

# Asset declarations

<https://oswiadczeniamajatkowe.cba.gov.pl/ome/legal-status-of-asset-declarat/transparency/1179,Transparency-of-asset-declarations.html>  
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## Transparency of asset declarations

The provisions contained in the laws obliging persons holding public functions to submit asset declarations differ from each other and are inconsistent also in terms of the annexes that certain professional groups are obliged to attach to the declaration.

The declaration as at 31 December of the previous year must be accompanied by a copy of *the* annual tax return (PIT) of persons making a declaration under *local government* laws, as well as MPs and senators, members of the European Parliament and members of the management board of a general pension fund company. For other professional groups, there is no such obligation.

Persons obliged to submit asset declarations on the basis of *local government* laws are obliged, in addition to the first asset declaration, to include information on how and when they ceased their business activities, if they were carrying them out before the date of their election.

As the current legislation does not regulate an electronic system for submitting asset declarations, they are submitted on paper. The declaration does not have to be submitted directly to the person examining the declaration. If the declaration is not submitted directly to the institution examining, it must be submitted in a sealed envelope addressed to the institution examining with the notation "*not to be opened*" or "*to be handed in*". This is due to the fact that not all information disclosed in the statement is public.

The openness of asset declarations is related to the implementation of the constitutional principle of the citizen's right to obtain information on the activities of public authorities and persons performing public functions, expressed in Article 61(1) of the Constitution of the Republic of Poland. However, the applicable legal regulations differentiate the scope of asset declarations, the content of which is subject to disclosure.

Article 10(3) of *the Anti-Corruption Act*, indicates that the information contained in the asset declarations of persons obliged to submit declarations under the

aforementioned Act, with the exception of the declaration submitted by the President of the Supreme Administrative Court, the First President of the Supreme Court, the President of the National Bank of Poland, Vice Presidents of the National Bank of Poland and persons referred to in Art. 2 item 6d of the aforementioned *Anti-Corruption Act* constitute a legally protected secret and are subject to the protection envisaged for classified information with the "restricted" clause specified in the provisions on the protection of classified information, unless the person who made the statement has given written consent to its disclosure.

In particularly justified cases, the person entitled to receive the declaration may disclose it, despite the lack of consent of the d e c l a r a n t . On the other hand, the information contained in the asset declaration submitted by the President of the Supreme Administrative Court, the First President of the Supreme Court, the President of the National Bank of Poland, vice-presidents of the National Bank of Poland and persons referred to in Article 2, point 6d of the *Anti-Corruption Act* is public, also as regards the first and last name, with the exception of address data, information on the location of real estate, as well as information enabling the identification of movables of the person making the declaration.

The general principle of disclosure applies to asset declarations submitted on the basis of the *Act on the Exercise of the Member's and Senator's Mandate*, all three *local government acts* and the *Act on the Emoluments of Members of the European Parliament Elected in the Republic of Poland*. In accordance with the above-mentioned laws, the information contained in the asset declaration is public, excluding, of course, information on the address of the residence and the location of immovable property. The non-confidential information contained in the asset declaration by Members of Parliament (including Members of the European Parliament) and Senators is made public by the Speaker of the Sejm or the Speaker of the Senate, respectively, in the form of an electronic record, while the non-confidential information contained in the asset declarations of persons obliged to submit declarations by *local government acts* is made available in the Public Information Bulletin.

The principle of openness also applies to asset declarations submitted by judges, court directors and their deputies, as well as prosecutors, court bailiffs and military court judges. The information contained in the aforementioned declarations is also public as to name, with the exception of address data, information on the location of real estate, as well as information allowing for the identification of movable property. However, at the request of the above-mentioned persons, in justified cases, i.e. if the disclosure of the information contained in the declarations could result in a threat to the declarant or persons closest to him/her, the legislator has made it possible for the information contained in the declarations to be subject to the protection envisaged for classified information with the "RESTRICTED" clause, specified in the provisions of the *Law on the Protection of Classified Information*. Such right is held by: in the case

of a judge, a court director, a deputy court director and a judge of a military court - entities entitled to receive the declaration, in the case of a prosecutor - a superior prosecutor, and in the case of a bailiff - the president of the relevant court of appeal. The Minister of Justice and, in the case of a bailiff's asset declaration, also the president of the relevant court of appeal are authorised to abolish this clause. The public information contained in the asset declarations shall be made available by the entity entitled to receive the declaration in the Public Information Bulletin, but no later than 30 June each year.

Under the current legal regulations, asset declarations of certain professional groups are not subject to disclosure and publication due to the nature of their official activities. This exclusion concerns officers of the Internal Security Agency, the Foreign Intelligence Agency, the Central Anti-Corruption Bureau, the State Protection Service, the Military Counterintelligence Service, the Military Intelligence Service, the Police, the Border Guard, the Prison Service, professional soldiers, firefighters of the State Fire Service and officers of the National Fiscal Administration. The information contained in the declarations of these persons constitutes a legally protected secret and is subject to the protection envisaged for classified information with a security classification of "RESTRICTED" (in the case of information contained in the declarations of Prison Service officers - official secrecy), as defined in the provisions on the protection of classified information, unless the person who made the declaration gave written consent to its disclosure. An exception to this are the declarations on the assets of the Head of the Central Anti-Corruption Bureau and his deputies, the Commander of the State Protection Service and his deputies, persons performing the functions of the Police authorities, persons performing the functions of the authorities of the State Fire Service, and persons performing the functions of the Border Guard authorities. These declarations are published without their consent, with the exclusion of data concerning the date and place of birth, PESEL number, place of residence and location of the real estate indicated in the declaration. It is worth noting that the statutory deadline for the publication of

of the aforementioned declarations is not uniform - the *Act on the Central Anti-Corruption Bureau* specifies a 7-day deadline (from the date of their submission) in which the aforementioned declarations should be placed in the Public Information Bulletin, the *Act on the State Fire Service* specifies a 14-day deadline, while the *Acts on: The State Protection Service, the Police and the Border Guard* do not specify at all the deadline for asset declarations in their possession to be placed in the BIP.

The information contained in the asset declarations of the members of the board of directors of a universal pension fund company, which are a legally protected secret and shall be subject to the protection provided for classified information with the classification level "RESTRICTED" as defined in the regulations on the protection of classified information, unless the person who made the declaration has given his or her written consent to its disclosure.

It is worth noting that the subject of disclosure of declarations is approached in a rather unusual way by *the Defence of the Homeland Act*, which provides for the right of the Minister of National Defence to disclose, in particularly justified cases, the declaration of assets of a professional soldier, despite the lack of consent of the declarant.

Summarising the information on the openness of the declarations submitted, it should be pointed out that the open information contained in the asset declarations should, as a rule, be placed in the Public Information Bulletin. In accordance with Article 23 of *the Access to Public Information Act*:

*"Whoever, contrary to his obligation, does not make public information available shall be subject to a fine, the penalty of restriction of liberty or imprisonment of up to one year"*. However, the majority of acts do not specify when the asset declarations held should be placed in the Public Information Bulletin. Nor is it specified after what time asset declarations can be removed from it.