

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED  
BY POLAND  
ARTICLE 8, PARAGRAPH 5  
ASSET AND INTEREST DISCLOSURE SYSTEMS  
POLAND (NINTH SESSION)**



REPUBLIC OF POLAND  
NATIONAL PUBLIC  
PROSECUTOR'S OFFICE

DEPARTMENT  
FOR ORGANIZED CRIME  
AND CORRUPTION

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Warsaw, 24 April 2018

**PK III PZ 072.7.2018**

**MEMORANDUM**

**on asset declarations**

The memorandum includes quotes from the publication by Anna Wierzbica "The Analysis of the Applicable Anti-corruption Law and its Legal Flaws," 2009<sup>1</sup>, which has been updated following amendments to relevant provisions.

**ASSET DECLARATIONS**

**OF EMPLOYEES OF LOCAL GOVERNMENT UNITS**

**Entities obliged to submit declarations.**

The following people have a statutory duty to submit declarations and information:

- in communes: councillors, head of commune, deputy head of commune, secretary and treasurer of commune, head of a communal organizational unit, manager and member of the management board of a communal legal person and persons taking administrative decisions on behalf of the head of commune,
- in counties: councillors, members of a county's board, county's secretary and treasurer, head of a county organizational unit, manager and member of the management board of a county legal person and persons taking administrative decisions on behalf of the county chief executive,
- in provinces: councillors, members of a province's board, province's secretary<sup>2</sup> and treasurer, head of a province's organizational unit, manager and member of the management board of a province's legal person and persons taking administrative decisions on behalf of the province's marshal;

**The subject of asset declarations**

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<sup>1</sup> [antykorrupcja.gov.pl/download/.../AnalizaobowiazujacychprzepisowAnnaWierzbica.p...](http://antykorrupcja.gov.pl/download/.../AnalizaobowiazujacychprzepisowAnnaWierzbica.p...)

<sup>2</sup> Only with regard to asset declarations.

Asset declarations concern personal and matrimonial assets. A person who submits an asset declaration is obliged to indicate whether particular parts of their assets, income and liabilities belong to separate or matrimonial assets. The entity with which the asset declaration has been lodged is obliged to refer one copy to the tax office competent for the residence place of the declaring person. Declarations are kept for six years.

### **Entities obliged to submit other declarations**

According to the law in force now, local government officials (including councilors) are obliged to submit declarations on economic activity of their spouses, declarations of civil law agreements concluded by their spouses with entities that have been specified in relevant provisions and information on whether their spouses are employed in entities that have been specified in relevant provisions.

They are obliged to submit declarations on their spouses' economic activity only when such activity is conducted within the perimeter of the local government unit in which the local government public servant holds office or is employed.

## **ASSET DECLARATIONS OF CENTRAL ADMINISTRATION OFFICIALS**

According to the law now in force, the legal basis for the obligation to submit asset declarations and other declarations by people who hold public office, except for local government staff, are provisions of the Act of 21 August 1997 on the Limitation of Conducting Economic Activity by Persons Performing Public Functions (Journal of Laws of 2017.1393 consolidated text), hereinafter the Anti-Corruption Act.

### **Entities obliged to submit asset declarations.**

Today, declarations have to be submitted by members of the civil service and people employed on the basis of a nomination, i.e. civil servants. **Art. 10 of the Anti-Corruption Act sets out a statutory obligation to submit asset declarations that applies to the persons referred to in Art. 1 of this Act, i.e. persons who perform the most important state functions and persons holding major managerial positions in public administration, within the meaning of provisions on remuneration of persons who hold managerial positions in public administration and who are referred to in Art. 1 of this Act in Art. 2 par. 1-2a, 3-5 and 7-11, i.e.:**

- 1) employees of government offices, including members of the civil service holding managerial positions;

- 2) employees of government offices, including members of the civil service, whose positions are equivalent to the positions referred to in par. 1 in terms of remuneration;
- 2a) members of the civil service other than the ones referred to in par. 1 and 2 who are employed in the office that assists the minister competent for public finances;
- 3) director general of the National Audit Office and members of the National Audit Office who supervise or perform audit activities;
- 3a) councilors at the General Counsel of the Republic of Poland and desk officers at the Office of the General Counsel of the Republic of Poland;
- 3b) President and Vice-Presidents of the Polish Financial Supervision Authority;
- 3c) persons employed in the Office of the General Counsel of the Republic of Poland charged with the tasks enumerated in Art. 1(2) of the Act of 15 December 2016 on the General Counsel of the Republic of Poland (Journal of Laws item 2261);
- 4) employees of regional audit offices who hold the positions of president, board member, head of section and audit inspector;
- 5) employees of local government appeal boards who have the positions of president, deputy president, and a full-time board member;
- 7) employees of state banks who hold the positions of president, deputy president, board member and treasurer;
- 8) employees of state enterprises who hold the positions of director, deputy director, and chief accounting officer;
- 9) persons who hold the positions of president, vice-president and board member in single-member State Treasury companies and companies in which the State Treasury's share exceeds 50% of share capital or 50% of stocks;
- 10) employees of state agencies who have the positions of chairman, deputy chairman, team leader, field branch director and his or her deputy, or equivalent positions;
- 11) other persons who hold public office, provided that a special act stipulates so.

