

**OPEN-ENDED INTERGOVERNMENTAL WORKING GROUP ON THE
PREVENTION OF CORRUPTION
THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY Slovenia
Article 8, Paragraph 5
Asset and Interest Disclosure Systems
Slovenia (ninth session)**

ARTICLE 8, PARAGRAPH 5

1. Please describe (cite and summarize) the measures your country has taken, if any, (or is planning to take, together with the related envisaged time frame) to ensure full compliance with article 8 (5) of the Convention, and in particular to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

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

Oversight of the 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 responsible institution for collecting and analysing assets and interest declarations, uses data from declarations and performs different proactive analysis with the aim to identify possible violations.

a) Persons with obligation to declare assets (Article 41 IPCA):

Section V of the IPCA regulates control over the 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 the assets by family members of persons under the obligation: generally they don't 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 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 IPCA, the CPC may request that they submit the data on assets and incomes within one month of receiving the request.

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

Year	2011	2012	2013	2014	2015	2016
Number of persons 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

b) Information that must be declared (Article 42 IPCA):

Data on assets of a person with obligations 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.

c) Frequency of declarations required:

The IPCA lays down the obligation both for a) persons under obligation reporting 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 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 the secondment or proposal of the Government or the National Assembly. Lists of persons under 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 the 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 obligation (with the exception of persons responsible for public procurement and officials of the National Review Commission) report information on their assets in their entirety 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 with obligations 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).

d) Submission of 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 signed paper format to CPC. Special guideline is available for officials for filling out 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) is the same - CPC's staff is available for that too. Besides, the CPC issues lots of publications and advices - please see information provided under Article 5, Paragraph 2 and Article 8, Paragraph 4.

e) 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 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 with obligations;
- 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 this exceeds EUR 10 000 in value;
- the total value of cash if this exceeds EUR 10 000 in value;
- the total value of securities if this exceeds EUR 10 000 in value;
- the total value of debts, obligations or guarantees assumed if this exceeds EUR 10 000 in value;
- the total value of loans given if this 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 obligation to declare income and assets that in 60% of cases these the declaration forms are filled out in a wrong manner (some assets are not reported, assets of family members are reported while they shouldn't be and as a consequence shouldn't be made publicly available).

f) Mechanism of monitoring the asset declaration:

The CPC is the responsible body for the implementation and supervision of the implementation 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 forms is complete and accurate. Information shall be communicated to the CPC by way of an 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 with obligations (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 with obligations to enclose relevant evidence with 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 obligation of asset declaration are checked through the random checks and the targeted check (in these checks the completion and accuracy is checked). In complete check following methods are used: cross-check with external databases, comparisons across years, identification of possible incompatible functions and conflict of interest, internal consistency...).

Unfortunately Commission does not have special automated system which could provide cross-check analysis in real time in one place (with one click). This is future plan for the CPC. Currently 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),
- the CPC can receive bank details, records on animals, land registers, investment funds, stock exchanges, boats on demand.

See 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 persons under check in 2016, includes controls upon 980 persons under obligation.

Additional information on illicit enrichments:

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 to initiate 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 note also 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 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 the courts of law.

Even though there 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.

g) Accountability and enforcement mechanisms

A person under the obligation to declare assets is liable for the offence if he/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 with obligations have increased disproportionately compared to his income derived from the performance of his 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 with obligations 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 with obligations 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 with obligations has not provided data on his 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 ten percent of his 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 offence:

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

- fails to communicate information on his 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 obligation for refusing to report information on offices, activities, assets and income in compliance with the law (Article 44 of the IPCA).

Number of minor offence decisions in regards failing 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	/	/	/	/	/

h) Providing advisory services/advice on asset declaration

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

lectures on IPCA, that are given at least two times every year by the CPC employees.

i) The number of employees at 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 regards Assets declarations:

Most common irregularities detected with regard to filing asset declaration forms are the following:

- 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 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:

Mandate 10.2.2012-20.3.2013

ALL VIOLATIONS IN TOTAL	28
ALL DECLARATION FORMS IN TOTAL	120
ALL VIOLATIONS IN TOTAL ACCORDING TO THE PUBLICLY ACCESSIBLE** DATA IN %	23,33%

Mandate 20.3.2013-18.9.2014

ALL VIOLATIONS IN TOTAL	33
ALL DECLARATION FORMS IN TOTAL	153
ALL VIOLATIONS IN TOTAL ACCORDING TO THE PUBLICLY ACCESSIBLE** DATA IN %	21,57%

Ongoing mandate 18.9.2014-

ALL VIOLATIONS IN TOTAL	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 to 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.

