of the voivodship, voivodship secretary, head of the voivodship local government organisational unit, managing person and member of the governing body of voivodship's legal person and person issuing administrative decisions on behalf of the voivodship marshal.
13. Act of 5 June 1998 on poviat local government (Journal of Laws of 2018, item 995, as amended) – asset declaration templates are specified in annexes to the Regulation of the Prime Minister of 26 February 2003 on specifying the asset declaration templates of the poviat councilor, member of the poviat's management board, poviat secretary, poviat treasurer, head of poviat's organisational unit, managing person and member of the governing body of the poviat's legal person and the person issuing administrative decisions on behalf of the starost (Journal of Laws of 2017, item 2019), annex no. 1 – an asset declaration template for a poviat councilor, annex no. 2 – an asset declaration template for poviat's management board member, poviat secretary, poviat treasurer, head of poviat's organisational unit, managing person and member of the management body of poviat's legal person and a person issuing administrative decisions on behalf of the starost.
14. Act of 8 March 1990 on commune local government (Journal of Laws of 2018, item 994, as amended) – asset declaration templates are specified in annexes to the Regulation of the Prime Minister of 26 February 2003 on specifying the asset declaration templates of the municipal councilor, commune head, deputy commune head, commune secretary, com-

munne treasurer, head of the commune's organisational unit, managing person and member of the governing body of commune's legal person and the person issuing administrative decisions on behalf of the commune head (Journal of Laws of 2017, item 2020), annex no. 1 – asset declaration template for the commune councilor, annex no. 2 – asset declaration template for the commune head, deputy commune head, commune secretary, treasurer of the commune, head of commune's organisational unit, managing person and member of the governing body of commune's legal person and person issuing administrative decisions on behalf of the commune head.

15. Act of 21 November 2008 on local government employees (Journal of Laws of 2018, item 1260) – asset declaration template is specified in the annex to the Regulation of the Prime Minister of 26 February 2003 on specifying asset declaration templates for the commune councilor, commune head, deputy commune head, commune secretary, treasurer of the commune, head of the commune's organisational unit, managing person and member of the governing body of commune's legal person and the person issuing administrative decisions on behalf of the commune head (Journal of Laws of 2017, item 2020).
16. Act of 28 January 2016 on the Prosecutor's Office (Journal of Laws of 2017, item 1767, as amended) – an asset declaration template is set out in the annex to the Regulation of the Minister of Justice of 1 September 2017 on the declaration of financial status of the prosecutor (Journal of Laws of 2017, item 1707).
17. Act of 27 July 2001. Law on the system of common courts (Journal of Laws of 2018, item 23, as amended) and other "court" laws referring to the abovementioned act – an asset declaration template is set out in the annex to the Regulation of the Minister of Justice of 18 December 2017 regarding the asset declaration of judge, court director and deputy director of the court (Journal of Laws of 2017, item 2437).
18. Act of 21 August 1997. The Law on the military courts system (Journal of Laws of 2017, item 2243, as amended) – an asset declaration template is set out in the annex to the Regulation of the Minister of Justice of 18 December 2017 on asset declaration of judge, director of the court and deputy director of the court (Journal of Laws of 2017, item 2437).
19. Act of 8 December 2017 on the State Protection Service (Journal of Laws of 2018, item 138, as amended) – an asset declaration template is set out in the annex to the Regulation of the Minister of Interior and Administration of 22 March 2018 on asset declarations of officers of the State Protection Service (Journal of Laws of 2018, item 606).
20. Act of 6 April 1990 on the Police (Journal of Laws of 2017, item 2067, as amended) – an asset declaration template is set out in the annex to the Regulation of the Minister of the Interior and Administration of 17 July 2007 on proceedings in cases concerning asset declarations of police officers and the procedure for publishing asset declarations of persons performing the functions of Police bodies (Journal of Laws of 2017, item 974).
21. Act of 12 October 1990 on the Border Guard (Journal of Laws of 2017, item 2365, as amended) – an asset declaration template is specified in the annex to the Regulation of the Minister of the Interior and Administration of 23 January 2018 amending the regulation on asset declarations of officers and employees of the Border Guard (Journal of Laws of 2018, item 243).
22. Act of 24 August 1991 on the State Fire Service (Journal of Laws of 2018 item 1313, as amended) – an asset declaration template is set out in the annex to the Reg-

ulation of the Minister of the Interior and Administration of 25 February 2008 on the course of procedure in cases of asset declarations of the State Fire Service firefighters and an asset declaration template of persons performing the functions of State Fire Service bodies (Journal of Laws of 2013, item 1591, as amended).

23. Act of 28 August 1997 on the organisation and functioning of pension funds (Journal of Laws of 2017, item 870, as amended) – an asset declaration template is set out in the annex to the Regulation of the Minister of Finance of 18 November 2003 on specifying the asset declaration template submitted by members of the management board of a general pension association (Journal of Laws from 2003, No. 206, item 1999).

Importantly, in the current legal state, the asset declaration templates are mostly placed in regulations, not in acts, which causes many problems when completing statements, as well as their subsequent analysis and control, because the bequests in templates are often inconsistent with the statutory provisions.

Both the provisions regarding the submission of declarations of financial status and the templates are currently inconclusive, imprecise and leave many possibilities for interpretation.

For example, problems in interpretation have often raised issues of declaring:

- insurance policies of a capital nature,
- participation units in investment funds,
- the spouse's money,
- income earned (including the spouses' income),
- EU subsidies granted for a farm,
- elements of assets included in the conducted business activity (or activity carried out by the spouse),
- accounts receivable,
- trust or other contracts concluded with third parties,
- property acquired through a public procurement from the State Treasury, another

state legal entity, local government units, their unions or a municipal legal person in the context of the period to be included in the acquisition.

In order to conduct a reliable analysis or control of the asset status of a person holding a public function, the data subject to disclosure in a declaration of assets should be disclosed in such a way, that as a result of their verification, their accuracy and correctness can be unambiguously determined without any interpretation doubts.

Another important issue is the absence, in the current legal state, of official instructions to fill in asset declarations, which – if the provisions and the templates are unclear – would help those obliged to submit declarations to reliably capture their assets and eliminate situations, in which some asset was omitted due to unawareness, and not in a deliberate way.

The control of the correctness and veracity of asset declarations lies within the competence of the Central Anti-Corruption Bureau, which carries out full and detailed control in the manner and on the principles set out in chapter 4 of the Act of 9 June 2006 on the Central Anti-corruption Bureau (Journal of Laws of 2018, item 2104, as amended). The CBA officers perform control activities to reveal cases of corruption in state institutions and local government, as well as abuses of persons performing public functions and activities detrimental to the economic interests of the state. At this point, however, it should be pointed out that more than ten years of Bureau's experience in conducting control activities consisting in checking compliance with the provisions of the anti-corruption act by persons performing public functions, including controls of asset declarations, revealed a number of imperfections of statutory provisions.

For example, one of the most severe formal problems affecting the procedure of control of declarations is the lack of regulation of legally effective and sanctioned delivery, monition and due dates. The above

limits the possibilities of control at each of its stages described in chapter 4 of the Act on the CBA. Another important institution, not regulated by the Act on the CBA, is a witness hearing sanctioned with criminal responsibility. There is no doubt that in order to improve the effectiveness of the control of asset declarations, it is necessary to make appropriate legislative changes.

2. The subjective scope of asset declarations

As in the case of other issues related to the subject of asset declarations, also in the case of a subjective scope we are dealing with a dispersed legal state. As there is no single act containing a catalog of persons obliged to submit asset declarations, this obligation is imposed by individual acts, listed in the part of the article on legal grounds. As a general rule, it is assumed that asset declarations are submitted by persons who perform the most important functions and positions, both in the state or local administration, as well as in the prosecutor's office, the judiciary or in individual services. As accurately pointed out by A. Rzetecka-Gil, the obligation to submit asset declarations "applies to persons with very different status, scope and extent of competence, since on one hand it includes the President of the Republic of Poland, Marshal of the Sejm, the Prime Minister, ministers, judges of the Constitutional Tribunal, and on the other hand, for example, a regular employee of a commune office, who was authorized by the commune head to issue administrative decisions on his behalf".²

It is estimated, that under the current legal status, approximately 500 000 people are required to submit asset declarations. However, it should be emphasized that these are only estimates, and an indication of the exact number of people who submit them, will be possible only at the moment of the entry into force of the provisions enabling the submission of declarations by electronic means.

