

PART II
Chapter 5

Scope and Content of the Declarations

Despite the often-used shorthand designation “assets declarations”, public officials’ declarations usually require other types of information, and in fact many systems do not require data about assets at all.

5.1. Income

Income is one of the most common kinds of data required in public officials’ declarations. The rationale for the requirement is at least twofold. First, information about a public official’s income reveals his/her interests connected to particular third parties (hence the source and type of income – *e.g.* salary or capital gain – is usually indicated) and the strength of such interests (hence the amount of income is usually indicated). Second, the relative proportion of official income vs. side income allows for some judgement as to whether the official position represents a due priority for the individual in question. This aspect is usually more relevant for elected officials, *e.g.* MPs whose official duties are determined primarily by constitutional principles rather than detailed legal rules. Besides, in the course of an eventual investigation or audit, data on income is necessary in order to determine whether the wealth of a person can be explained by legitimate sources. However, this latter aspect may not be of particular relevance in systems where public officials’ legitimate income is placed under the state scrutiny in any case – usually for taxation purposes.

There are a number of ways in which income is declared. The strictest approach is to require exact amounts of all income (salaries, fees, interest, dividends, revenue from sale or lease of property, insurance compensations, won lotteries, inheritance, pecuniary gifts, etc.) and identification of concrete sources. This is a typical standard in many former socialist countries. Such a requirement can be softened through stipulating a threshold above which income must be declared (*e.g.* for members of the German Bundestag); asking to indicate the amount of income within pre-defined categories rather than exact sums; limiting the disclosure of the origin of income to the type rather than exact identity of a source; or asking the source of income but not its amount. Examples of the last kind are the system in Ireland, where “it is not necessary to specify the amount or monetary value of any interest or the remuneration of any trade, profession, employment, vocation or other occupation included in the statement” (Standards in Public Office Commission, n.d.), and in the UK Register of Lords’ Interests, *e.g.* for remunerated directorships and regular remunerated employment.

For the members of the German Bundestag the amount of income associated with a side engagement or contract must be indicated when the gross revenue from a single engagement exceeds EUR 1 000 per month or EUR 10 000 per year.¹ In the United Kingdom, members of the House of Commons must provide the precise amount of each individual payment no matter what the size, except when he/she provided services in their capacity as a member of parliament [then annual remuneration should be provided in bands of GBP 5 000 (*e.g.* up to GBP 5 000, GBP 5 001 – 10 000)], or income is generated from land and property (to be declared if greater than 10% of the current parliamentary salary) (United Kingdom Government, 2009).

Some systems require explicit information about benefits that the public official has received from third parties and that would not always qualify as income in the strict sense. These are, for example, favours such as travel paid for by third parties (rather than the official him-/herself or his/her agency), various hospitalities, etc. Usually these are subject to disclosure only when extended and received in relation to the official capacity of the person (such requirements can be found in different systems, as varied as those in Bulgaria and the United Kingdom). A threshold of value normally applies.

5.2. Assets

In a great many countries public officials have to declare not only income but also assets. A wide variety of assets can be subject to declaration – real estate, various types of movable property [vehicles, vessels, valuable antiques and works of art, animals (for example, in Croatia), even construction materials (for example in Belarus), etc.], shares and other securities, extended loans, and savings in bank deposits and in cash.

Similar to information about public officials' income, data about assets reveal some of their interests. For instance, knowledge that an MP owns an estate in a particular place can help in judging the stance of the MP on an issue that somehow concerns the status of that place; likewise, awareness about securities belonging to an MP allows for a critical assessment of his/her initiatives concerning this or that sector of economy. However, at least in some systems a more significant reason behind requiring the declaration of assets is wealth monitoring. In particular, data relating to assets and income can be compared to try to assess whether changes in the wealth of an official can be accounted for by the declared legitimate income. In such cases it is important that statements cover all possible forms of asset accumulation.

As with income, assets can be declared in a variety of forms. Among the principal options is whether to indicate the value of the assets declared. (Values are more important for wealth-monitoring purposes).² A sub-variant regarding value is the declaration of certain types of assets only when in excess of a defined value threshold.

