

Asset declarations

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Analysis of Asset Declarations

The legal regulations requiring public officials to submit asset declarations also delineate the responsibilities of entities authorized to analyze these declarations.

The Anti-Corruption Act, local government acts, the Act on Local Government Employees, the Act on the Organization and Functioning of Pension Funds, the Law on the System of Common Courts (excluding judges' declarations), and the Law on the System of Military Courts all require the entities receiving such declarations to analyze the data contained within them.

The asset declarations of MPs and senators are analyzed by appropriate committees appointed by the Sejm or Senate, as specified in their respective rules of procedure, as well as by relevant tax offices. The results of these analyses are submitted to the Presidium of the Parliament or Senate. For members of the European Parliament, the relevant tax offices conduct the analysis, and the results are submitted to the Speaker of the Parliament, who makes them publicly available in electronic form. The analysis of declarations submitted by employees of the National Revenue Administration and tax administration chambers is conducted by their respective heads and by the organizational unit of the ministry responsible for asset declarations.

The Military Police is authorized to analyze the asset declarations of professional soldiers and present its findings to the Minister of National Defence. Asset declarations submitted by court bailiffs are analyzed by the council of the competent Court of Appeal. The Prime Minister is responsible for analyzing the asset declarations of the Head of the Central Anti-Corruption Bureau (CBA) and their deputies. The asset declarations of officers of the Internal Security Agency (ABW), the Intelligence Agency (AW), the CBA, the Military Counterintelligence Service (SKW), and the Military Intelligence Service (SWW) are analyzed under the procedures specified in the Anti-Corruption Act.

The laws governing the State Fire Service, the Police, the State Protection Service, and the Border Guard only specify who is authorized to review and process the data in asset declarations for analytical purposes. According to these regulations, such

authority is granted to the Inspector of Internal Oversight and, in specific cases, to the heads or authorized personnel of these services.

Regulations governing the CBA, ABW, AW, SKW, and SWW do not detail procedures for analyzing asset declarations submitted by their officers, except for the declarations of the CBA Head and their deputies. In such cases, the analysis is governed by the Act of August 21, 1997, on restrictions on conducting business activities by persons performing public functions.

It is noteworthy that only six laws specify deadlines for the completion or presentation of asset declaration analyses:

- The three local government acts require analyses to be completed and presented to the respective local government assembly, county council, or municipal council by October 30 each year. These analyses must include information on individuals who failed to submit their declarations, submitted them late, or provided incorrect information, along with details of any actions taken in response to these issues.
- The Act on the Public Prosecutor's Office requires asset declarations to be analyzed by June 30 each year but does not mandate the presentation of the analysis.
- The Law on the System of Common Courts requires:
 - The council of the relevant court of appeal to present its analysis of judges' declarations to the general assembly of appellate judges by June 30.
 - The Minister of Justice and the National Council of the Judiciary to analyze declarations submitted by court directors, deputy directors, and presidents of appellate courts without requiring their presentation.
- The Prison Service Act requires relevant supervisors to analyze the declarations of Prison Service officers by June 30 each year, without mandating their presentation.

Asset declarations submitted under the Act on the Exercise of the Mandate of Deputies and Senators, local government acts, and declarations by members of the European Parliament, judges, court directors and their deputies, prosecutors, court bailiffs, military judges, and board members of public pension fund societies must be submitted in two copies. One copy is sent to the relevant tax office based on the declarant's place of residence. The head of the tax office is authorized to analyze the declarations, comparing them with previously submitted declarations and income tax returns (PIT) of the declarant and their spouse.

In cases of justified doubts about the veracity of a declaration under local government acts, the analyzing authority must promptly forward the declaration, accompanied by detailed justification and a request for inspection, to the CBA. The CBA verifies the reliability and accuracy of the declarations under the procedures specified in Chapter 4 of the CBA Act. If doubts arise concerning income sources or the origin of assets, the declaration is forwarded to the relevant tax office for review under tax inspection regulations.

As A. Wierzbica observes in *Anti-Corruption Restrictions in Local Government*, the laws requiring asset declarations provide no guidelines on what constitutes justified suspicion of false or concealed information. Questions arise whether subjective conviction, despite the formal correctness of the declaration and accompanying documents, suffices. Can evaluators rely on personal knowledge, assumptions, or third-party reports? This ambiguity suggests that subjective belief in the falsity or concealment of information in a declaration may serve as a basis for initiating an inspection. This is supported by the term “suspicion,” which implies circumstances that need not be certain but merely probable.

There is also no guidance on addressing obvious errors in declarations, and the regulations do not provide a procedure for their correction.