The widest catalog of persons obliged to submit asset declarations has been specified in the anti-corruption act. According to art. 10 in connection with art. 2 of this act, asset declarations are submitted by:

1. persons holding managerial state positions (the President of Poland, Marshal of the Sejm, minister, secretary and undersecretary of State, voivode, etc.) – to the First President of the Supreme Court;
2. employees of state offices, including members of the civil service corps, holding managerial positions (general directors, directors of departments, their deputies, heads of divisions, etc.), or holding equivalent positions in terms of wages;
3. members of the civil service corps employed in the office servicing the minister competent for public finances;
4. general director of the Supreme Audit Office and employees of the Supreme Audit Office supervising or performing control activities;
5. president and vice-presidents, as well as, senior councilors and counselors of the State Treasury's General Prosecutor's Office;
6. chairman and deputy chairman of the Polish Financial Supervision Authority;
7. employees of regional accounting chambers who hold positions of: president, member of the college, head of division and inspector for control;
8. employees of local government appeal councils holding the positions of: president, his or her deputies and full-time member of the council;
9. employees of state-owned banks holding the positions of: president, vice-president, board member and treasurer;
10. employees of state-owned enterprises holding the positions of: director of the enterprise, his or her deputies and chief accountant;
11. employees of sole-shareholder companies of the State Treasury and companies in which the State Treasury's share exceeds

50% of the share capital or 50% of the number of shares, holding the positions of: president, vice-president and member of the management board;

12. employees of state agencies holding the positions of: president, vice-president, team director, director of the field division and his deputy – or equivalent positions.

In addition, individual professional groups submit asset declarations based on their own acts:

1. parliamentarians (deputies, senators, MEPs) – the act on the performance of a deputy's and senator's mandate, the act on the salary of members of the European Parliament elected in the Republic of Poland;
2. local government officials (councilors, management board, persons issuing decisions on behalf of the head of the unit, secretary, treasurer, etc.) – the act on the local government of the voivodship, the act on commune local government, the act on powiat local government;
3. judges, prosecutors – Law on the Prosecutor's Office, Law on the common courts system, Law on the military courts system;
4. soldiers, policemen, officers of the Internal Security Agency, Intelligence Agency, Central Anti-Corruption Bureau, Military Counterintelligence Service, Military Intelligence Service – on the basis of individual acts regulating the organisation and functioning of services – the act on the CBA and other acts;
5. Border Guard, State Fire Service – on the basis of individual acts regulating the organisation and functioning of services – the act on the Border Guard Act and other acts;
6. employees of tax offices – the act on the National Revenue Administration;
7. court bailiffs – the act on court bailiffs and execution.

The CBA's long-standing practice indicates that the current catalog of persons obliged to submit asset declarations is in-

complete and does not cover all professional groups at risk of corruption. In the opinion of the Bureau, it requires the extension of groups of people holding important positions in public administration, potentially exposed to corruptive behavior, and not currently obliged to submit asset declarations. These include:

- president and president's deputies of the Social Insurance Institution, members of the management board and the supervisory board of the Social Insurance Institution;
- president and president's deputies of the National Health Fund and members of the National Health Fund council;
- employees of the Polish Financial Supervision Authority;
- rectors, vice-rectors, chancellors and bursars of public universities;
- national and voivodship consultants in health care;
- selected persons taking part in procedures awarding public procurement in entities that are the commissioning party or the central commissioning party, in proceedings regarding the granting of plafonds, credit and financial guarantees if the value of procurement exceeds the amounts determined pursuant to art. 11 para. 8 of the Public Procurement Law.

3. Types of asset declarations and deadlines for their submission

The so-called anti-corruption act

According to art. 10 para. 4 of the anti-corruption act, an asset declaration is submitted to the head of the unit (the general director of the office) in three cases:

1. before taking up a position,
2. every year until 31 March, as at 31 December of the previous year,
3. on the day of leaving the position.

Acts directly referring to the provisions of the anti-corruption act or accurately reflecting its regulations regarding the circumstances of submitting asset declarations:

- act on the Central Anti-Corruption Bureau (art. 72, para. 2),
- act on the Internal Security Agency and the Intelligence Agency (art. 80a),
- act on the Military Counterintelligence Service and the Military Intelligence Service (art. 42),
- act on court bailiffs and executions (art. 16 para. 5).
- other acts containing solutions very similar to the anti-corruption act, i.e. submitting declarations in three clearly defined cases:
- act on the Prosecutor's Office (art. 104 § 5) – the declaration is submitted within 30 days from the date of taking up the position of the prosecutor, as at the date of its acquisition, and then every year by 30 April, as at 31 December of the previous year, as well as within 30 days from the day of leaving the position of a prosecutor, as at the day of leaving it;
- act on the Prison Service (art. 161, para. 1) – the officer is obliged to submit an asset declaration at the beginning of the establishment of employment relationship, and then every year until 31 March, as at 31 December of the previous year, as well as at termination of the service relationship.

The act on the performance of a deputy's and senator's mandate

According to art. 35 para. 3 of the act on the performance of a deputy's and senator's mandate, deputies and senators submit asset declarations within the following time periods:

- until the day of taking the oath,
- every year until 30 April, as at 31 December of the previous year,
- within one month from the date of ordering new elections to the Sejm and the Senate.

Solutions regarding types of asset declarations and deadlines of their submission, referring directly to the regulations adopted in the act on the performance of a deputy's and senator's mandate, were included in art.

3a para. 3 of the act on the salary of Members of the European Parliament elected in the Republic of Poland. Members of the European Parliament submit asset declarations within the following time periods:

- until the first meeting of the European Parliament in which a Member takes part,
- every year until 30 April, as at 31 December of the previous year,
- within one month from the date of ordering new elections to the European Parliament.

Acts on local governments

Councilors at all levels of local governments and commune heads (mayors, presidents of the city) are obliged to submit the first asset declaration within 30 days from the day of taking the oath. Subsequent declarations are submitted by the councilors and commune heads (mayors, presidents of the city) every year until 30 April, as at 31 December of the previous year and 2 months before the end of the term. In the case of taking up a mandate during the term of office, the declaration must be submitted within 30 days from the date of taking the oath. Regulations in this area are included in art. 24h para. 4 of the act on commune local government, art. 25c of the act on poviats local government and art. 27c of the act on the local government of the voivodship. Regulations in this area are included in art. 24h para. 4 of the act on commune local government, art. 25c of the act on poviats local government and art. 27c of the act on the local government of the voivodship.

It should be noted that described provisions indicate the obligation to submit an asset declaration in connection with the expiration of the term, but do not include such obligation in the event of circumstances other than the expiration of the term, which may lead to a situation of avoiding the submission of the last asset declaration, for example, by a written waiver of the mandate by a councilor. A. Wierzbica formulated a postulate of introduction by the legislator of changes con-

sisting in combining the obligation to submit the last asset declaration with the reasons for expiry of the mandate specified in art. 383 § 1 of the act of 5 January 2011 – the Election Code (Journal of Laws of 2018, item 754 as amended), other than the expiration of the term of office. The proposal concerned the submission of the last asset declaration in situations specified in art. 383 § 1 points 2 and 4-6 of the Election Code, i.e. in the case of:

- a loss of eligibility for election or lack of eligibility on the day of the election,
- a violation of the statutory prohibition on combining a councilor's mandate with the exercise of functions or activities specified in separate regulations,
- an election for the commune head.

The proposed changes would prevent, currently compliant with the law, opportunities of avoiding the submission of the last asset declaration, and thus keep the essence of anticorruption impact of asset declarations as a mean of control, which gives the answer to the question whether the councilor, performing public function, has not used it to achieve illegal benefits thanks to the comparison of the first and last declarations.

Other persons obliged to submit an asset declaration pursuant to para. 5 of the above-mentioned articles of the acts on local governments, i.e. deputy commune head (member of the poviats/voivodship's management board), secretary of the commune (poviat/voivodship), treasurer of the commune (poviat/voivodship), head of the commune's (poviat's) organisational unit, head of the voivodship local government organisational unit, managing person and member of the governing body of the commune's (poviat's/voivodship's) legal person and person issuing administrative decisions on behalf of the commune head (voivodship marshal) submit the first asset declaration within 30 days from the day of their appointment or employment. Subsequent declarations are submitted by them each year until 30 April, as at 31 December of the previous year and on the day

of dismissal from the position or termination of the employment contract.

