

PART III  
*Chapter 10*

**Asset Declaration in Lithuania**

## Context

Lithuania has one of the broadest asset disclosure systems in terms of purpose. It covers issues from general transparency to combating corruption, monitoring of wealth and illicit enrichment, as well as overall prevention of conflict of interest. The country has a twofold mechanism in place ensuring the integrity and transparency of its public administration:

- declaration of assets and incomes of individuals;
- declaration of private interests.

Asset and income declarations of individuals were introduced in 1993 and transferred to electronic format in 2004. There have been a number of revisions since then. In the year 2007 the system was converted to partially pre-filled declarations, which already contain all information received from various competent institutions – such as banks, credit institutions, insurance companies, pension funds, educational and scientific institutions, etc. – regarding the assets and incomes of each individual. The person is required to review the information contained and fill out missing parts. This instrument is intended to provide for financial control and wealth monitoring of the public officials.

Declarations of private interests, on the other hand, were introduced to prevent conflicts between public and private interests of those entrusted with public functions, and to ensure that private interests are always superseded by those of the public. Private declarations were created first and foremost to provide an effective instrument in the fight against corruption, and were initially launched in 1996. The system has undergone numerous changes since its inception; these were introduced into the corresponding laws in 1998, 2000, 2001, 2003, 2004, 2005 and finally 2008, a year in which the changes were major. The actual declaration forms, as well as rules for declaring, have been revised four times between 2000 and 2008.

## Legal basis and institutional arrangements

The legal basis for the asset declaration and conflict of interest system in Lithuania is comprised of the following legislative acts: main laws regulating the set-up and essence of the system – *Law on Declaration of the Property and Income of Residents*, *Law on the Adjustment of the Public and Private Interests in the Public Service*, *Law on the Chief Official Ethics Commission (VTEK)*; and selected provisions from more general overarching laws or special laws, such as *Law on Public Service*, *Law on Lobbying*, *Law on Elections to the Seimas*, *Law on Elections to the European Parliament*, *Law on Presidential Elections*, *Law on Prevention of Corruption*, *Law on the Accounting for the Lawful Acquisition of Personal Property and for the Origin of Income* and others, which regulate individual elements of the system or general principles of its functioning.

The corresponding institutional framework for two types of declaring is decentralised, and relies on shared responsibility among various institutions. More specifically, each state institution is responsible for the initial collection of declarations from its own employees

(apart from some selected categories of high-level officials), as well as initial review, storing and archiving of the income, assets and private interests declarations they have collected. These duties lay within the scope of responsibilities of the heads of such agencies, or are specially designated for such persons.

The State Tax Inspectorate under the Ministry of Finance is responsible for handling income and assets declarations (this goes beyond functions mentioned above covering the whole public service). On the other hand, the Chief Official Ethics Commission is responsible for further handling of the declarations of interests, and the overall processing of such declarations from a selected category of officials (that responsibility includes collection, storing and archiving). Additionally, the Chief Official Ethics Commission is responsible for development of recommendations for improving and implementing legal requirements on official ethics and the conduct of persons in the civil service. It has the authority to take decisions and resolutions on these issues. It is also in charge of development of methodological guidelines. Finally, it is responsible for verification of the contents and investigation of suspected violations. The Chief Official Ethics Commission is the only specialised authority whose prime responsibility is controlling declarations of private interests; in other institutions this function is one of many. The Commission is comprised of five members. The president of the Republic, the speaker of the parliament and the prime minister each appoint one person with an impeccable reputation extending over ten years of professional service as member of the Commission, for a term of five years; the two others are appointed by the head of the Supreme Court and chair of the association of local self-government. The five persons serve no more than two terms in succession. The Seimas appoints a Commission chairman from among the Commission members. The total number of Commission employees is currently 16.

Similarly, the Central Election Commission handles declarations submitted by the candidates for political offices (seats in the Seimas, presidential office, offices of the members of government, local self-government and seats in the European Parliament), covering all types of information (property, income and private interests).

In addition, there are special units or officials assigned to handle declarations in the legislative and judicial branches of power, for example the Seimas Commission on Ethics and Procedure.

## **Subjects of Declaration Systems**

Again, when identifying the subjects of declaration systems, in the case of Lithuania it is appropriate to talk about two types of declarations, and accordingly about two groups of persons subject to declaration regimes.

### ***Declarations of private interests***

Persons who are required to declare private interests include state politicians, government officials, civil servants, judges, military professionals, military servicemen, persons working in state enterprises and enterprises owned by self-government authorities, persons working in the budgetary establishments and public institutions that are vested with administrative powers, persons working in enterprises receiving funds from the state or local budgets, other individuals with competences in the field of public administration, and chairmen of political parties and their deputies. This requirement also applies to the managers of the joint stock companies in which the state or municipality has

more than 50% of the share capital (shares) and their deputies and candidates for the members of Seimas, for presidency, for members of central and local self-government, and for the European Parliament.

