

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

1. Measures which the Republic of Serbia has undertaken in order to establish system requiring public officials to make income and asset declarations

a) Relevant provisions of the Law on ACA

Serbia has a system of asset and income declarations for public officials, which is defined in the Law on ACA (Chapter V, Arts. 43-49). The system is introduced with an aim to strengthen the public integrity (institutional and individual) regime, promote transparency and consequently increase the trust of citizens in public administration.

Obligation to regularly submit asset and income declaration (hereinafter: the Report) refers to persons who fall within the scope of "public official" as defined by the Law on ACA. Public official (hereinafter: the official) is obliged to submit to the ACA within 30 days of election, appointment or nomination, the report concerning his/her property and income, or entitlement to use a flat for official purposes, and on the property and income of spouse or common-law partner, as well as of under-age children if they live in the same household, on the day of election, appointment or nomination. The report is also filed within 30 days from the day of termination of office with the status as of the day of termination of office. In addition, the body in which the official holds an office is obliged to notify the ACA that the official has taken the office and/or of termination of office (Art.43). Extraordinary report is to be filed if any significant change occurs in respect of data from the Report filed previously. A significant change implies any change of data contained in the report relating to property that exceeds the average annual net income in the Republic of Serbia. The official whose office is has terminated is required to file annually the Report on significant changes relative to data from the previous Report over a period of two years following termination of public office (Art. 44).

Failure to report property or reporting false information about the property, with an intention of concealing facts about it, constitutes a criminal offense in the Republic of Serbia, punishable with imprisonment from six months to five years (Art 72).

The ACA keeps the Registry of public officials listing the names of institutions at all levels, and the names of public offices and the Registry of property containing all data from the Report, paying attention to security measures and the protection of the right to privacy. In addition, the ACA keeps separate records such as the list of legal entities in which an official owns a share or stock in excess of 20%; catalogue of gifts and annual financial statements of political parties, and/or political entities with reports in accordance with the Law governing financing of political parties, and/or political entities (Art. 68).

There are almost 3 1.000 of active officials in the Republic of Serbia at the moment and approximately the similar number of those officials whose office has terminated.

b) Declaration form and content

The official submits an asset disclosure report to the ACA in a printed and e-version, in a form prescribed by the ACA and available on its website.

The report contains data on: property rights on real estate at home and abroad; property rights on movable property subject to registration with the relevant authorities in the Republic of Serbia and abroad; property rights on and movables of high value (valuables, art collections etc.); deposits in banks and other financial organizations, at home and abroad; shares and stocks in legal entities and other securities; rights deriving from copyright, patent and similar intellectual property rights; debts (principal, interest and repayment period) and receivables; source and amount of income from discharge of public office, or public functions; entitlement to use a flat for official purposes; source and amount of other net incomes; other public functions, jobs or activities discharged in accordance with law and special regulations; membership in civic association bodies; all other data and evidence deemed by the official as relevant for the implementation of the Law on ACA (Art. 46).

The information on salary and other entitlements received by the official from the budget and other public sources and information on the public functions he/she discharges is public, as well as the information concerning his/her property as follows: ownership right on real property in the country of residence or abroad, without specifying the address of such property; ownership right on a vehicle, without specifying the registration number; savings deposit, without specifying the bank and account number; right to use a flat for official purposes. Public information is also information about the property of an official if it is public in accordance with other regulations, as well as other information that may be disclosed with the consent of the official or spouse or common-law partner. The ACA is obliged to disclose the data by posting them on its website, taking into account the right to privacy. Information from the report cannot be used for other purposes except in proceedings deliberating whether a violation of Law has occurred (Art. 47).

c) Verification/control procedures

The ACA checks due filing of the reports and accuracy and completeness of information.

Asset declaration control is pursued through regular (targeted) and extraordinary checks. Regular checks are done in accordance with the annual verification plan (established each year in accordance with the estimated priorities) for a certain number (between 250 — 300 officials per year) and category of officials (as an example, in 2017 a subject of verification were asset declarations of 305 officials, namely prosecutors, judges, MPs, state secretaries, assistant ministers and ministers). If need be, the ACA may request from competent authorities to obtain data from financial organizations, companies and other persons (Art. 48).