To all described provisions of local government laws paragraph 5a was added, indicating that if the dates referred to in paragraph 4 or 5 are not met, respectively, the chairman of the commune council, voivodship governor or the commune head within 14 days from the date of finding out non-compliance with the deadline calls a person who has not submitted the asset declaration to its immediate submission, setting an additional 14-day period. The period is counted from the day of effective delivery of the call.

In the case of persons issuing administrative decisions on behalf of the commune head (starost, voivodship marshal), there is a statutory obligation to submit the last asset declaration only on the day of dismissal from the position or termination of the employment contract. The legislator did not provide a legal solution for a situation where authorization for such person has been withdrawn.

Judicial acts

The term deadlines for submitting asset declarations by common court judges can be found in art. 87 of the law on the system of common courts. The asset declaration shall be submitted within 30 days from the date of taking office of the judge or appointment to the post of court director or deputy director of the court, as at the date of taking office or appointment, and then every year by April 30, as at 31 December of the previous year, and also within 30 days from the day of leaving the office of the judge or dismissal from the position of the director of the court or the deputy director of the court, as of the day of leaving the office or dismissal.

Pursuant to art. 8 of the law on the system of administrative courts, the judges of administrative courts submit asset declarations referred to in art. 87 of the law on the system of common courts described above.

The law on the military courts system in art. 28 § 4, referring to the dates resulting from

the act on the system of common courts, independently introduces this provision. The asset declaration shall be submitted within 30 days from the date of taking office of the judge, and then every year by April 30, as at 31 December of the previous year, and also within 30 days from the day of leaving the office of the judge, as of the day of leaving the office or dismissal.

Other acts

The persons indicated in art. 149 para. 1 of the act on the National Revenue Administration are obliged to submit asset declarations every year by 31 March. This provision does not specify the date for which the financial status shall be shown. In this case, the paragraph 6 of this article should be taken into account, indicating, in an unregulated area, the application of the provisions of the anti-corruption act.

The act on the military service of professional soldiers (art. 58 para. 3) provides for a submission of asset declarations by persons mentioned in art. 58 par. 1 every year until March 31, as at December 31 of the previous year.

Obligation of submission of the asset declaration in four cases – when establishing and terminating a service relationship, every year until March 31, as at December 31 of the previous year and at the request of a competent superior – is indicated in the provisions of the following acts:

- act on the State Protection Service (art. 137 para. 1 and 4) – when establishing and disestablishing service relationship, every year and at the request of the State Protection Service commander or a person authorized by him or her,
- act on the Police (art. 62 para. 2 and 3) – when establishing and disestablishing service or work relationship, every year and at the request of the superior competent in personal matters,
- act on the State Fire Service (art. 57a para. 6 and 7) – when establishing and disestablishing service or work relationship, every year and at the request of the superior entitled to appointing,

- act on the Border Guard (art. 91a para. 1 and 5) – when establishing and disestablishing service relationship, every year and at the request of the persons mentioned in art. 91a para. 1.

Separate regulations apply to Border Guard employees who – pursuant to art. 91a para. 3 of the above-mentioned act – submit their asset declarations at the request of the Commander in Chief of the Border Guard, the Commander of the Office of Internal Affairs of the Border Guard, competent commanders of the Border Guard units, commanders of the Border Guard training centers or commanders of the Border Guard centers.

Similar solutions, as in the case of the four above-mentioned acts, on submission of asset declarations upon request, have been adopted in the act on local government employees. Article 32 para. 1 of this act orders to submit an asset declaration to a local government employee on official position, including a managerial post, at the request of a person authorized to perform actions in the field of labor law. Based on art. 34 of this act, excluded from such an obligation are local government employees who were employed on the basis of elections (e.g. commune head, starost, voivodship marshal) and on the basis of appointment (e.g. deputy commune head, commune treasurer).

The obligation to submit the asset declaration upon request also appears in the act on employees of state offices. The obligated person submits the asset declaration when establishing work relationship and at the request of the head of the office.

The act on the organisation and functioning of pension funds in art. 41a par. 2 has adopted a period of submitting the annual asset declaration deviating from other acts – a member of the management board submits the asset declaration as at 31 December of the previous year until May 31. Before, he or she submits the declaration before taking up a position in the management board.

For the deadlines of the asset declarations, their accurate calculations are of key impor-

tance. For example, when the deadline for filing the asset declaration is on a public holiday or on Saturday and when the asset declaration is submitted via mail, which is a common practice for commune heads and chairmen of the commune council submitting statements to the commune head. The acts described do not fully regulate this issue. The act of submitting the asset declaration does not fall within the scope of the act of 14 June 1960 the code of administrative procedure (Journal of Laws of 2017, item 1257 as amended). Therefore, there are no grounds for applying solutions regarding the method of calculating deadlines adopted in art. 57 of this act. From a rational point of view, it seems that the simplest solution to this problem would be to refer directly to the provisions of specific acts, in this case to the code of administrative procedure.

4. The substantive scope of asset declarations

Due to the fact that the scope of information necessary for inclusion in submitted asset declarations depends on the provisions of legal acts regulating this issue for individual professional groups, a data set necessary to be included in asset declarations submitted by persons performing a given public function is presented below.

It should be noted that one of the largest groups are people obliged to submit asset declarations in accordance with the principles and under the procedure specified in art. 10 of the anti-corruption act. Persons submitting asset declarations under this provision are obliged to specify them, in particular, information about: material resources, real estate, shares and stocks in commercial law companies, and also about their own or a spouse's property acquired through a tender from the State Treasury, other state legal entity, local government units and their unions or metropolitan associations. This statement should also contain data on business activities and functions performed in commercial law companies or cooperatives,

except for the housing cooperatives. Interestingly, the model form of the asset declaration submitted under this provision also provides for disclosure of the information on all components of movable property, the value of which exceeds PLN 10 000, all contracted pecuniary obligations the value of which exceeds PLN 10 000 and other additional data on material standing. Therefore, persons submitting asset declarations pursuant to art. 10 of the anti-corruption act are obliged to disclose information that does not result directly from the statutory provision, but only from the executive act.

The data as above must be also included by persons submitting asset declarations based on the provisions of art. 58 of the act on the military service of professional soldiers. Pursuant to this provision, professional soldiers are not obliged to disclose in the submitted asset declaration data on the acquisition of property from the metropolitan association, which was sold in a tender. It is notable that – according to the act – the data contained in the declaration on the performance of functions in commercial companies or cooperatives (except for the functions in the supervisory board of a housing cooperative) do not concern the person submitting the declaration, but only the spouse of a professional soldier. On the other hand, persons submitting asset declarations based on this provision shall use a model form in accordance with the provisions of the anti-corruption act, which in turn includes a space for disclosing data on the purchase of property from a metropolitan association in a tender; as well as on performing functions in commercial companies or cooperatives by the person submitting the given declaration. In addition, the current form of the asset declaration obliges professional soldiers to include information on all components of movable property, the value of which exceeds PLN 10 000, as well as additional data on material standing.

In a different way has been specified the information scope which should be revealed in the asset declaration submitted pursuant to art. 35 of the act on the performance of a deputy's and

senator's mandate and art. 3a of the act on the salary of Members of the European Parliament elected in the Republic of Poland. This provision obliges people submitting the asset declaration to specify in it the information on:

1. material resources, real estates, participation in civil companies or in personal commercial companies, shares and stocks in commercial companies, property acquired through a tender from the State Treasury, other state legal entity, local government units and their unions or commune legal person, as well as on conducted business activity and positions held in commercial companies;
2. income from employment or other gainful activity, including amounts obtained from each activity;
3. movable property, the value of which exceeds PLN 10 000;
4. cash liabilities of the value exceeding PLN 10 000, including loans and borrowings taken and the terms and conditions on which they were granted.

Similar information to the one included by deputies and senators must be provided by persons submitting asset declarations based on local government laws – specified in: art. 24h of the act on commune local government, art. 25c of the act on poviats local government, art. 27c of the act on the local government of the voivodeship and art. 24 of the act on local government employees. The only differences between these declarations arise from the first point, namely, persons submitting asset declarations on the basis of local government laws are not obliged to post information about participation in civil companies or in personal commercial companies, and in addition to other information shown in this section, they must indicate the data on the purchase of property from a metropolitan association in tender. The remaining points cited above apply in full.