Another option to be considered is owned assets vs. assets that are in permanent use (lease, trust, etc.), e.g. a villa provided by a third party for the permanent residence of a public official. (Those owned are easier to police, while those used can require more comprehensive monitoring for conflict of interest.) Latvia is an example of a country where officials are required to report about property they own and use on permanent basis. A less frequently used option is the requirement to indicate the sources of financial means used to acquire larger assets. For example, Albanian law stipulates the obligation to declare assets and “the sources of their creation”.³

Some systems require data about a few types of assets only. While this approach will provide insufficient information for the purpose of comprehensive wealth monitoring, it can be used to control certain potential sources of conflicts of interest. Thus the members of the German Bundestag must declare only participation in enterprises and then only when such participation gives rise to substantial business influence.⁴ Meantime members of the UK House of Commons must register far more types of assets, such as:

- Any land or property that has substantial value (unless used for the personal residential purposes of the MP or the MP's spouse or partner), or from which a substantial income is derived.
- Interests in the form of shareholdings held by the MP – either personally, or with or on behalf of the member's spouse or partner or dependent children – in any public or private

company or other body that are greater than 15% of the issued share capital of the company or body; or that are 15% or less of the issued share capital, but greater in value than the current parliamentary salary (United Kingdom Government, 2009).

Few European Union countries require civil servants to declare assets. According to a recent study, in the “old” EU countries like France, Germany, Italy, Portugal, Spain and the United Kingdom, civil servants do not have to declare assets, but in “new” EU members like Hungary, Latvia, and Poland they are obliged to do so (senior executives only in Hungary) (Mendieta, 2008, p. 92). Overall, assets are a typical item in the declarations of many categories of public officials in numerous countries outside the European Union.

5.3. Gifts

Gifts can be considered a particular type of income. Their characteristics are often their informal (not backed by contracts, often not subject to tax) and irregular nature. Concerns that they be declared almost always have to do with controlling possible conflict of interest rather than with wealth monitoring. However, in some regions with strong traditions of gift-giving they can represent also a significant source of wealth.

As earlier research has shown, requirements regarding declaration of gifts vary among the European countries. Declaration in Latvia is mandatory for all public officials (including elected officials and members of parliament). In Poland this applies only to locally elected officials and political appointees, and in Hungary only to members of parliament. In Germany, Spain and the United Kingdom, it is compulsory for political appointees and government. Members of parliament in the United Kingdom must declare any gift worth more than 1% of their salary. German members of parliament must disclose this information when the gift is worth more than EUR 5 000. In France, members of parliament must declare any gift, whatever the value (Mendieta, 2008, p. 92).

The rules for accepting gifts usually (though not always) apply to those gifts that are given and accepted in direct or indirect relation to the discharge of public office; mostly they are the ones that must be declared. However, in some systems, gifts accepted in the public official’s private capacity are also to be divulged (*e.g.* Latvian officials must declare any pecuniary gifts, and Lithuanian officials gifts received from close persons if their value exceeds 50 *basic social expenses* (or minimum living standard, which is approximately EUR 38) and those received from other persons if the value exceeds 5 *basic social expenses*). Since gifts are often (although not necessarily) of minor pecuniary value, the duty to declare them usually foresees some threshold (in fact the lack of such threshold may indicate the ineffectiveness of the system). Because gift-giving traditions vary widely in different regions, any requirements for the disclosure of gifts must take into account cultural peculiarities, *e.g.* where giving smaller ritual gifts is an accepted social norm in usual contacts with civil servants, declaration should probably cover unusual gifts only, *e.g.* recreational trips or cars.

5.4. Expenses

The expenses of a public official are not usually items in declarations, although in principle data about expenses could be used for wealth monitoring (OECD, 2008, p. 67). At least theoretically, a public official could make use of illegitimate income by spending it in ways that do not result in a considerable increase of his or her assets, and therefore cannot be detected in the declaration of assets, but could be noted in a declaration of expenses.

The monitoring of expenses can become particularly important in cases where public officials have considerable liabilities and their down payments hardly appear commensurate with their official income.

The Latvian and Lithuanian systems represent less common examples where some expenses are to be declared through the requirement to state transactions performed by the official. At least in Latvia this information is used mainly for conflict of interest control, as public officials are prohibited from carrying out official duties that relate to their business partners.

5.5. Pecuniary and non-pecuniary interests

A major type of pecuniary interest is remunerated employment, occupation, board function, etc. other than the official position (during and sometimes also before and even after tenure in the official position). In most systems where public officials must disclose income, the source and hence also outside employment is also declared. Sometimes outside employment is actually viewed as the principal item to be declared by public officials (*e.g.* declaration systems for judges in Denmark and Norway).