Extraordinary checks are performed ex officio when there are relevant indications that the official might be concealing the actual state of his/her property because of the evident inconsistencies between his/her actual and declared property status. These indications are founded on the reports and information obtained from other departments within the ACA, other state institutions, and other sources (media, civil sector, etc.), if accompanied by relevant proofs (contract, statement of account, etc.). Extraordinary verification process may also be triggered by a complaint, submitted to the ACA by any legal or natural entity. The complaint represents a written submission in which the applicant may indicate corruptive behavior of the public authority institution or public official which impairs public interest.

During the control procedure (of the data declared in the report), the ACA collects necessary information from other state bodies (e.g. data on public officials' real estates within the country as well as on their property taxes from Republic Geodetic Authority and Public Revenue Administration; data on residence addresses and registration of vehicles and weapons from the Ministry of Interior; data on ownership over stocks and bonds from Central Securities Depository and Clearing House; data on owners and founders of legal entities from Business Registers Agency, etc.). The data are also checked with other entities, such as harbormaster's offices, commercial banks and other institutions, if need be.

If the ACA has a reasonable doubt that an official did not declare assets or provided false information about the assets and income, with an intention of concealing the facts, the ACA files a criminal charge to competent prosecutor's offices (Art. 72). If the ACA has a suspicion that some other criminal offense has been committed (abuse of office, money laundering, tax evasion, etc.), the ACA files the report (with all findings and evidences) to the prosecutor's office and other competent bodies.

The Law on ACA regulates initiation of misdemeanor proceedings for submission of asset and income declaration after prescribed time limit.

To ensure more efficient data control, the ACA signed the Protocols on Business and Technical Cooperation with a number of institutions (e.g. Ministry of Interior, Republic Public Prosecutor Office, Commission for Protection of Rights in the Public Procurement Procedures, Commission for Protection of Competition, Public Procurement Office, Central securities depository and clearing house, Ministry of Finance - Treasury, Tax Administration, Customs Administration, Administration for the Prevention of Money Laundering, as well as with Business Registers Agency and Republic Geodetic Authority). There is also a Memorandum on Cooperation signed among Supreme Court of Cassation, AntiCorruption Council and Privatization Agency. Besides, the ACA has signed Cooperation Agreements on development of educational capacities and data exchange with: Faculty of Law, Faculty of Political Sciences, Academy of Police and Criminalistics Studies and Faculty of Organizational Studies.

On a regular basis, the ACA also cooperates with other state institutions, local self-government bodies, public enterprises, educational and health institutions at the national and local level, political entities, judicial institutions, etc.

When it comes to cooperation with the judiciary institutions, the ACA established liaison officers within the prosecutor's Office and misdemeanor courts. Regular consultations are part of this cooperation. With an aim (of improving the cooperation and in particular focusing on the implementation of the activities within the Action Plan for Chapter 23, regular meetings are organized with the representatives of High Judicial Council and State Prosecutorial Council.

d) Trainings and Advisory Activities

As already explained, the ACA organizes and implements education programs and prepares informative material which are supposed to assist public officials in fulfillment of their obligations stemming from the Law on ACA. For more information related to these educational and informative mechanisms and tools see previous related chapter of this document (I. I. c.).

2. The most important challenges in the field of asset and income declaration control

Majority of challenges already mentioned in the first part of this document are equally relevant for the asset and income declaration control area (inadequate regulatory framework, communication problems, challenges related to information sharing and education, lack of possibility of direct access to databases and records kept by the other competent state bodies, IT incompatibility of databases of different public institutions, lack of staff, communication with banks, etc.).

It is expected that the new Law on ACA may solve some major obstacles that would facilitate and speed up the asset and income control of public officials, especially those related to possibility to directly access official databases and documentation of public institutions and other legal entities necessary for thorough and complete performance of control procedures. In addition, expected amendments are supposed to oblige officials to report the property and income of all blood relatives in the straight line of kinship.

As said in the first part of this document, at the international level, the ACA cooperates with the most important anti-corruption bodies such as the United Nations Office on Drugs and Crime, Council of Europe Group of States against Corruption, OECD Anti-Corruption Network, European Partners against Corruption, etc. The ACA is regularly participating in drafting of the different studies, questionnaires and other related initiatives conducted by international actors. On the occasion of the International Anti-Corruption Day, each year the ACA is organizing round table discussions on the specific topic.