The similarity can also be seen in the information subject to disclosure in asset declarations submitted pursuant to art. 41a of the act on the organisation and functioning of pension funds.

The differences relate to value and currency in which it is necessary to demonstrate movable and liabilities. According to this provision, the asset declaration should contain information on:

1. material resources, real estates, participation in civil companies or in personal commercial companies, shares and stocks in commercial companies, as well as on conducted business activity and positions held in commercial companies;
2. income from employment or other gainful activity, including amounts obtained from each activity;
3. movable property, the value of which exceeds EUR 3 000;
4. cash liabilities, the value of which exceeds EUR 3 000, including loans and borrowings taken and the terms and conditions on which they were granted.

The next catalog of information subject to disclosure was specified in: art. 104 of the act on the Prosecutor's Office, art. 87 of the law on the system of common courts and art. 28 of the law on the system of military courts. This catalog indicates that the professional groups referred to in the above-mentioned provisions are obliged to include in the asset declaration information on owned:

1. material resources,
2. real estate and legal titles to own them,
3. movable property, the value of which exceeds PLN 10 000,
4. shares and stocks in commercial law companies, funds,
5. possessed financial instruments within the meaning of the act of 29 July 2005 on trading in financial instruments (Journal of Laws of 2017, item 1768 as amended), other than those indicated in point 4,
6. income subject to personal income tax, obtained within one year before the day on which the declaration is submitted, if its total value exceeds PLN 10 000 and their sources, excluding income earned in connection with the performance of the office or holding a position obliging to submit a given declaration,

7. declarant's or spouse's property acquired through a tender from the State Treasury, other state legal entity, local government units and their unions or commune legal person,
8. receivables and financial liabilities, the value of which exceeds PLN 10 000.

The information scope subject to disclosure in asset declarations submitted by officers on the basis of: art. 62 of the act on the Police, art. 137 of the act on the State Protection Service, art. 91a of the act on the Border Guard, art. 200 of the act on the National Revenue Administration and firefighters on the basis of art. 57a of the act on the State Fire Service is not very different. Asset declarations submitted by them should contain information about sources and amount of income received, held cash resources, real estates, shares and stocks in commercial law companies, as well as declarant's or spouse's property acquired through a tender from the State Treasury, other state legal entity, commune local government, inter-commune union, poviát local government, poviát-commune union or metropolitan association. Declarations submitted by them should also contain data on conducting business activity and performing functions in commercial law companies or cooperatives, with the exception of functions in the supervisory board of a housing cooperative. Additionally, officers of the Border Guard, National Revenue Administration and firefighters are obliged to include in their declarations information on participation in civil law companies or commercial law companies, movable property, other property rights and on cash liabilities. However, officers of the National Revenue Administration are not obliged to post data on business activity and performing functions in commercial law companies or cooperatives. It should be stressed that both the laws and forms of asset declarations submitted by Police officers and State Protection Service officers do not oblige these professional groups to disclose information about their movable property and financial liabilities. Failure to disclose this in-

formation significantly reduces and effectively prevents the determination of the actual status of the property situation of persons submitting asset declarations according to these models. There is no doubt that this is an unacceptable situation and that legislative changes are required in this area.

Quite an unusual regulation is introduced by art. 161 para. 2 of the act on the Prison Service. According to it, an officer submitting the asset declaration gives information about the income and acquisition of property from the State Treasury, another state legal person, local government units or their unions or other legal entity of local government, which was subject to sale by tender, within the last 12 months before the day of submitting the statement. However, paragraph 4 of this article indicates, *inter alia*, that to submit a declaration, the form specified in the regulations issued on the basis of art. 11 of the anti-corruption act is being used. Therefore, it is noticeable that the information scope contained in the form applicable to the officer of a Prison Service is much broader than the information scope resulting directly from the provision of the act. It should be noted at this point that in light of the current legislation is not the only such case.

Another professional group that has a strictly defined scope of information subject to disclosure in the asset declaration are court bailiffs. They are obliged to submit asset declarations pursuant to art. 16 sec. 2 of the act on court bailiffs and executions. This provision clearly indicates that the declaration should include, in particular, information about the financial resources, real estates, shares and stocks held in commercial law companies, as well as declarant's or spouse's property acquired through a tender from the State Treasury, other state legal entity, commune local government, inter-commune union, poviát local government, poviát-commune union or metropolitan association. The submitted asset declaration should also contain data on conducting business activity and performing functions in commercial law companies or co-

operatives, with the exception of functions in the supervisory board of a housing cooperative. Also in the case of this professional group, the form of the asset declaration has been determined by the provisions of the anti-corruption act, and also in this case the data subject to disclosure in the declaration resulting from the statutory provision differs from the information subject to demonstration based on the provisions of the implementing act.

It is clearly visible that the information scope subject to disclosure in asset declarations submitted by particular groups of persons performing public functions basically refers to the same areas of life and property. However, the multiplicity of legal acts constituting the basis for their submission and introducing model forms for individual professional groups, as well as the resulting differences, make it virtually impossible to have a uniform approach to the problem of completing asset declarations and content subject to disclosure. Therefore, it is reasonable to strive to establish common rules, procedures and a single model form obligatory for all professional groups subject to this duty.

Despite the differences in the form, scope and manner of presenting information subject to disclosure in submitted asset declarations, the majority of declarations have points requiring disclosure of the same information, e.g. cash, real estate, movables or liabilities.

Therefore, referring to the conclusions of A. Wierzbica contained in the “Anti-corruption constraints in the local government” and A. Rzetecka-Gil in the commentary to the anti-corruption act, it can be stated that the person submitting the asset declaration, regardless of the legal basis of this obligation, in the point regarding the cash resources held should show all the data related to the funds he or she has collected. This, naturally, applies to the funds accumulated in the Polish currency, foreign currency and in securities. The funds presented refer to both cash and non-cash forms, i.e. those ac-

cumulated on bank accounts, deposits and investment funds.⁴

Completing the asset declaration is also related to the filling the part regarding real estates owned. At this point, it is required to provide all information about houses, apartments, farms and other properties owned. In addition to demonstration of all owned properties, it is also reasonable to indicate the legal title to these properties, their area and value. In Polish law there is no legal definition of the term “home”. Therefore, any land property built-up with a residential building should be considered as above-mentioned real property.

If it is necessary to demonstrate a flat, the matter seems to be easier because there are legal acts introducing the term of a dwelling. Following these law regulations, as a flat should be shown both a dwelling with a separate ownership, as well as a dwelling with a cooperative ownership right. It should also be noted that the flat may also be a dwelling remaining in a public housing stock, a social and substitute housing, as well as a dwelling occupied on the basis of a lease agreement with a social construction association.⁵

When filling the asset declaration, it should be remembered that the term “property” also covers an agricultural holding. According to the act of 15 November 1984 on agricultural tax (Journal of Laws of 2017, item 1892), agricultural holding is a land area with a total area exceeding 1 ha or 1 comparative fiscal hectare, classified in the register of land and buildings as agricultural areas, with the exception of land used for non-agricultural activities. It is advisable to specify in the declaration the type of an agricultural holding, area, value, type of building and legal title. While showing the type of building, one should also remember about buildings and structures. A person showing in the asset declaration that he or she owns an agricultural holding is also obliged to disclose the income obtained from running it and all area pay-

ments received from the European Union. It can not be forgotten that any agricultural holding with deed, ownership, lease, etc. is subject to disclosure.⁶

As it appears from the above-mentioned overview, in the majority of submitted asset declarations, the fact of acquiring from the State Treasury, another state legal person, local government units, their unions and a municipal legal person etc. of property which was subject to sale by tender is also subject to disclosure. When completing this part of the asset declaration, it should be remembered that property is both ownership and other property rights. Since the regulations do not specify whether the disclosure concerns only property acquired in the period from the submission of the previous asset declaration, it seems reasonable to provide information on acquired property each time, indicating the date when it was acquired.⁷ However, it should be noted that the provisions in this area are imprecise and often cause a number of doubts.

