

Asset declarations

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Types of asset declarations and deadlines for their submission

The so-called anti-corruption law

Pursuant to Article 10(4) of the Anti-Corruption Act, a declaration of assets is submitted to the head of the entity (the Director General of the Office) in three cases:

1. before taking up the position,
2. every year by 31 March, as at 31 December of the previous year,
3. on the day of leaving the post.

The following Acts directly refer to the provisions of the Anti-Corruption Act or accurately reflecting its regulations concerning the circumstances of submitting asset declarations:

- the Act on the Central Anti-Corruption Bureau (Article 72(2)),
- the Act on the Internal Security Agency and the Foreign Intelligence Agency (Article 80a),
- Act on the Military Counterintelligence Service and the Military Intelligence Service (Article 42).

Other acts containing solutions very similar to the Anti-Corruption Act, ie requiring declarations to be made in three defined instances are:

- the Law on the Public Prosecutor's Office (Article 104 § 5) – the declaration should be submitted within 30 days of the date of taking up the position of a prosecutor, relating to assets held on the date of taking up the position, and then every year by 30 April, relating to assets held at 31 December of the previous year, as well as within 30 days from the date of leaving the position of a prosecutor, relating to assets held at the date of leaving the position;
- the Prison Service Act (Article 161(1)) – an officer is required to submit a

declaration of financial interests upon entering into an employment relationship, and then every year by 31 March, relating to assets held at 31 December of the previous year, as well as upon termination of employment.

Act on the Exercise of the Mandate of a Deputy and Senator

Pursuant to Article 35(3) of the Act on the Exercise of the Mandate of a Member of Parliament and a Senator, deputies and senators shall submit declarations within the following deadlines:

1. until the date of taking the oath,
2. by 30 April of each year, relating to assets held at 31 December of the previous year,
3. within one month from the date of announcement of new elections to the Sejm and the Senate.

Arrangements for the types of asset declarations and deadlines for their submission, referring directly to the regulations adopted in the Act on the Exercise of the Mandate of a Member of Parliament and a Senator, are included in Article 3a(3) of the Act on the Remuneration of Members of the European Parliament elected in the Republic of Poland. Members of the European Parliament shall submit declarations of their financial interests within the following deadlines:

1. by the date of the first sitting of the European Parliament in which the Member takes part,
2. by 30 April of each year, relating to assets held at 31 December of the previous year,
3. within one month of the date on which new elections to the European Parliament are announced.

Local government acts

Councillors at all levels of local government and the head of the authority (mayor, president of the city) are required to submit a first declaration of assets within 30 days of the date of being sworn in. Further declarations are submitted each year by 30 April, relating to assets held at 31 December of the previous year as well as 2 months before the end of the term of office. If the person takes up a mandate during the term of office, the declaration must likewise be submitted within 30 days of being sworn in. Regulations in this respect are included in Article 24h(4) of the Act on Municipal Self-Government, Article 25c of the Act on Poviats Self-Government and Article 27c of the Act on Provincial Self-Government.

It should be noted that the described provisions specify the requirement to submit a declaration of assets in connection with the expiry of the term of office, but do not include such a requirement in the event of circumstances other than the expiry of the term of office, which may lead to the avoidance of submitting a final declaration, for example by a written resignation from the mandate by a councillor. There is therefore a need for the legislator to introduce changes to combine the requirement to submit the last declaration of assets in circumstances other than the expiry of the term of the mandated office, as specified in Article 383 § 1 of the Act of 5 January 2011. The Electoral Code (Journal of Laws of 2023, item 2408, as amended) was formulated by Anna Wierzbica^[1]. The proposal concerned the submission of final declarations of assets in the situations specified in Article 383 § 1 points 2, 4-5 and 6 of the Electoral Code, ie in the case of:

- loss of the right to be elected or not possessing such right on the relevant election day,
- written resignation from the mandate,
- violation of the statutory prohibition on combining the councillor's mandate with the performance of functions or activities specified in separate regulations,
- election as mayor.

The proposed changes would prevent the currently lawful possibilities of avoiding the submission of a final asset declaration, and thus preserve the essence of the anti-corruption impact of submitting asset declarations as a control tool that will answer questions of whether the councillor, while performing a public function, used it to obtain illegal benefits, which might be determined by comparing the first and the last declarations.

Other persons required to submit declarations on their financial status, on the basis of paragraph 5 of the above-mentioned articles of local government acts, ie deputy head of a authority (member of the board of the district/province), secretary of an authority (district/province), treasurer of an authority (district/province), head of an organisational unit of the authority (district), heads of a voivodeship self-government organisational unit, managers or members of a management body of a municipal (district/province) legal entity and those issuing administrative decisions on behalf of the head of the authority (eg starosta, marshal of the province) submit financial declarations within the following deadlines:

1. 30 days from the date of election or appointment to the position or from the date of employment.
2. every year by 30 April, relating to assets held at 31 December of the previous year

3. on the date of dismissal from the position or termination of the employment contract.