RECEIVING GIFTS:

Article 30 of the IPCA provides that an official may not accept gifts or other benefits in connection with the discharge of the duties of the office, the exceptions being protocol gifts and occasional gifts which are small in value. The act goes on to define protocol and occasional gifts. Protocol gifts are gifts given to officials by representatives of other State bodies, other countries and international organisations and institutions on the occasions of visits, guest appearances and other occasions, and other gifts given in similar circumstances. Occasional gifts of small value are gifts given on special occasions that do not exceed EUR 75 in value, and a total value that does not exceed EUR 150 during a particular year when they are received from the same person. Under Article 31 of the IPCA, protocol gifts and occasional gifts with a value greater than EUR 75 become the property of the Republic of Slovenia, local community or organisation in which the official holds office.

The method of disposing of gifts and the keeping and content of the list of gifts are set out in the Rules on restrictions and duties of officials related to accepting gifts (Official Gazette of the Republic of Slovenia, No. 53/10, 73/10, hereinafter: the Rules). Under Article 4 of the Rules, in addition to information about the official, date of receipt of gift and title of gift giver, the information to be entered on the form must include the type and value of the gift, an indication whether it is a protocol or occasional gift, and an indication whether the gift has become the property of the official, the State or the local community, or the body in which the official holds office. Article 5 of the Rules defines the method of determining the value of a gift. Under that article the value of a gift for which the market value cannot be determined is appraised through the non-expert assessment of the official, while if the gift is of artistic or historical value, its value is determined by expert appraisal.

With the analogous application of Articles 4 and 5 of the Rules, determining the value of gifts received is important both for protocol and occasional gifts, while for both categories a limit of EUR 75 is set, beyond which the gift becomes the property of the State, the local community or the body in which the official holds office. Nevertheless the CPC believes that for gifts given to the State, the local community or the body in which the official holds office, and for gifts which the official hands over to the State, municipality or body, the entry or determination of value is not essential to achieving the aims pursued by the aforementioned provisions of the IPCA and the Rules. Where it involves a protocol gift for which a lay assessment cannot determine its value, or a gift of artistic or historical value, where the appraisal of value requires the hiring of an expert and thereby a certain cost, while the gift is given over to public ownership in one way or another, for reasons of expediency the CPC will allow a statement to be made on the form that the value cannot be determined by non-expert appraisal and that if necessary, it may be determined later through the hiring of an appropriate expert.

In 2002 the Civil Servants Act (CSA) was adopted, establishing the obligatory standards of conduct for all civil servants and provides the legal foundation for the Decree on the limitations and duties imposed upon public servants with respect to receiving gifts, adopted in 2003. CSA in Article 100 defines activities and work that is not compatible with the work of civil servants and public officials and also defines the sanctions for breaking this rules. The article 100 CSA defines that officials may not perform other activities, if the activity violates the prohibition of competition or the competition clause pursuant to the law governing employment; if the performance of activity might affect the impartiality of the performance of work; if the performance of activity might result in the abuse of data accessible at the performance of the tasks at work, that are not accessible to the public and if the performance of activity is harmful to the reputation of the body. The restrictions under this Article shall not apply to activities relating to scientific and educational work, work in associations and organisations in the field of culture, art, sport, humanitarian activities and other similar associations and organisations, work in the area of journalism, and to membership and activities in political parties.

Officials holding the positions of director-general, secretary-general, the principal of Body within Ministry, the principal of a Government Office, the principal of Administrative Unit and the director of municipal administration (municipal secretary), may not perform any profitable activities with the exception of activities in the field of science, research, education, art, journalism and culture. Legal entities in which officials

under the preceding paragraph, or their spouses, their lineal relatives or their collateral relatives three times removed, hold a share exceeding 20 per cent, may not enter business relations with bodies in which officials work. Contracts concluded contrary to the provision of this Article shall be null and void.

Official that believes a situation has arisen in which his personal interests might affect the impartiality and objectivity of the performance of his tasks, or where the circumstances of the situation might cast doubt as to his impartiality and objectivity, must, immediately or as soon as practical under the circumstances, notify the principal and act in accordance with his instructions. In such cases, the principal must assure that the tasks are performed lawfully, impartially and objectively, or must verify that the tasks were performed in such a manner.

Statistics regards receiving gifts:

	2012	2013	2014	2015	2016
Received signal / report and opened cases on self initiation	/	3	2	/	1
Identified violations	/	/	/	/	/
Number of issued advices	14	13	11	11	8

As regards civil servants:

The Ministry for public Administration does not process records about the number of cases in which the public servants were advised about the proper managing the potential or actual conflicts of interests. Usually the state or local authority seeks for advice when the certain situation occurs and the answer is then published at the web site of the Ministry for Public Administration.

Should you need additional clarification or information please contact us. The contact person of the Commission is: Mr. Jure Škrbec, Ph.D., Senior European and International Relations Officer, E-mail: jure.skrbec@kpk-rs.si.

With best regards,

Boris Štefanec
CHIEF COMMISSIONER

Sent to:

- addressee
- archives.