Pecuniary interests other than factual income, assets and outside employment are debts, assumed guarantees, formal and informal agreements that promise future income, insurance arrangements, pension schemes, etc. When such interests are of considerable financial value, they do represent a high risk of conflict of interest or even corruption.

It is also possible that public officials are required to declare certain income and assets only when such income or assets represent an interest that can, or can be perceived to, influence the discharge of official functions (*e.g.* certain interests are to be registered in the UK Register of Lords' Interests "depending on their significance") (United Kingdom Government, 2010). However, this is more characteristic of arrangements where public officials are required to disclose their conflicts of interest on case-by-case basis rather than in the format of a regular statement only.

Non-pecuniary interests are by definition those not associated with financial gains for the official or persons that are closely related to him/her. Typical interests of this kind are memberships or non-remunerated positions, *e.g.* board functions in political parties, other organisations, foundations, etc. These could also be voluntary work or non-remunerated authorisations to act on behalf of certain persons.

Some systems have a catch-all requirement for public officials to disclose all private interests that can somehow affect the discharge of official duties. For example, in Lithuania, public officials are required to disclose "other circumstances which, may give rise to a conflict of interest". It is possible for some misunderstanding to occur when judging whether a particular interest can indeed affect the duties. Ultimately, such questions can hardly be resolved in detailed prescriptions; rather, they require guidance from the management and should take into account the culture of public life in the particular country.

5.6. Identification of spouses, relatives and other related persons

Some of the systems that do not require public officials to disclose information about the income and assets of their spouses, relatives or other related persons, still require that such persons be identified. The primary rationale of this requirement is to enable control of conflict of interest by informing the superiors and/or control bodies of the circle of

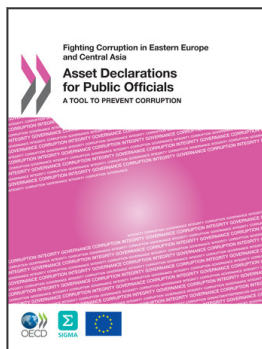
individuals *vis-à-vis* whom the official may have some interest. In reality it is always a formally undefined circle of persons who are in fact related to a public official that can create grounds for a conflict of interest. Apparently that is the reason why Lithuanian officials are required to identify any “close persons or other persons he/she knows who may be the cause of a conflict of interest in the opinion of the person concerned”.

Notes

1. Geschäftsordnung, Anlage 1, §1, www.bundestag.de/dokumente/rechtsgrundlagen/go_btg/anlage1.html.
2. Richard Messick makes the strong point that the requirement to declare values should be backed by legal sanctions: “When the law requires that the value of assets be divulged, understating the value of land, buildings, shares and other assets the employee owns must be made a crime. As noted above, falsifying a disclosure is a much easier crime to prove than the underlying corruption, particularly when bribery is involved.” In: R. Messick (2009), “Income and Assets Declarations: Issues to Consider in Developing a Disclosure Regime”, *U4 Issue*, 2009:6, pp. 13-14.
3. Law “On the Declaration and Audit of Assets, Financial Obligations of Elected Persons and Certain Public Officials”, Article 4.
4. Geschäftsordnung, Anlage 1, §1, www.bundestag.de/dokumente/rechtsgrundlagen/go_btg/anlage1.html.

Bibliography

- Mendieta, M.V. (2008), “Conflict of Interest Policies and Practices in Nine EU Member States”, *Corruption and Democracy*, Council of Europe Publishing.
- OECD (2008), *The Istanbul Anti-Corruption Action Plan: Progress and Challenges*, www.oecd.org/dataoecd/24/42/42740427.pdf, OECD, Paris.
- Standards in Public Office Commission (n.d.), “Guidelines for Office Holders: A. Annual Statement of Registrable Interests”, www.sipo.gov.ie/en/Guidelines/EthicsActs/OfficeHolders/Text/Name,2187,en.htm.
- United Kingdom House of Commons (2009), “House of Commons: The Code of Conduct”, www.publications.parliament.uk/pa/cm200809/cmcode/735/73501.htm.
- United Kingdom House of Lords (2010), “House of Lords: Code of Conduct”, adopted on Monday 2 July 2001 as amended on Tuesday 24 July 2001, Paragraphs 13, 16, www.publications.parliament.uk/pa/ld/ldcond/ldcond.htm



From:
Asset Declarations for Public Officials
A Tool to Prevent Corruption

Access the complete publication at:
<https://doi.org/10.1787/9789264095281-en>

Please cite this chapter as:

OECD (2011), "Scope and Content of the Declarations", in *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264095281-8-en>

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