Another point that can be founded in the vast majority of submitted asset declarations are movables. This part of the statement, as intended by the legislator, should contain data on both motor vehicles, as well as works of art, jewelry, furniture, audiovisual equipment, etc. A person declaring the possession of a vehicle should indicate its brand, model and year of manufacture. It should be remembered that only assets of value exceeding PLN 10 000 are subject to disclosure. Movables, the value of which is equal to this amount, are not subject to disclosure. The issue of movables that are a set of items seems to be problematic. The question arises whether the value of such movables should be considered individually or as a whole. Unfortunately, due to the lack of the definition of a collection in the regulations regarding asset declarations, it is impossible to accuse a person submitting the asset declaration of not declaring, for example, a collection of books or coins. Un-

der the current legal status, a disconnected element of a set is subject to disclosure only if it can operate independently and if its unit value exceeds PLN 10 000. Otherwise, such movable property (collection) is not subject to disclosure in the asset declaration.

Cash liabilities subject to disclosure in submitted asset declarations also require explanation. Pecuniary obligations, both in Polish and foreign currency, should be demonstrated in the declaration. Many people who fill in asset declarations forget that in this part should be shown both liabilities arising from the conclusion of the contract (e.g. loans or borrowings), as well as those resulting from damage caused to a third party (e.g. compensation). Therefore, while demonstrating the liability held, it is reasonable to disclose at the same time the person or institution in relation to which it arose. By disclosing the obligation, persons submitting the asset declaration should not limit themselves to its principal amount. The statement should also specify the value of interest, as well as other side services, i.e. the total cost related to the liabilities incurred and the amount to be repaid on the day on which the declaration was submitted. In this part of the submitted asset declarations, receivables, which are also subject to disclosure in asset declarations, are often overlooked. In addition, the CBA's practice shows that in the point regarding liabilities, loans from natural persons – families or friends – are very often not reported. This is due to the belief that such obligations will not be detected by competent authorities.

The subject of asset declarations is personal property of the person obliged to submit the asset declaration, as well as his or her marital community property. Importantly, neither the personal property of the spouse of the person submitting the asset declaration, nor the property of his or her family (children, parents, siblings) or the cohabitant, is not the subject of the asset declaration. It is noteworthy that at the moment of entering

into a marriage, by virtue of the act, a joint property between spouses is created, including property acquired during its term by one or both spouses. On the other hand, assets not covered by the statutory marital community property belong to the personal property of each of the spouses.

The issue of marital community property, i.e. joint property, subject to disclosure in the submitted asset declaration, is regulated by the act of 25 February 1964 – the family and guardianship code (Journal of Laws of 2017, item 682, as amended).

Thus, in accordance with art. 31 § 2, the community property includes:

- received remuneration for work and income from other gainful activities of each spouse,
- income from marital community property, as well as from the personal property of each spouse,
- funds accumulated in the account of an open-end or employee pension fund of each spouse.

Whereas, the personal property includes:

- assets acquired prior to the creation of the marital community property,
- assets acquired by inheritance, bequeathing or donation, unless the testator or donor decided otherwise,
- items received as compensation for causing bodily injury, health impairment or non-material damage,
- receivables for remuneration for work or for other gainful activities of one of the spouses,
- assets obtained as a prize for personal achievements of one of the spouses,
- copyright and related rights, industrial property rights and other rights of the creator,
- items acquired in exchange for personal property assets, unless a specific provision provides otherwise.

Due to the lack of instructions of filling in asset declarations, the proper determination of marital community property subject to disclo-

sure often causes many problems for persons performing public functions. It is common practice, for example, to not to show income from renting a dwelling, which is a personal property of the person submitting the asset declaration. Another example is the situation in which a spouse of a person performing public function purchased a passenger car. It was purchased from the bank account belonging to the spouse, who was indicated as an owner both in the sales contract and in the registration certificate. Moreover, the person who submitted the asset declaration has his own car and never uses his spouse's vehicle. In the belief of this person, it is a "wife's car". Meanwhile, according to the provisions of the family and guardianship code, this vehicle is a joint property and as such is subject to disclosure in the asset declaration. The same applies to the acquisition of vehicles for children. A person submitting the asset declaration buys such a car for his or her own money and usually is indicated in the sales contract and in the registration certificate as an owner, but since the car, in his or her opinion, is the child's car (because the child uses it and the car is parked in the child's place of residence), this persons do not enter such a vehicle as their own when filling in the asset declaration. Analogous examples can be multiplied.

5. Submission of asset declarations

The provisions contained in the acts obliging persons performing public functions to submit asset declarations are different from each other and inconsistent also in the scope of attachments, which must be attached to the statement by some professional groups.

To the asset declaration as at 31 December of the previous year, persons submitting the declaration based on local government laws, as well as deputies and senators, Members of the European Parliament and members of the management board of a general pension fund society, are required to attach

a copy of the annual tax declaration (PIT). This requirement does not apply to other professional groups.

Persons obliged to submit asset declarations based on local government laws are requested, additionally, to attach to the first asset declaration information on the manner and date of cessation of conducting business activity, if they conducted it before the day of the election.

Due to the fact that the applicable provisions do not regulate the electronic system of declarations, asset declarations are submitted in paper form. The asset declaration does not have to be submitted directly to the person analysing it. If the asset declaration is not submitted directly to the entity conducting the analysis, it should be submitted in a sealed envelope addressed to this entity with the annotation “do not open” or “hand-delivery”. This is due to the fact that not all information included in the asset declaration is non-confidential.

Disclosure of asset declarations is connected with the implementation of the constitutional principle of civic right to obtain information about the activities of public authorities and persons performing public functions, included in art. 61 par. 1 of the Constitution of the Republic of Poland. However, applicable regulations differentiate range of asset declarations, the content of which is subject to disclosure. Article 10 para. 3 of the anti-corruption act indicates that the information contained in asset declarations of persons obliged to submit them in accordance with the above-mentioned law, with the exception of a declaration submitted by the President of the Supreme Administrative Court and the First President of the Supreme Court, constitutes a legally protected secret and is subject to protection envisaged for classified information with the “restricted” clause, defined in the provisions on classified information, unless the person who submitted the statement has agreed in writing to disclose it.

Under particularly justified circumstances, a person entitled to receive the asset declaration may disclose it despite the lack of consent of the declarant. However, the information contained

in the asset declaration filed by the President of the Supreme Administrative Court or the First President of the Supreme Court is non-confidential, including the name and surname, except for address data, information about the location of the immovable property, as well as information enabling identification of the judge’s movable property. However, there is an exception to this rule. At the request of the judge, the person receiving the asset declaration may decide to put the information contained therein under protection envisaged for classified information with the “restricted” clause, defined in the provisions of the act of 5 August 2010 on the protection of classified information (Journal of Laws of 2018 item 412, as amended), if the disclosure of this information could cause a threat to the judge or persons closest to him. The Minister of Justice is entitled to abolish this clause. The person receiving declarations makes non-classified information contained in asset declarations of the President of the Supreme Administrative Court or the First President of the Supreme Court available in the Public Information Bulletin no later than by 30th of June of each year.

The general rule of disclosure applies to asset declarations filed on the basis of the act on the performance of a deputy’s and senator’s mandate, all three local government acts and the act on salary of Members of the European Parliament elected in the Republic of Poland. In accordance with the above legal acts, the information contained in asset declarations is non-confidential, excluding of course the information on the address of residence and the location of the property. Non-classified information contained in asset declarations of deputies (including Members of the European Parliament) and senators shall be made publicly available by the Marshal of the Sejm or the Marshal of the Senate in the form of an electronic record, whereas non-confidential information contained in asset declarations of persons obliged to submit them by local government acts are made available in the Public Information Bulletin.

The principle of disclosure applies also to asset declarations submitted by judges, court directors and their deputies, as well as prosecutors, court bailiffs and judges of military courts. Information contained in the above-mentioned declarations is also non-confidential regarding the name and surname, with the exception of address data, information about the location of the property, as well as information enabling the identification of movable property. However, at the request of persons mentioned above, in justified cases, i.e. if the disclosure of information contained in asset declarations could cause a threat to the person submitting the declaration or to persons close to him or her, the legislator made it possible to put the information contained in these declarations under protection for classified information with the “restricted” clause, defined in the provisions of the act on the protection of classified information. The following persons have such a right: in the case of a judge, court director, deputy court director and a military court judge – entities entitled to receive the asset declaration, in the case of a prosecutor – a superior prosecutor, in the case of a court bailiff – the president of a competent court of appeal. The Minister of Justice is entitled to abolish this clause, and in the case of a court bailiff’s asset declaration – also the president of the competent court of appeal. Non-classified information contained in asset declarations may be disclosed by the entity authorized to receive the declaration in the Public Information Bulletin, but not later than by June 30 of each year.

