

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY
UKRAINE**

ARTICLE 8, PARAGRAPH 5 UNCAC

FINANCIAL DISCLOSURE/DECLARATION OF ASSETS

UKRAINE (EIGHTH MEETING)

6) Detect and prevent possible conflicts of interest, such as system requiring members of criminal justice institutions to make declaration to appropriate authorities regarding, inter alia, their outside activities, employment, investments, income, assets and substantial gifts or benefits from which a conflict of interest may result, including as the take office and regulary during the performance of their public functions

The Law of Ukraine "On prevention of corruption" action of which applies to civil servants of all levels defines the basic rules of ethical behavior and establishes requirements for behavior individuals.

Also, December 10, 2015 the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On civil service", the introduction and implementation of which started on 1 May 2016.

Paragraph 5 of Article 4 of the mentioned Law provides that the Civil service shall be performed in compliance of the integrity – the civil servants' commitment to protect the public interests and his/her rejection of prevalence of private interest while exercising powers granted to him/her.

Paragraph 2 of Article 8 the law provides that a civil servant is obliged to adhere to the principles of public service and ethical norms.

February 11, 2016 the Cabinet of Ministers of Ukraine adopted a decree "On approval of rules of ethical conduct for public officials", which defines the basic principles of civil service ethics that based on the provisions of the Constitution of Ukraine, laws on civil service and prevention of corruption, in particular integrity.

Under paragraph 6 of these Rules integrity includes:

focus action to protect public interests, the priority of the common good over personal public, private or corporate interests;

unacceptability of use of state property for personal purposes;

avoid a conflict of interest between public and private interests;

non-disclosure and non-use of information that has become known in connection with a providing official duties, including after the termination of public service, except when required by law;

avoid providing any benefits and commitment to identify specific individuals and entities, political parties, social and religious organizations.

According to the article 28 of the Law of Ukraine «On corruption prevention» Persons authorized to perform the functions of the government or local self-government shall be obliged:

to take measures to prevent the occurrence of actual, potential conflict of interest;

to report – no later than the next business day from the date when the person found out or should have found out about having a real or potential conflict of interest – to the immediate supervisor,, and if the person holds the position that does not provide for having an immediate supervisor or the position in a collective body – to report to the National Agency or other authority or a collective body determined by the law, where the conflict of interest occurred while exercising authority, respectively;

not to take any actions and not to make decisions under the conditions of a real conflict of interest;

to take measures to address actual or potential conflict of interest.

Persons authorized to perform the functions of the government or local self-government may not directly or indirectly in any way encourage their subordinates to make decisions, take actions or refrain from actions that violate the law and benefit their private interests or the private interests of third parties.

Immediate supervisor or the supervisor of an authority which has the powers to dismiss/initiate dismissal from position within two business days after receiving a notice that

her/his subordinate has a real or potential conflict of interest makes a decision aiming to resolve the conflict of interest, and reports about it to a respective person.

When the National Agency receives a notice from a person about the presence of a real or potential conflict of interest, it explains within seven working days to the reporting person the procedure for her/his actions to resolve the conflict of interest.

Immediate supervisor or the supervisor of an authority which has the powers to dismiss/initiate dismissal from position who became aware of the conflict of interest of his subordinate person shall take in accordance with this Law measures for the prevention and settlement of conflict of interest of such person.

If person doubts whether he/she has a conflict of interest he/she shall seek for an explanation at the territorial office of the National Agency. If the person did not receive confirmation about absence of conflict of interest he/she shall act in accordance with the requirements set out in this section of the Law.

If a person has received confirmation about absence of conflict of interest he/she shall be exempted from liability even if it turned out later that there had been conflict of interest in actions regarding which he/she sought clarification for.

Laws and other legal acts that define the powers of the government authorities, the authorities of the Autonomous Republic of Crimea, local self-government authorities, the procedure of provision of certain types of state services and other activities related to the functions of the state and local self-governments have to provide for procedure and ways of resolving the conflict of interest of officials whose activities they regulate.

