

Asset declarations

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Joint property

Consequences of Providing False Information in Asset Declarations

The applicable legal provisions vary in terms of sanctions for providing false information or concealing the truth in asset declarations, or they do not regulate this matter at all. Two criminal provisions are distinguished in this regard.

Individuals required to submit asset declarations under the anti-corruption law, in accordance with Article 14 of the aforementioned act, and Border Guard officers, under Article 147b of the Border Guard Act, are subject to a penalty of imprisonment of up to 5 years for providing false information in a declaration. In cases of lesser severity, they may be subject to a fine, restriction of liberty, or imprisonment for up to one year.

In contrast, those required to submit asset declarations under the laws governing the performance of duties by members of parliament and senators, local government acts, the remuneration of Members of the European Parliament elected in the Republic of Poland, the Law on the Organization of Common Courts, the Law on the Public Prosecutor's Office, and the Law on the Organization of Military Courts are criminally liable in accordance with Article 233 § 1 of the Penal Code for providing false information or concealing the truth in asset declarations. According to the aforementioned provision: "Whoever, while giving testimony intended to serve as evidence in court proceedings or in other proceedings conducted under statutory law, provides false testimony or conceals the truth, is subject to imprisonment from 6 months to 8 years."

Only a few legal regulations requiring specific professional groups to submit asset declarations also specify disciplinary sanctions for providing false information. The Anti-Corruption Act exclusively and explicitly outlines the professional consequences faced by officers for providing false information in asset declarations. In accordance with Article 64 of the Anti-Corruption Act, an officer is dismissed from service in cases where false information in an asset declaration is confirmed through disciplinary proceedings. Disciplinary liability for providing false information in declarations also

applies to Police and State Fire Service officers. However, the laws regulating their submission of asset declarations do not explicitly specify sanctions for providing false information in asset declarations. It is noteworthy that Police and State Fire Service officers, apart from disciplinary liability, do not face criminal liability for providing false information in declarations.

In certain legal regulations requiring individuals holding public positions to submit asset declarations, no sanctions are provided for providing false information or concealing the truth in asset declarations. Acts concerning municipal employees, the National Revenue Administration, and national defence do not regulate the consequences of providing false information in asset declarations at all.

Consequences of Failing to Submit an Asset Declaration on Time

The laws imposing the requirement to submit asset declarations shape the principles of liability for failure to submit or late submission in various ways.

In accordance with Anti-Corruption Act, the sanction for failing to submit a declaration is stipulated in Article 13. This provision is phrased very succinctly: "Failure to submit the declaration referred to in Article 8(1) or Article 10(1), or providing false information therein, results in professional liability." The legislator does not specify whether the sanction also applies to cases of late submission, nor does it tie the sanction to the intentional actions of those required or define the scope of professional liability. This lack of specific regulations may lead to inconsistent treatment of individuals required to submit asset declarations in cases of non-submission or late submission. The sanction in Article 13 applies to individuals specified in Article 10(1), designated by the personal scope of the Anti-Corruption Act in its Articles 1 and 2(1-2a, 3-5, and 7-11), excluding individuals whose liability arises under local government laws described below.

Pursuant to Article 35(8) of the Act on the Performance of Duties by Members of Parliament and Senators, on the other hand, states that failure to submit an asset declaration results in regulatory liability and the loss of the right to remuneration until the declaration is submitted. In this case, sanctions for failing to submit an asset declaration take two forms:

- Regulatory Liability

The Rules of Procedure of the Parliament of the Republic of Poland [adopted by a resolution of the Parliament on July 30, 1992 (Journal of Laws 2022, item 990, as amended)] indicate in Article 144 that the Parliamentary Ethics Committee handles matters arising from members' asset declarations. Pursuant to Articles 146 and 147 of the Rules of Procedure, the Parliamentary Ethics Committee may summon a

member of parliament to clarify doubts arising during proceedings. After examining the matter and finding a violation of the "Code of Parliamentary Ethics" [resolution of the Sejm of July 17, 1998 (Journals of Laws 1998, No. 24, item 32, as amended)], the committee may, through a resolution:

- Call the member's attention,
- Issue a reprimand,
- Issue a censure.

The committee's resolutions are made public. However, the member of parliament may exercise remedies provided in Article 132(1) of the Rules of Procedure. Filing an appeal by the member suspends the publication of the resolution's content.

The Rules of Procedure of the Senate of the Republic of Poland [resolution of the Senate of November 23, 1990 (Journal of Laws 2024, item 10, as amended)] in Article 24 state that cases involving senators accused of violating or failing to fulfill duties pursuant to Articles 33-35a of the Act on the Performance of Duties by Members of Parliament and Senators are reviewed by the Presidium of the Senate, following an opinion from the Rules, Ethics, and Senatorial Affairs Committee. The Presidium may, through a resolution:

- Call the senator's attention and obligate them to proper conduct,
- Issue a reprimand,
- Issue a censure.

The resolution mentioned above is disclosed to the Senate. The senator may appeal to the Senate within 14 days of receiving the resolution. The Senate considers the appeal by hearing the Presidium's representative and the senator concerned, upon their request. No discussion is conducted on the appeal. After considering the appeal, the Senate may repeal the Presidium's resolution or uphold it.