In accordance with applicable legal regulations, asset declarations of specific professional groups are not subject to disclosure or publication due to the nature of their official duties. This exclusion applies to officers of the Internal Security Agency, the Foreign Intelligence Agency, the Central Anti-Corruption Bureau, the State Protection Service, the Military Counterintelligence Service, the Military Intelligence Service, the Police, the Border Guard, the Prison Service,

professional soldiers, firemen of the State Fire Service and persons employed in the National Tax Information. The information contained in declarations of these persons constitutes a legally protected secret and is subject to protection envisaged for classified information with the “restricted” clause (in the case of information contained in declaration of officers of the Prison Service – professional secrecy), defined in the provisions on classified information, unless the person who submitted the statement has agreed in writing to disclose it. The only exception are asset declarations of the Head of the Central Anti-Corruption Bureau and his or her deputies, the Commander of the State Protection Service and his or her deputies, persons performing functions of the Police body, persons performing the functions of the State Fire Service body, and persons performing functions of the Border Guard body. These declarations are published without their consent, except for the date and place of birth, PESEL number (personal identity number), place of residence and location of real estate indicated in the declaration. It is worth noting that the statutory deadline obliging to publish the above-mentioned declarations is not uniform – the act on the Central Anti-Corruption Bureau specifies a 7-day period (from the date of their submission), within which the asset declaration should be submitted in the Public Information Bulletin, the Law on State Fire Service – 14-day period, while the acts on: the State Security Service, the Police and the Border Guard do not specify at all, within which period asset declarations should be placed in the Public Information Bulletin.

The information contained in asset declarations of members of the management board of the general pension fund society shall not be disclosed or published, since it constitutes a legally protected secret and is subject to protection envisaged for classified information with the “restricted” clause, unless the person who submitted the statement has agreed in writing to disclose it.

On the other hand, the act on the military service of professional soldiers provides

for the right to disclose by the Minister of National Defense, in particularly justified cases, the asset declaration of a professional soldier, despite the lack of consent by the declarant.

Summing up the information on the disclosure of submitted declarations, it should be pointed out that non-classified information included in asset declarations should, in principle, be placed in the Public Information Bulletin. According to art. 23 of the act on access to public information: "Whoever, against his obligation, does not disclose public information, is subject to a fine, restriction of liberty or deprivation of liberty for up to one year". However, most legal acts do not specify within which period asset declarations should be included in the Public Information Bulletin. It is also not defined when asset declarations can be removed from it.

6. Analysis of asset declarations

Existing legal regulations obliging people performing public functions to submit asset declarations also differentiate the issue of the analysis of these statements by entities authorized to perform it.

The anti-corruption act, local government acts, act on local government employee, act on organisation and functioning of pension funds, law on the system of common courts (except asset declarations of judges), law on military court system – all these legal acts oblige people to whom asset declarations were submitted to analyse data contained in these declarations.

The analysis of asset declarations of deputies and senators is made by appropriate committees appointed, accordingly, by the Sejm or the Senate in the manner specified in the regulations of the Sejm or the Senate. The results of the analysis are presented, respectively, to the Presidium of the Sejm or the Presidium of the Senate. The analysis of data included in asset declarations of Members of the European Parliament is made by the competent

tax offices, and the results of the analysis are presented to the Marshal of the Sejm, who makes them public in the form of an electronic record. The managers of the National Fiscal Information, regional offices of the National Revenue Administration, as well as the organisational unit of the office servicing the minister performing tasks in the scope of asset declarations are entitled to analyse asset declarations submitted by persons employed in the above-mentioned units. For the analysis of asset declarations of professional soldiers and presentation of its conclusions to the Ministry of National Defense to the Minister of National Defense the Military Gendarmerie is responsible. The analysis of data contained in asset declarations submitted by court bailiffs is performed by the board of the competent court of appeal. The Prime Minister analyses the data contained in declarations of the Head of the Central Anti-Corruption Bureau and his or her deputies.

The acts on the State Fire Service, the Police, the State Protection Service and the Border Guard indicate only persons authorized to view the content of asset declarations and to process the data contained in them for the purpose of conducting the analysis. Such a right, on the basis of the above-mentioned legal regulations, is vested in the Internal Security Inspector and, additionally, in the State Security Service – the Commandant of the State Security Service or persons authorized by him or her, in the Police – a superior in charge of personnel matters or persons authorized by him or her, in the State Fire Service – a superior in charge of appointing, in the Border Guard – the Commander in Chief of the Border Guard, the Commander of the Office of Internal Affairs of the Border Guard, competent commanders of the Border Guard units, commanders of the Border Guard training centers or commanders of the Border Guard center and persons authorized by them in writing to the extent necessary to carry out the analysis of declarations.

The provisions of the act on the Central Anti-Corruption Bureau, the act on the Inter-

nal Security Agency and the Foreign Intelligence Agency, and the act on the Military Counterintelligence Service and the Military Intelligence Service do not regulate the analysis of asset declarations submitted by officers of these services (apart from declarations of the Head of the Central Anti-Corruption Bureau and his or her deputies).

It should be noticed that only six acts regulate the date by which the analysis of asset declarations should be performed or presented, i.e.:

- all three local government acts oblige the entity analysing asset declarations to submit by 30 October each year to the voivodeship sejmik/powiat council/commune council information about: persons who did not submit asset declarations or submitted it after the deadline, irregularities found in the analysed declarations with their description and indication of persons who made incorrect declarations, as well as about actions taken in connection with irregularities found in the analysed asset declarations;
- the act on the Prosecutor's Office obliges persons to whom the asset declaration was submitted, to analyse the data contained therein by 30 June each year; this act, however, does not indicate the obligation to present this analysis;
- the law on the system of common courts obliges by 30 June of each year:
 - competent territorial college of an appellate court to present the results of the analysis of the judges' declarations to the general assembly of the judges of the appeal;
 - the Minister of Justice and the National Council of the Judiciary to the analysis of data contained, respectively, in asset declarations submitted by the director and deputy director of the court and presidents of appellate courts, without indicating the obligation to present the analysis;

- the act on the Prison Service obliges respective superiors of the Prison Service to analyse asset declarations of officers of the Prison Service by 30 June each year, without the obligation to present this analysis.

Asset declarations submitted under the act on the performance of a deputy's and senator's mandate, local government laws, as well as asset declarations submitted by Members of the European Parliament, judges, court directors and their deputies, prosecutors, court bailiffs, judges of military courts and members of the management board of the management board of a general pension association, are submitted in two copies. Persons to whom the above-mentioned declaration were provided, are obliged to give one copy of the statement to the tax office competent for the place of residence of the person submitting the declaration. The head of the tax office analyses the data contained therein. In this respect, he or she is entitled to compare the content of the analysed asset declaration with the content of previously submitted declarations and statements on the amount of income earned in the tax year. While analysing the asset declaration, the tax office also takes into account the annual tax return of the spouse of the person filing the declaration.

In the case of asset declarations submitted on the basis of local government laws, if the body analyzing these declarations has justified doubts as to the truthfulness of the data contained therein, it should immediately provide declaration, along with detailed written justification and a request to carry out the control of the asset declaration, to the Central Anti-Corruption Bureau. The CBA shall check the reliability and truthfulness of declarations in accordance with the procedures and rules specified in Chapter 4 of the act on the Central Anti-Corruption Bureau. However, if the authority making this analysis has justified doubts as to the source of income or the provenance of the property of the person submitting the asset declaration,

he or she should forward it, together with detailed written justification, to the competent tax office. Then, the head of the tax office carries out a control of asset declarations, on the terms set out in the regulations on fiscal control.