Thus by the Article 29 of the mentioned Law identified Measures of external and self-resolving of conflict of interest:

suspension of a person from fulfilling the task, performing actions, making decisions or participation in making decisions under the conditions of a real or potential conflict of interest;

use of external monitoring to control how person fulfils certain task, does certain actions or makes decisions;
restricting a person to access certain information;
reviewing the scope of person's official powers;
reassignment of a person to another position;
discharge of a person.

In addition, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine" and "On amendments to some legislative acts of Ukraine concerning support of the National Anti-Corruption Bureau of Ukraine and the National Agency for the Prevention of Corruption" made changes to Article 23 of the Law of Ukraine "On Prevention corruption ", which sets restrictions on receiving gifts.

According to the article 23 of the mentioned Law persons authorized to perform the functions of the government or local self-government shall be prohibited to demand, ask, receive gifts for themselves or close persons from legal entities or individuals:

in connection with performing by such persons activities connected with functions of the state or local self-government;
if the person who gives is a subordinate to that person.

Persons authorized to perform the functions of the government or local self-government may accept gifts which meet generally accepted notions of hospitality, except as provided by part one of this Article, if the value of such gifts does not exceed one minimal wage established on the date when the gift was received, it accepted one time, and the aggregate value of gifts received from one source within the year not exceeds two living wages established for labour-abled person on January 1 of the current year.

Restriction on the value of gift stipulated by this part shall not apply to gifts which are:

given to close persons;
received as a public discounts for products, services, publicly available benefits, prizes, rewards and bonuses.

Gifts received by the persons referred to in paragraphs 1, 2 of part one of the Article 3 of this Law in capacity of gifts to the State, the Autonomous Republic of Crimea, local community, state or municipal enterprises, institutions or organizations shall be deemed as state or municipal property and transferred to the authority, enterprise, institution or organization in accordance with a procedure determined by the Cabinet of Ministers of Ukraine.

Decisions taken by a person referred to paragraphs 1, 2 of part one of the Article 3 of this Law in favour of a person who has given him/her or his/her close persons the gift shall be deemed as those taken under conditions of the conflict of interest and provisions of Article 67 of this Law shall be applied to such decisions.

2) procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption in criminal justice institutions

According to the article 45 of The Law of Ukraine «On corruption prevention» Persons authorized to perform the functions of the government or local self-government are required to file the declaration of a person authorized to perform the

functions of the state or local self-government (hereinafter – the Declaration of person authorized to perform functions of the state or local self-government) annually until April 1 – for the last year and in the form, which is determined by the National Agency, through the official website of the National Agency.

In addition, a special law regulated the activities of the Court (Article 55 of the Law of Ukraine "On the Judicial System and Status of Judges") the obligation for judges to file a declaration in accordance with the law.

The declaration shall contain information on:

1) last name, first name and patronymic, registration number of the taxpayer registration card (series and number of the passport of a citizen of Ukraine, if persons due to their religious beliefs refuse to accept the registration number of the taxpayer registration card and notify the respective central executive authority responsible for shaping tax policy about it, and have a stamp in the passport of the citizen of Ukraine about it) of the declarant and its family members, address of registration and of actual residence or mailing address, to which the subject of declaration can be sent correspondence by the National Agency, place of work (military service), or place of future work (military service), current position, or aspired position, and category of the position (if available) of the declarant;

2) real estate owned by the declarant and members of its family on the right of private ownership, including joint ownership, or rented by them or used by them based on other right of use, irrespective of the form of the transaction, by which such a right was acquired. The information shall include data on:

- a) the type, property characteristics, location, date of obtaining the property into ownership, rent or other right of use, value of the property on the date when it came into ownership, possession or use;

- b) if immovable property is in the joint ownership, the information mentioned in clause 1, part one of this Article about all co-owners or the name of the respective legal entity and the code at the Unified State Register of Enterprises and Individual Entrepreneurs shall be given. If immovable property is leased out or otherwise lawfully used, the information mentioned in clause 1, part one of this Article about such property owner or the name of the respective legal entity and the code at the Unified State Register of Enterprises and Individual Entrepreneurs shall also be given.