Declarations must be submitted by a person employed in public service, within one month from the date of election, acceptance of position or appointment, to the head of the public authority or government body in which he/she is resuming work, or to the authorised representative of such an institution. These declarations are filled out by the public officials in question, as well as their spouses. The person who fills out the declaration may omit the data related to his spouse if the couple is not living together or sharing the household.

In case of any changes occurring in the declared data after the filling out of the declaration, the person in central or local public service must declare the changes no later than two weeks from the day the changes in the data occurred. The latter declarations are appended to the annual declarations and become their supplement.

### ***Declarations of assets and incomes***

These are required of public political appointees and their family members, candidates for state political offices and their family members, civil servants and their family members, bailiffs and their family members, notaries and their family members, judges and their family members, prosecutors and their family members, military training military service members and their families, heads of state higher education institutions and their family members, and other officials and their family members, as well as Cabinet members, members of local government councils and measures, members of the European Parliament and members of their families.

For the purposes of these declarations, family members include spouses and children (including adopted children) under 18 years of age living together with the declaring parties; they must declare their property only if they are permanently residing in Lithuania.

Declarations of assets and incomes must be submitted annually no later than on 1 May of each year. The total number of public officials covered by the declaration system is nearing a total of 150 000.

### ***Scope and content of the declarations***

Currently, the declaration of private interests are submitted in paper form and then entered into an electronic database by the Chief Official Ethics Commission, which is developing a template form.

The following information should be contained in the declarations and should cover both the declaring official and his/her spouse (household partner/cohabitee):

- personal information (full name, identification code, state social security number, place/s of work and position);
- information on legal entities (other organisations and establishments) of which the official and/or his/her spouse are owners, co-owners or co-founders;
- information on individual activities or individual activities of the spouse (household partner/cohabitee), as defined in the Act on Personal Income Tax;
- memberships, responsibilities and ties to entities, establishments, associations, funds and societies, except political party membership;

- gifts received within the last 12 months if their costs exceed LTL 100;
- services received for free or paid for by other physical and legal persons within the last 12 months if their costs exceed LTL 1 000;
- agreements/contracts signed by the declaring party or his/her spouse in the last 12 months;
- close relations and members of the family and other persons who are known to the person filing the declaration who can create a conflict of interest.

Declarations of assets and income also have a unified approach with regard to the scope and content of the declarations, with the form of the declaration and the procedure for completing and filing it established by the Central Tax Administration. Thus, all those required to submit asset and income declarations\* must provide the following data:

- immovable property, including unfinished structures;
- movable property, where such type of property is subject to legal registration under the legal acts of the Republic of Lithuania;
- monetary funds kept in banks and other credit institutions or anywhere else besides, where the total amount of the monetary funds exceeds LTL 2 000;
- monetary funds that have been borrowed and have not been repaid, where the total amount exceeds LTL 2 000;
- monetary funds that have been lent and have not been recovered, where the total amount exceeds LTL 2 000;
- works of art, precious stones, jewellery and precious metals, where the value of one such item exceeds LTL 2 000;
- securities, where the total amount of such securities exceeds LTL 2 000.

Property specified as subject to declaration must include the property held in both the Republic of Lithuania and abroad. However, property provided to a person who participated in the undercover operation in cooperation with the law-enforcement authorities should not be declared.

### **Processing of the declarations**

As mentioned before, declarations of private interests are filed with the heads of the agencies where public officials are employed or with the Chief Official Ethics Commission, depending on categories of officials. Control over processing and verification of the submitted declarations is exercised by the following persons/institutions in separate individual cases:

- Chief Official Ethics Commission.
- State Tax Inspectorate.
- The head or authorised representatives of the head of the institution in which the public official is employed.
- Law enforcement agencies.

\* With the sole exception of civil servants and officials of state institutions having the rights of entities of operational activities of the Republic of Lithuania, whose activities are regulated by the Law on Operational Activities. They and their family members shall declare their property in accordance with a separate procedure and within the time limits established by the government or an institution authorised by it.

In view of this function, the heads or authorised representatives of the head of the institutions in which public officials are employed provide their subordinates with recommendations on implementation of the provisions of legislation on declarations. And if there is reasonable ground to believe that the person is not following requirements of this legislation, the head or his/her authorised representative carry out inspection of the activities of the employee in question. Such inquiry can be made on his/her own initiative or following request from the Chief Official Ethics Commission.

In case it is necessary to check the veracity of the data given in the declaration of private interest, the check shall be made: i) by the Tax Inspectorate on the proposal of the head of the institution or of the Chief Official Ethics Commission; or ii) by the head of the institution, his/her authorised representative or the Chief Official Ethics Commission.

The results of such verifications are handed over to the Chief Official Ethics Commission, which may initiate an additional verification procedure or take appropriate measures depending on the satisfaction with the findings. If elements of criminal offence have been uncovered in the course of such verification procedures, the materials are transferred to the prosecution authorities and appropriate law enforcement authorities.

The system of processing declarations of assets and income is set up independently from that of declaration of private interests. The tax administrators verify the accuracy of the data provided in the declarations of assets and income, and collect and store these declarations. The agency for civil service management, on the basis of data from the Register of Civil Servants, must, by 1 February of the calendar year, submit to the central tax administrator a list of names of residents who were employed as civil servants during the calendar year preceding the calendar year in which the list is submitted.