As A. Wierzbica rightly points out⁸, the acts obliging to submit asset declarations do not give any indication as to when the suspicion of attesting untruth or concealment of the truth is justified. It should be considered whether the subjective conviction of the evaluator is sufficient in this regard, despite the formal correctness of the statement and compliance with other documents attached to it. It should be considered whether the subjective conviction of the person analysing the declaration is sufficient in this regard, despite the formal correctness of the declaration and compliance with other documents attached to it. Can the assessor rely on his or her private knowledge about the property of the declarant or on his or her conjectures or denunciations of third parties? In the light of these considerations, it seems that in fact a subjective belief of the person analysing the asset declaration on the untruth or concealed truth stated in it will be the basis for applying for a control. This is evidenced by the phrase “suspicion”, meaning circumstances that may not be certain, it is enough that they are probable. It is also unclear how to refer to the obvious mistakes that may appear in the declaration. The legislation does not provide for the procedure for their rectification.

7. Consequences for attesting untruth in asset declarations

The applicable legal provisions differentiate sanctions for attesting untruth or concealment of the truth in the asset declaration, or do not regulate this problem at all. There are two criminal provisions regarding this issue.

Persons obliged to submit asset declarations under the anti-corruption act, in accordance with art. 14 of above-mentioned act, as

well as officers of the Border Guard, in accordance with art. 147b of the Border Guard act, are punishable by deprivation of liberty for up to 5 years for attesting untruth in the asset declaration. In the event that the act is of a lesser significance, they are subject to a fine, the penalty of restriction of liberty or the penalty of deprivation of liberty for up to one year.

In turn, persons obliged to submit asset declarations on the basis of the following acts: act on the performance of a deputy's and senator's mandate, local government acts, act on salary of Members of the European Parliament elected in the Republic of Poland, act on the Central Anti-Corruption Bureau, the Internal Security Agency and the Intelligence Agency, act on the State Security Service, act on the Military Counterintelligence Service and the Military Intelligence Service, act on the Prison Service, law on the system of common courts, act on the Prosecutor's Office and the law on military courts, for attesting untruth or concealment of truth in the asset declaration are subject to criminal liability under art. 233 § 1 of the Criminal Code. In accordance with the above-mentioned provision: “Whoever, in giving testimony which is to serve as evidence in court proceedings or other proceedings conducted on the basis of a law, attests untruth or conceals the truth, shall be subject to the penalty of deprivation of liberty for a term from 6 months up to 8 years”.

Only a few legal regulations obliging the individual professional groups to submit asset declarations indicate additional disciplinary sanctions for attesting false information in it. Solely the act on the Central Anti-Corruption Bureau strictly points out what official consequences officers may face for attesting untruth in the asset declaration. According to art. 64 of the act on the Central Anti-Corruption Bureau, an officer is dismissed from service in the event of attesting untruth in the asset declaration, what has been determined by disciplinary proceedings. The officers of the Police and the State Fire Service are also

subject to disciplinary liability for attesting false information, however, in acts regulating submission of asset declarations no explicit sanction for attesting untruth in the declaration is given. It should be emphasized that officers of the Police and the State Fire Service for attesting untruth in statements, apart from disciplinary responsibility, do not assume criminal liability.

In some legal regulations obliging persons performing public functions to submit asset declarations there are no sanctions for attesting untruth or concealment of the truth in asset declarations. The acts on: local government employees, the National Revenue Administration, military service of professional soldiers, court bailiffs and executions and the organisation and functioning of pension funds do not regulate the consequences for attesting untruth in asset declarations.

8. Consequences of failure to submit asset declarations on time

Acts introducing the obligation to submit asset declarations in many ways shape the rules of liability for failure of submission or delayed submission of asset declarations.

In the anti-corruption act, the sanction for failure to submit the declaration has been expressed in art. 13. This provision was formulated very laconically: "Failure to submit the declaration referred to in art. 8 sec. 1 or in art. 10 para. 1, or attesting untruth in it, causes official responsibility". The legislator neither specified whether the sanction also applied to the case of submitting the declaration after the deadline and did not link the sanction with the deliberate act of the obliged person, nor specified the scope of professional responsibility. The consequence of this state of affairs may be different treatment of persons obliged to submit asset declarations, in the event of their failure of submission or delayed submission. Sanction indicated in art. 13 concerns, *inter alia*, persons defined in art. 10 para. 1, designated by the subjective scope of the anti-cor-

ruption act in its art. 1 and art. 2 points 1-2a, 3-5 and 7-11, i.e. excluding persons whose liability results from the content of the local government acts described below.

In turn, art.35, para.8 of the act on the performance deputy's and senator's mandate indicates that failure to submit the asset declaration causes regulatory liability and loss of the right to the emolument until such declaration is provided. In this case, sanctions for non-submission of the asset declaration take on a twofold form:

1. Regulatory liability

Standing Orders of the Sejm (resolution of the Sejm of the Republic of Poland of 30 July 1992, M.P. of 2012, item 32, as amended) in art. 144 indicates the Deputies' Ethics Committee as a body hearing the cases arising out of deputies' asset declarations. Based on art. 146 and art. 147 of the Standing Orders of the Sejm, the Deputies' Ethics Committee may invite the deputy to clarify doubts arising in the course of the proceedings. The Committee, after hearing the case and finding infringement by a deputy of the "Rules of Deputy Ethics" (resolution of the Sejm of the Republic of Poland of 17 July 1998 – M. P. of 1998, No 24, item 32, as amended), may by way of a resolution:

- reproach a deputy,
- admonish a deputy,
- reprimand a deputy.

The Commission's resolutions shall be made public. The deputy may, however, exercise the rights provided for in art. 132 par. 1 of the Standing Orders of the Sejm. Lodging the appeal by the deputy withholds making the content public.

Rules and Regulations of the Senate (resolution of the Senate of the Republic of Poland of 23 November 1990, M.P. of 2018 r. item 846) in art. 24 provides that cases of senators who are accused of violating or failing to fulfill the obligations set out in art. 33-35a of the act on the performance of deputy's and senator's mandate are considered by the Presidium of the Senate after consulting the Rules, Ethics and Senat Affairs

Committee. The Presidium of the Senate, after hearing the case, may by way of a resolution:

- reproach a senator and oblige him or her to act properly,
- admonish a senator,
- reprimand a senator.

The resolution referred to above shall be notified to the Senate by the Presidium of the Senate. The resolution of the Presidium of the Senate may be subject to appeal by the senator to the Senate within 14 days of its delivery. The Senat considers the appeal by hearing a representative of the Presidium of the Senate and the senator concerned, at his or her request. There is no discussion about the appeal. The Senate, after considering the appeal, may, by way of resolution, quash the resolution of the Presidium of the Senate or uphold it.

2. Material sanctions (the loss of the right to the emolument until the asset declaration is provided)

In the literature dominates the thesis that the loss of the right to the emolument for the period from the statutory term until the moment of the submission of the asset declaration is definitive, and the fact of submitting the declaration (after the deadline) cannot be the basis for restoring the right to the lost part of the emolument.

The scope of sanctions for failure to submit the asset declaration within the time limit defined by the law in local government acts is regulated by the following provisions: art. 24k of the act on commune local government, art. 25f of the act on poviat local government and art. 27f of the act on the local government of the voivodship. These sanctions vary depending on the category of subjects obliged to submit asset declarations.

- 1) Failure to submit the asset declaration despite the expiry of the additional deadline (14 days) by:
 - commune, poviat or voivoship councilor – causes expiration of a mandate by the method specified in art. 383 of the act of 5 January 2011 the Election

Code (Journal of Laws of 2018, item 754 as amended);

- commune head (mayor, president of the city) – causes expiration of a mandate by the method specified in art. 492 of the Election Code;
 - deputy commune head (member of the poviat's/voivodship's management board), secretary of the commune (poviat/voivodship), treasurer of the commune (poviat/voivodship), head of the commune's (poviat's) local government organisational unit, head of the voivodship local government organisational unit, managing person and member of the governing body of the commune's (poviat's/voivodship's) legal person and person issuing administrative decisions on behalf of the commune head (starost/voivodship marshal) – causes loss of their remuneration for the period from the date on which the declaration should have been submitted until the date of submission of the declaration.
- 2) In the case of failure to submit the asset declaration by a member of the poviat's (voivodship's) management board or treasurer of the commune (poviat/voivodship), the municipal council (poviat/voivodeship council) dismisses such person, by way of a resolution, no later than 30 days after the day on which the period for submitting the declaration expired.
 - 3) In the case of failure to submit the asset declaration by secretary of the commune (poviat/voivodship), deputy commune head, head of the commune's (poviat's) organisational unit, head of the voivodship local government organisational unit, managing person and member of the governing body of the commune's (poviat's/voivodship's) legal person and person issuing administrative decisions on behalf of the commune head (starost/voivodship marshal), the competent authority dismisses them or terminates their employment contract, no later than 30 days

after the day on which the period for submitting the declaration expired.