2-1) constructions in progress, constructions not commissioned into operation or where the ownership is not registered in the manner prescribed by law, which:

- a) are owned by a declarator or the members of his/her family in accordance with the Civil Code of Ukraine;

- b) located in land plots owned by a declarator or the members of his/her family as their private property, including joint ownership, leasing or any other lawful use irrespective of legal grounds for acquisition of such right;

- c) built out of the materials or at the cost of a declarator or the members of his/her family.

Such information shall include:

- a) information about the property location;
- b) information about the owner or user of a land plot where the property is being constructed;

c) if property is in the joint ownership, information mentioned in clause 1, part one of this Article about all co-owners or the name of the respective legal entity and the code at the Unified State Register of Enterprises and Individual Entrepreneurs shall be given;

Register of Enterprises and Individual Entrepreneurs shall be given;

• d) if movable property is in the joint ownership, the information mentioned in clause 1, part one of this Article about all co-owners or the name of the respective legal entity and the code at the Unified State Register of Enterprises and Individual Entrepreneurs shall be given. If movable property is owned or being in lawful use, the information mentioned in clause 1, part one of this Article about such property owner or the name of the respective legal entity as well as the code at the Unified State Register of Enterprises and Individual Entrepreneurs shall also be given;

3) valuable movable property the value of which exceeds 100 minimum wages established as of January 1 of the reporting year and which belongs to the declarant or members of its family on the right of private ownership, including joint ownership, or is in its possession or use regardless of the form of the transaction by which such right was acquired. Such data includes:

• a) information on the type of property, characteristics of the property, the date of obtaining the property into the ownership, possession or use, value of the property on the date when it came into ownership, possession or use;

• b) information on the vehicles and other self-propelled machines and mechanisms shall also include data on their make and model, year of manufacture, the identification number, if any. Information on vehicles and other self-propelled machines and mechanisms should be reported regardless of their value;

• c) if movables is in the joint ownership, the information mentioned in clause 1, part one of this Article about all co-owners or the name of the respective legal entity and the code at the Unified State Register of Enterprises and Individual Entrepreneurs shall be given. If movables is leased out or otherwise lawfully used, the information mentioned in clause 1, Part one of this Article about such property owner or the name of the respective legal entity and the code at the Unified State Register of Enterprises and Individual Entrepreneurs shall also be given.

Note. The declaring of valuable movable property specified in this paragraph (except for vehicles and other self-propelled machines and mechanisms), the rights to which had been acquired before the submission by the declarant of the first declaration in accordance with the requirements of this Law, shall be carried out with the mandatory indication whether such property was acquired before the period of performance of functions of the state or local self-government or during such period. At the same time, indication of data on the value of such property and the date of its acquisition in ownership, possession or use shall not be mandatory.

4) securities, including stocks, bonds, checks, certificates, promissory notes belonging to the declarant or members of its family, including the information about the type of the security, its issuer, the date of obtaining ownership of securities, quantity and par value of the securities. If the securities are transferred to another person for management, the information required in clause 1 of part one of this Article shall be provided on that person as well as owner or the name of the respective legal

entity and the code at the Unified State Register of Enterprises and Individual Entrepreneurs shall also be given.

indication of the name of each business entity, its organizational and legal form, code of the Unified State Register of Enterprises and Organizations of Ukraine, the share in the authorized (share) capital of the company, enterprise, organization, in monetary and percentage terms;

5-1) legal entities where the declarator or the members of his/her family is a final beneficiary owner (controller). “

The term “final beneficiary owner” (controller) is used in the meaning established by the Law of Ukraine On Prevention and Counteraction to Legalization (Laundering) of the Proceeds of Crime, Terrorist Financing and Financing Proliferation of Weapons of Mass Destruction”.