Judicial Acts

The deadlines for submitting asset declarations by judges of common courts are specified in Article 87 of the Law on the System of Common Courts. The declaration shall be submitted within the following deadlines:

- 30 days from the date of taking up the office of judge or appointment to the position of court director or deputy court director, relating to assets held at the date of taking office or appointment,
- yearly by 30 April, relating to assets held at 31 December of the previous year,
- 30 days from the date of leaving the office of judge or dismissal from the position of court director or deputy director of the court, relating to assets held at the date of leaving office or dismissal.

Pursuant to Article 8 of the Law on the Organisation of Administrative Courts, judges of administrative courts submit a declaration of financial status referred to in Article 87 of the Law on the Organisation of Common Courts.

Otherwise, Article 28(4) of the Law on the Organisation of Military Courts, referring to the time limits arising from the Law on the Organisation of Common Courts, independently covers this provision.

The financial declaration is to be submitted within the following deadlines:

- 30 days from the date of taking up the office of judge,
- yearly by 30 April, as at 31 December of the previous year,
- 30 days from the date of leaving the office of judge, relating to assets held at the date of leaving office.

Other acts:

The Act on the National Tax Administration (Article 149(1)) – persons included in this provision are required to submit declarations on their financial status annually by 31 March. This provision does not specify the date to which the reported financial status refers. In this case, however, it is necessary to take into account paragraph 7 of this article, which indicates, to the extent not herein regulated,

the application of the provisions of the Anti-Corruption Act.

Submission of a financial declaration in four cases - at the establishment and termination of an employment relationship, annually by 31 March, relating to assets held at 31 December of the previous year and at the request of the competent senior officer, is provided for in the provisions of the following acts:

- the Homeland Defence Act (Article 338(1) and (4)) – annually by 31 March, as at 31 December of the previous year and at the request of the Commander-in-Chief of the Military Police or the Head of the Military Counterintelligence Service relating to assets held at the date specified by the authority, as well as within 14 days from the date of dismissal from service, relating to assets held at the date of dismissal from the service,
- the Act on the State Protection Service (Article 137(1) and (4)) – upon the establishment of an employment relationship, upon termination of the employment relationship, annually and at the request of the Commander of the service or duly authorised delegate,
- the Police Act (Article 62(2) and (3)) – upon the establishment or termination of an employment relationship or employment relationship, annually and at the request of the senior officer responsible for personal matters,
- the Act on the State Fire Service (Article 57a(6) and (7)) – upon the establishment or termination of an employment relationship, annually and at the request of a senior officer responsible for appointments,
- Border Guard Act (Article 91a(1) and (5)) – Border Guard officers submit declarations on their financial status upon establishment or termination of an employment relationship, annually and on request of parties listed in Article 91a(1).

Separate regulations apply to Border Guard employees who, pursuant to Article 91a(3) of the above-mentioned Act, submit asset declarations at the request of the Commander-in-Chief of the Border Guard; the Rector-Commandant of the Border Guard Higher School, the Commander of the Border Guard Internal Affairs Bureau, commanders of Border Guard units, commanders of Border Guard training centres or the commanders of the Border Guard centres.

Similar provisions as in the case of the five above-mentioned acts, concerning the submission of declarations of assets upon request, were adopted by the legislator in the Act on Local Government Employees. Article 32(1) of this Act requires a declaration on to be submitted by a local government employee employed in a clerical position, including a managerial clerical position, at the request of

a person authorised to perform activities in the field of labour law. Pursuant to Article 34 of the Act, local government employees employed on the basis of election (e.g. authority head, starosta, marshal of the province) and on the basis of appointment (e.g. deputy head of the authority or treasurer of the authority) are exempt from such a requirement.

The requirement to submit a declaration of assets on request is also included in the Act on Employees of State Offices. An person to whom this requirement applies submits a financial declaration upon entering into an employment relationship and at the request of the head of the office (Article 17(4)).

Article 41a(2) of the Act on the Organisation and Operation of Pension Funds adopted a deadline for submitting an annual declaration that differs from other acts – a member of the management board submits a statement as at 31 December relating to 31 May of the previous year. The statement is submitted before taking up membership of the management board.

Correct calculation of the deadlines for submitting asset declarations is important eg when the deadline for submitting the declaration of assets falls on a day recognised in law as a public holiday or on a Saturday, and when the declaration of assets is submitted by post, which is a common practice used by commune heads and chairmen of the commune council who submit declarations to the voivode. The acts described do not fully regulate this issue.

The act of submitting a declaration of assets does not fall within the scope of the Act of 14 June 1960. The Code of Administrative Procedure (Journal of Laws of 2024, item 572). Therefore, there are no grounds for applying the provisions for the method of calculating the time limits adopted in Article 57 of the Act. From a rational point of view, it seems that the simplest solution to this problem would be to refer directly to the provisions of the Code of Administrative Procedure in specific statutes.

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1. A. Wierzbica, Deadlines for submitting asset declarations in the law of local government - postulates de lege ferenda, Samorząd Territorial No. 10/2012, pp. 40-47.