The dismissal or termination of the employment contract by the method described above is tantamount to the termination of the employment contract without notice on the basis of art. 52 § 1 point 1 of the act of 26 June 1974 Labor Code (Journal of Laws of 2018 item 917, as amended), i.e. due to the fault of the employee, as a result of serious violation of his or her basic employee duties.

A different position, due to the unambiguous restrictiveness of the provisions of local government acts regarding the termination of the employment contract without notice on the basis of art. 52 § 1 point 1 of the Labor Code, can be found, *inter alia*, in the ruling practice of the courts (also of the Supreme Court⁹), questioning the automatic application of art. 52 § 1 point 1 of the Labor Code and indicating the necessity to examine the degree of fault of an employee in the event of failure to submit the asset declaration within the statutory period.

Other acts

Act on the salary of Members of the European Parliament elected in the Republic of Poland (art. 3a para. 8) – sanction for not submitting the asset declaration is the loss of the right to the emolument until such declaration is provided.

Act on the Central Anti-Corruption Bureau (art. 64 para. 2 point 6) – an officer may be dismissed from service if he or she fails to submit the asset declaration on time.

Act on the Internal Security Agency and the Intelligence Agency (art. 80a) – filing asset declarations by officers is carried out in the manner specified by the provisions of the anti-corruption act.

Act on the Military Counterintelligence Service and the Military Intelligence Service (art. 42) – officers of the Military Counterintelligence Service and the Military Intelligence Service submit asset declaration as officers of the Internal Security Agency and the Intelligence Agency, i.e. in the manner

specified by the provisions of the anti-corruption act.

Act on the National Revenue Administration – the subject of filing asset declarations is regulated by art. 149, which does not indicate sanctions for failure of submission or delayed submission of the asset declaration, however, para. 6 of this article requires, to the not regulated extent, the application of the provisions of the anti-corruption act.

Act on the Prison Service – as in the case of the act on the National Revenue Administration described above, art. 161 para. 6 requires, to the not regulated extent, the application of the provisions of the anti-corruption act.

Act on the organisation and functioning of pension funds (art. 41a para. 6) – in the case of non-submission of the asset declaration in time, the supervisory authority may impose a fine on the member of the management board of up to PLN 10 000.

Moreover, there are a number of laws in the Polish legal system that do not include any regulations regarding non-submission or delayed submission of the asset declaration:

- law on the system of common courts,
- law on the military courts system,
- law on the system of administrative courts,
- act on the Supreme Court,
- act on court bailiffs and executions,
- act on the Prosecutor's Office,
- act on the Police,
- act on the Border Guard,
- act on the State Protection Service,
- act on the State Fire Service,
- act on the military service of professional soldiers together with the implementing act to art. 58 (regulations regarding asset declarations) – Ordinance No 2/MON of the Minister of the National Defence of 18 January 2008 on detailed conditions and procedures for submission of asset declarations of professional soldiers (Journal of Defense of the Ministry of Defense of 2008 No. 1, item 2, as amended),

- act on local government employees,
- act on employees of state offices.

The above-mentioned examples of sanctions for failure of submission or delayed submission of asset declarations or lack of such regulations reveal non-homogenous and changing, over the years, legislator's approach to the presented issue. There is a visible differentiation of sanctions and unequal treatment of persons obliged to submit asset declarations.

A major drawback of the described acts is the lack of sanctions for failure to submit the last asset declaration by the obligated person in the event of the expiration of a mandate, dismissal from the function or termination of the employment contract, and thus the inability to enforce submission of such a declaration.

Summary

The current legal status – broadly presented in this report – indicates many problems of a legal, interpretative and even technical nature. The catalog of defective elements of the asset declarations system includes, inter alia: a plurality of provisions dispersed in several dozens of acts, 16 different model forms of asset declarations, inaccurate provisions of laws and ordinances and their inconsistency, disclosure of declarations of its lack, different deadlines for submitting declarations, incomplete catalog of persons obliged to submission of asset declarations, lack of instructions to complete declarations, inability to submit declarations by electronic means, lack of sanctions for failure to submit the asset when leaving the position or for attesting untruth in the declaration and many more.

Based on the experience of the Central Anti-Corruption Bureau in the control of asset declarations, it should be noted that current regulations – existing for over 25 years – are obsolete and, above all, do not match the modern possibilities of, for example, investing the asset.

In the opinion of the Central Anti-Corruption Bureau, a modern state should guarantee the transparency of public life and enable a person performing public function to submit the asset declaration in a legible, understandable, convenient manner, which, above all, leaves no doubts about interpretation. The scale of the problem can be evidenced by numerous cases found during the work of the CBA, in which even judges – a professional group familiar with legal regulations – has difficulty with proper completing of the asset declaration form.

Therefore, it seems necessary to regulate in a single legal act the issue of asset declarations, including, in particular, the scope of subjects obliged to submit asset declarations, disclosure of asset declarations, material scope of declarations, sanctions for failure to comply with obligations under the act and rules for the control of declarations. The expected result should be consistency and clarity of provisions, resulting in the inability to rely on vague regulations in case of improper fulfillment of the declaration, the establishment of effective mechanisms of control of asset declarations, as well as the introduction of real sanctions for failure to submit the declaration and attesting untruth. The work on the new regulation should be guided by the idea of creating such a model form of the asset declaration that, in principle, an honest person filling it in would have no doubts about interpretation or fears that he or she did not enter any asset by omitting it unintentionally.

Bearing in mind also the progressive digitisation of the administration, in the opinion of the Central Anti-Corruption Bureau the most functional and practical solution, both for declarants and for persons analysing asset declarations, would be to create a model form of the declaration in electronic form, with active tabs in individual columns containing possible answers (catalog from which one or more elements should be selected, in some columns leaving a choice, others with a descriptive option). This kind of a model form would additionally limit

the interpretation possibilities and would give the filler “a hint”, what should be demonstrated in a given column. Proper construction of such a tool would allow for quick exclusion of the disclosure of selected information, without the necessity of deleting manually the address data and would facilitate their publication in the Public Information Bulletin.

Another noteworthy proposal would be to introduce an institution of submitting the asset declaration at the request of the Head of the CBA, who could call once a year any person included in the appropriate catalog, regardless of his or her annual declarations. Such a solution could be applied in specific situations in which, for example, in the middle of the year, as a result of media reports or information resulting from the statutory activities of the CBA, there would be a need to urgently verify the financial status of a given person. In this case, the information contained in the annual declaration could prove to be insufficient, therefore the opportunity to receive a declaration that takes into account the financial status of a given person on the day of his or her call would be very helpful. At the same time, it is worth noting that the CBA also recognizes the need to reduce certain provisions, including deletion of some professional groups from the subject catalog or resignation from the necessity to submit declarations on business

activity by the spouse of the obligated person (in exchange for creating an appropriate record in the model form itself).

In conclusion, it is worth noting that the proposals for changes presented above regarding the subject of asset declarations are the result of the experience of the service established in 2006 to fight corruption and, what is more, these proposals reflect changes taking place in western countries and are an attempt to adjust the legal status to contemporary realities. □

¹ A. Rzetecka-Gil, *Act on Restriction of Conducting Business Activity by Persons Performing Public Functions. Comment*, Wolters Kluwer Polska Sp. z o. o., Warsaw 2009.

² Ibidem.

³ A. Wierzbica, *Deadlines for submitting asset declarations in local government law – de lege ferenda postulates*, „Territorial Self-Government” 2012, No. 10, pp. 40–47.

⁴ A. Wierzbica, *Anticorruption restrictions in the local government*, Wolters Kluwer Polska Sp. z o.o., Warszawa 2008, p. 56; A. Rzetecka-Gil, *Act on (...)*.

⁵ A. Wierzbica, op. cit. p. 57.

⁶ A. Wierzbica, op. cit. pp. 57–59.

⁷ A. Rzetecka-Gil, *Act on (...)*.

⁸ A. Wierzbica, *Anticorruption restrictions (...)*.

⁹ Resolution of the Supreme Court of 5 April 2007, I PZP 4/07, judgment of the Supreme Court of 25 May 2010 I PK 188/09.