6) intangible assets owned by the declarant or its family members, including intellectual property objects that can have value in monetary terms. Information on intangible assets include data on the type and characteristics of such assets, the value of assets at the time of obtaining them into ownership, and the date when the right to them appeared;

7) received (accrued) income, including income in the form of salaries (monetary allowance) obtained at the main place of work, and concurrently for other work, honoraria, dividends, interest, royalties, insurance payments, charitable aid, pension, income from sale of securities and equity rights, gifts and other income.

Such information includes data on the type of income, source of income and its size.

Information about a gift shall only be given if the value of such gift exceeds five minimum wages established as of the 1st January of the reporting year; and for the gifts in a monetary form, if the amount of such gifts received from the same person (the group of persons), within a year, exceeds five minimum wages established as of the 1st January of the reporting year;

exceeds five minimum wages established as of the 1st January of the reporting year;

8) monetary assets, including cash, funds in bank accounts, contributions to credit unions and other nonbank financial institutions, funds lent to third parties, as well as assets in the form of precious (bank) metals. Information on monetary assets includes information on the type, size and currency of the asset, as well as the name and code of the Unified State Register of Enterprises and Organizations of Ukraine of the institution where respective accounts were opened or to which respective contributions were made. Cash, funds placed on one bank account, contributions to credit unions and other non-bank financial institutions as well as asset in the form of precious (bank) metals, cash, funds lent to third parties, the value of which does not exceed 50 minimum wages set as of January 1 of the reporting year, are not subject to declaring.

9) financial obligations, including loans received, leasing obligations, the size of funds paid towards the principal amount of the loan (credit) sum and interest on the loan (credit), obligations under insurance contracts and non-state pension provision contracts, money lent to others. Information on financial obligations include data on the type of obligation, its size, currency of obligation, details about the person in

whose favour such obligations arose in accordance with clause 1 of part one of this Article, or the name of the respective legal entity and the code at the Unified State Register of Enterprises and Individual Entrepreneurs and the date when the obligation appeared. Such information is provided only if the value of the obligation exceeds 50 monthly subsistence minimums established for able-bodied person as of January 1 of the reporting year. If the value of the obligation does not exceed 50 minimum wages established as of January 1 of the reporting year, only the overall value of such financial obligation is indicated.

If real estate or movable property constitute the subject matter of the transaction to ensure the performance of the obligation, the declaration shall indicate the type of property, its location, price and information about the owner of the property, in accordance with clause 1 of this Article or the name of the respective legal entity and the code at the Unified State Register of Enterprises and individual entrepreneurs.

which the declarant obtains or terminates the right of ownership, possession or use, including joint ownership, of real estate or movable property, intangible and other assets, as well and of financial obligations referred to in clauses 2-9 of this article.

Such information shall be specified if the amount of the corresponding expenditure exceeds 50 minimum wages established as of 1 January of the reporting year; such information

includes data on the type of transaction, its subject matter. Upon written request of the National Agency the declarant shall provide information about the name of the counterparty;

11) position or job, that is being or was performed concurrently: data on position or job (paid or not) that is performed under the agreement (contract), name of the legal entity or individual for whom the person is or was employed concurrently with indication of the code of the Unified State Register of Legal Entities and Individual Entrepreneurs, or last name, first name and patronymic of an individual with indication of her registration number of the taxpayer registration card; registration card;

12) participation of the declarant in management, revisionary or supervisory bodies of public associations, charities, self-regulatory or self-governing professional associations, membership in such associations (organizations) with indication of the names of the respective associations (organizations) and their code of the Unified State Register of Legal Entities and Individual entrepreneurs.

According to the article 47 of the Law of Ukraine «On corruption prevention» Submitted declarations are included to the Unified State Register of Declarations of Persons Authorized to Perform the Functions of the State or Local Self-government that is formed and maintained by the National Agency.