A list of employees of state institutions is drafted on the basis of Art. 1 and 2 of the Act of 16 September 1982 on the Employees of State Institutions (Journal of Laws of 2017.2142 consolidated text as amended).

#### **The subject matter of asset declarations.**

The Anti-Corruption Act defines which assets need to be disclosed in the declaration. Under Art. 10(1) of this Act, an asset declaration should contain in particular information on personal finances, immovable property, shares and stocks in companies, and property that has been purchased by the declaring person or their spouse from the State Treasury, other state-owned legal person, local

government units, their associations or a metropolitan association, which was alienated by way of a tender. The declaration should also contain particulars concerning economic activity and the functions held in the companies or cooperatives referred to in Art. 4 of the Act.

### **Addressees of asset declarations and their competences.**

The persons who receive asset declarations are both entitled and obliged to analyze data in the declarations.

Each asset declaration may also be analyzed by the Central Anti-Corruption Bureau (CBA).

The Anti-Corruption Act defines the criteria that the CBA has to follow when auditing asset declarations. Art. 10(9) of this Act provides for the scrutiny of the accuracy and truthfulness of declarations. The procedure and rules of scrutinizing declarations by the CBA are laid down in the provisions of Chapter 4 of the Act of 9 June 2006 on the Central Anti-Corruption Bureau. Under Art. 13 par. 2 of this Act, CBA officers perform scrutiny to disclose cases of corruption in state institutions and local government units, abuses by people who hold public office, and activity that harms the state's economic interests. The CBA acts on the basis of annual scrutiny plans that are approved by the CBA head. The Act also allows to perform ad-hoc scrutiny, based on the orders of the CBA head.

## **OTHER ASSET DECLARATIONS**

### **Asset declarations of Sejm deputies and senators**

Under Art. 35(1) of the Act of 9 May 1996 on Performing the Mandate of a Sejm Deputy or Senator (Journal of Laws of 2016.1510 consolidated text), deputies and senators are obliged to submit declarations on their financial status. Declarations are submitted using a template that is annexed to the Act. Asset declarations cover separate assets and matrimonial assets.

Relevant committees that are set up by the Sejm and Senate according to their Rules, and relevant tax offices analyze the data in asset declarations. The analyzing entity is entitled to compare the contents of the analyzed declaration with the contents of previous declarations and with a copy of the annual tax return (PIT). The outcome of the analysis is presented to the Presidium of the Sejm or Senate. Notwithstanding the above, asset declarations of deputies and senators are scrutinized by the Central Anti-Corruption Bureau.

### **A. Asset declarations of common court judges.**

Under Art. 87 § 1 of the Act of 27 July 2001 Law on Common Court Organization (Journal of Laws of 2018.23 consolidated text), judges are also obliged to declare their assets. Their asset declarations

include personal and matrimonial assets. Declarations should contain in particular information on personal finances, immovable property and their legal titles, movable property valuing more than PLN 10,000, shares and stocks in companies; financial instruments within the meaning of the Act of 29 July 2005 on Trading in Financial Instruments (Journal of Laws of 2017 item 1768) other than the above-mentioned shares and stocks in companies.

#### **Asset declarations of administrative court judges**

The obligation for administrative court judges to submit asset declarations is laid down in Art. 8 of the Act of 25 July 2002 Law on the Administrative Court System (Journal of Laws of 2017.2188 consolidated text). Judges of a province administrative court submit their asset declarations to the competent president of the province administrative court. The presidents of the province administrative courts and judges of the Supreme Administrative Court submit their asset declarations to the President of the Supreme Administrative Court.

#### **Asset declarations of public prosecutors**

Public prosecutors are also obliged to declare their assets. Pursuant to Art. 104 of the Act of 28 January 2016 Law on the Public Prosecutor's Office (consolidated text Journal of Laws of 2017.1767), public prosecutors are obliged to submit their asset declarations. Such declarations should list separate assets and matrimonial assets, and specifically contain information on personal finances, immovable property, shares and stocks in companies, and on property that the declaring person or their spouse has purchased by way of tender from the State Treasury, other state-owned legal person, a commune, or an inter-communal union. The scope of the declaration is identical to judges'.