- Material Sanctions (Loss of Remuneration Rights Until Declaration Submission)

It is widely accepted in literature that the loss of remuneration for the period from the statutory deadline to the time of declaration submission is final, and late submission of the declaration cannot serve as grounds for restoring the lost remuneration.

The scope of sanctions for failing to submit an asset declaration within the statutory deadline under local government laws is regulated by: Article 24k of the Municipal Government Act, Article 25f of the County Government Act, Article 27f of the Regional Government Act. These sanctions vary depending on the category of required legal entities:

1. Failure to submit an asset declaration within the additional 14-day deadline by:
 - A councilor (municipal, county, or regional): results in the expiration of the mandate pursuant to Article 383 of the Election Code (Journal of Laws 2023, item 2408, as amended);
 - A mayor (city president): results in the expiration of the mandate under Article 492 of the Election Code;
 - Deputy mayor (county or regional board member), municipal (county or regional) secretary, treasurer, head of a municipal (county) organizational unit, head of a regional self-government organizational unit, a person managing or being a member of the governing body of a municipal (county or regional) legal entity, or a person issuing administrative decisions on behalf of the mayor (starosta/marshal): results in the loss of their remuneration for the period from the due date of the declaration to its submission.
2. Failure to submit an asset declaration on time by a county (regional) board member or municipal (county/regional) treasurer: leads the municipal (county/regional) council to dismiss the individual by resolution no later than 30 days after the deadline.
3. Failure to submit an asset declaration on time by a municipal (county/regional) secretary, deputy mayor, head of a municipal (county) organizational unit, head of a regional self-government organizational unit, a person managing or being a member of the governing body of a municipal (county or regional) legal entity, or a person issuing administrative decisions on behalf of the mayor (starosta/marshal): results in the appropriate authority dismissing them or terminating their employment contract no later than 30 days after the deadline.

Dismissal and termination of employment as described above are equivalent to termination of employment without notice pursuant to Article 52 § 1(1) of the Labor Code of June 26, 1974 (Journal of Laws 2023, item 1465, as amended), i.e., due to employee fault resulting from a serious breach of fundamental employee duties.

A different stance, in view of the unequivocal strictness of local government laws regarding termination under Article 52 § 1(1) of the Labor Code, can be found in

judicial rulings (including those of the Supreme Court^[1]) that challenge the automatic application of Article 52 § 1(1) of the Labor Code and emphasize the need to examine the degree of fault of the employee in cases of failure to submit an asset declaration within the statutory deadline.

Other Laws

The Act on Remuneration of Members of the European Parliament Elected in the Republic of Poland (Article 3a(8)) specifies that the sanction for failing to submit an asset declaration is the loss of the right to remuneration until the declaration is submitted.

The Act on the Central Anti-Corruption Bureau (Article 64(2)(6)) provides that an officer may be dismissed from service for failing to submit an asset declaration on time.

The Act on the Internal Security Agency and the Foreign Intelligence Agency (Article 80a) stipulates that officers are required to submit asset declarations in accordance with the provisions of the anti-corruption law.

The Act on the Military Counterintelligence Service and the Military Intelligence Service (Article 42) mandates that SKW (Military Counterintelligence Service) and SWW (Military Intelligence Service) officers submit asset declarations under the same rules as officers of the Internal Security Agency (ABW) and Foreign Intelligence Agency (AW), as defined by the Anti-Corruption Act.

The Act on the National Revenue Administration addresses the submission of asset declarations in Article 149. Although this article does not include sanctions for failure to submit or late submission, paragraph 7 requires that, in areas not regulated, the provisions of the anti-corruption law apply.

The Act on the Prison Service, like the aforementioned Act on the National Revenue Administration, mandates in Article 161(6) that the provisions of the anti-corruption law apply in areas not otherwise regulated.

The Act on the Organization and Operation of Pension Funds (Article 41a(6)) states that the supervisory authority may impose a fine of up to PLN 10,000 on a management board member who fails to submit an asset declaration on time.

In addition, several laws in the Polish legal system do not provide any regulations regarding failure to submit or late submission of asset declarations, including:

- The Law on the Structure of Common Courts,
- The Law on the Structure of Military Courts,
- The Law on the Structure of Administrative Courts,
- The Act on the Supreme Court,
- The Act on Court Bailiffs,
- The Law on the Prosecution Service,

- The Act on the Police,
- The Act on the Border Guard,
- The Act on the State Protection Service,
- The Act on the State Fire Service,
- The Act on the Defense of the Homeland,
- The Act on Local Government Employees,
- The Act on State Administration Employees.

The examples of sanctions for failure to submit or late submission of asset declarations - or the absence of such regulations—highlight the inconsistent and evolving approach of the legislature to this issue over the years. The differences in sanctions and treatment of individuals required to submit declarations are evident.

A significant shortcoming of the described laws is the lack of sanctions for failing to submit a final asset declaration upon the expiration of a mandate, removal from office, or termination of an employment contract. This omission creates a gap in enforcing the submission of such declarations.

[1] Resolution of the Supreme Court of April 5, 2007, I PZP 4/07, Judgment of the Supreme Court of May 25, 2010, I PK 188/09.