The local tax administrator has the right to issue a mandatory instruction requiring a resident to substantiate the sources of acquisition of declared property. In such a case, the sources of acquisition of declared property must be substantiated by documents certifying the transactions, other legally valid documents, or written confirmations issued by third parties in conformity with the laws. These documents must contain data based establishing the identity of the person who has paid out the funds. Such provisions allow for application of the illicit enrichment mechanisms in wealth monitoring, and very often contribute to successful anti-corruption investigations.

### **Sanctions**

Disciplinary and administrative sanctions are established for violation of the requirements of the declaration of private interests. They range from “soft sanctions”, such as public reprimand, to restrictions, limitations and bans – such as restriction on promotion or encouragement for the period of one year – all the way to dismissal from office/position with further ban from being enrolled in the civil service for the period of three years.

Persons subject to declaration of assets and income avoiding submission of declarations, failing to submit them on time or not submitting them at all or providing incorrect data become subject to administrative or criminal liability.

### **Public disclosure**

Annual private interest declarations are published annually at the expense of the state in *Valstybės žinios* (Official Gazette) no later than by 1 May. Such declarations include those of the president of the Republic, members of the Seimas, the prime minister,

ministers, deputy ministers, ministry secretaries, chairmen and justices of the Constitutional Court, chairmen of the Supreme Court, Court of Appeals and county courts, division chairmen and judges, chairmen of the Economic Court and district courts, deputies of court chairmen and judges, the prosecutor general and deputy prosecutor general, heads of structural divisions of the Office of the Prosecutor General, heads of county and district prosecutor's offices, chief officials of the National Audit Office, county governors, deputies of county governors, heads of Government institutions (departments, agencies, services, inspectorates), heads of the departments, services, inspectorates set up at the ministries, heads of other institutions of state administration (general directors, directors, chiefs), deputy chiefs, the Bank of Lithuania board chairman and his deputies, chief officers of the Customs Department at the Ministry of Finance and of territorial customs offices, chief officers of the State Tax Inspectorate at the Ministry of Finance and of territorial tax inspectorates, chief officers of the Economic Crime Investigation Board at the Ministry of the Interior and chief officers of economic crime investigation divisions (subdivisions) of city and district commissariats, the General Commissar of the Police, chief commissars and senior commissars of the police, municipality mayors, vice-mayors, administrators, chairmen of municipality council committees and Seimas Ombudsmen.

Table 10.1. **Data on published declarations of private interests**

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Number of persons	1 707	2 114	2 114	1 509	3 151	3 284	3 323	3 567	3 631	11 397

Upon presenting a document confirming his or her identity, any person may be granted access, following the procedure laid down by the Chief Official Ethics Commission, to the annual and other private interests' declarations of other persons. Declarations of private interests of other persons in central or local public service may be made public on a justified decision of the Chief Official Ethics Commission.

It should be noted that data on the annual income and assets *cannot be made public* except for candidates for public political offices, the president of the Republic of Lithuania, members of the Seimas, members of the European Parliament, the prime minister, ministers, the chancellor, vice chancellor, director of the office of the prime minister, the prime minister's adviser, deputy ministers, members of municipal councils, chairmen of courts and their deputies, judges, the prosecutor general and his deputies, heads of departments of the general prosecutor's office, the state comptroller and his deputies, state employees National Audit Office, state officials of the Customs Department under the Ministry of Finance, government officials of tax authorities and other government employees and their family members – except employees of operational entities, whose declarations of assets and income *are published annually* before 1 October in the special issue of state newspapers.

Table 10.2. **Data on published assets and income declarations**

Year	2004	2005	2006	2007	2008	2009
Number of persons	45 890	43 091	41 393	42 379	43 695	44 246

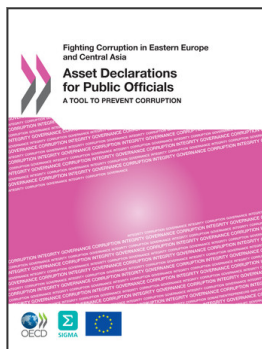
The central tax administration publishes the declaration data of these categories of public officials in the special supplement to the official gazette *Valstybės žinios*.

Other civil servants and their family members may publish their declaration data in the special supplement to the official gazette *Valstybės žinios* at the expense of the state. The approved excerpt containing basic data from the declaration, as well as the written consent to make the declaration data public, are being submitted to the editorial office of the official gazette *Valstybės žinios* by these persons themselves.

### ***Evaluation of the declaration system***

According to a study conducted by Transparency International Lithuania, “Diagnostic Research – Lithuanian Map of Corruption” in 2008, when respondents were asked which corruption reduction measures are the most effective ones, they ranked “background checks of public officials, monitoring transparency of their family property” at fifth place (31% in 2008, as compared to 29% in 2004); when public officials themselves were asked the same question, 31% selected increasing accountability of public officials and 22% implementing the general principle of income declaration.





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