#### **Asset declarations of police officers**

Police officers are obliged to declare their assets, including matrimonial assets, when they start or finish a service or employment relationship, every year and at the request of their human resources manager. Information contained in asset declarations is classified and protected as "restricted" information, unless the police officer who submitted the declaration gave a written permission to disclose it. Such asset declarations are kept for ten years. The information included in asset declarations of people who hold the functions of police organs is published without such persons' permission in the Public Information Bulletin, except for the date and place of birth, the PESEL personal identification number, the place of residence and the location of immovable property.

#### **Asset declarations of firefighters**

Firefighters are also obliged to declare their assets. Under Art. 57a(6) of the Act of 24 August 1991 on the State Fire Service (Journal of Laws of 2017.1204 consolidated text), the firefighters are

obliged to declare their assets, including matrimonial assets, when they enter into or terminate a service relationship, every year and at the request of their superior who is entitled to issue nominations and appointments.

#### **Asset declarations of officers of Customs and Tax Service officers**

Under Art. 200. 1. of the Act of 16 November 2016 on the National Tax Administration (Journal of Laws 2018.508 consolidated text), the national tax administration officers are obliged to declare their assets when entering into a professional relationship and upon leaving service; every year and at the request of the head of the organizational unit. Their asset declarations are kept for six years.

#### **Asset declarations of officers and staff of the Border Guard**

Under Art. 91a. 1. of the Act of 12 October 1990 on the Border Guard (Journal of Laws of 2017.2365 consolidated text), the officers declare their assets, including matrimonial assets, to the Commander-in-Chief of the Border Guard, commander of the Domestic Affairs Bureau of the Border Guard, competent commanders of Border Guard branches, commanders of Border Guard training centres or commanders of Border Guard centres when they enter into or terminate their professional relationship, every year and at their request. The Border Guard employees declare their assets, including matrimonial assets, at the request of the Commander-in-Chief of the Border Guard, commander of the Domestic Affairs Bureau of the Border Guard, competent commanders of Border Guard branches, commanders of Border Guard training centres or commanders of Border Guard centres. Information contained in asset declarations is classified and protected as “restricted” information. Asset declarations are kept for ten years beginning on the day of their submission.

#### **Asset declarations of State Protection Service officers**

Under Art. 137. 1. of the Act of 8 December 2017 on the State Protection Service (Journal of Laws of 2018.138), the officers are obliged to their declare assets, including matrimonial assets, when entering into or terminating a professional relationship, every year and at the request of the commander of the State Protection Service or a person whom he or she has authorized.

### **THE DRAFT LAW**

The Government Legislation Centre published a draft law dated 23 October 2017 called the Act on Transparency in Public Life together with the grounds for legislating it<sup>3</sup>. The bill provides that heads of communes, mayors, presidents, county chief executives, marshals and members of province board may not sit on companies’ management boards; it makes it obligatory to publish public tender

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<sup>3</sup> <https://legislacja.rcl.gov.pl/docs//2/12304351/12465401/12465402/dokument313365.pdf>.

announcements on the Internet and introduces a new, uniform template of asset declaration. In its reform of the asset declaration system, the government proposed expanding the list of people obliged to declare assets. Such obligation will be imposed on all people who take part in proceedings to award a public tender contract, in privatization proceedings if the value of proceedings exceeds PLN 500,000, as well as on people who head budgetary units, local government budget facilities and cultural institutions. According to the bill, the head of the Central Anti-Corruption Bureau will have the power to require each person who holds public office to submit an additional asset declaration once a year. The CBA head will also be authorized to require persons who are not normally obliged to submit their asset declarations to declare their assets. Under the draft law, it is necessary to include all immovable property in the asset declaration. Today, people who declare assets are obliged to indicate only the immovable property that is in their ownership. The government has proposed that the asset declaration includes both immovable property that is owned by the person who declares assets and immovable property that they have acquired based on other legal titles or without titles. The proposed provisions also introduce an obligation to report changes in the state of assets that have occurred during the year. The forms to facilitate filling out declarations are available on the Ministry of Digital Affairs' website [aplikacje.gov.pl](http://aplikacje.gov.pl). They offer guidelines on how to fill in the blank spaces, which helps to avoid mistakes. 2018 is the last year when declarations have to be printed out and undersigned. In a year's time it will be possible to submit asset declarations on-line. In the future, the application will also support the work of the Central Anti-Corruption Bureau. Currently, the CBA analyzes only several hundred declarations a year. Electronic asset declarations submitted, stored and processed on-line would be a help for both those required to submit them and for the authorized services.