

Briefing note - Asset & Interest Disclosure, and Conflicts of Interest

UNCAC Reference

Article 7. (4.) Public sector

Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Article 8. (5.) Codes of conduct for public officials

Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

Article 9. (1.e.) Public procurement and management of public finances

Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements [...].

Article 12. Private sector

1. Each State Party shall take measures [...] [2.] (e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

Article 52. (5.) Prevention and detection of transfers of proceeds of crime

Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. [...]

Reporting and disclosure requirements on interests, income and assets of elected officials, appointed public officials and civil servants are an important tool to ensure transparency of possible conflicts of interest, to prevent corruption and misuse of power, and to detect illicit enrichment.

While an increasing number of countries has introduced some type of disclosure mechanism, these mechanisms often do not cover all relevant public officials in decision-making positions, all relevant types of assets and interests, and fail to mandate the publication of these declarations.

Furthermore, many countries do not have independent and effective oversight and control mechanisms or dissuasive sanctions for non-compliance in place. Public access to asset and interest declarations is a powerful tool to allow for public monitoring to ensure a high level of compliance.

A strong disclosure mechanism by itself is not sufficient to ensure a high level of integrity, honesty and responsibility in the public sector. It is also essential that transparent mechanisms for the hiring and promotion of staff are in place, as well as clear frameworks and codes of conduct to address how possible conflicts of interest can be prevented and managed. Countries should address and regulate outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result, among other aspects. In particular, the frameworks should also regulate the “revolving door” – the movement of individuals between public office and private-sector jobs in the same area (in either direction) – which can result in conflicts of interest, as well as lobbying carried out by public officials. Furthermore, many countries lack effective sanctions, even for the most egregious violations.

Good practice examples

- The **International Treaty on Exchange of Data for the Verification of Asset Declarations**, signed on 19 March 2021 by Montenegro, North Macedonia and Serbia,¹ is the first agreement providing for a direct administrative exchange of information concerning asset declarations between the parties of the Treaty.² It is open for any country to join, and may ultimately provide a global platform for tracing hidden assets abroad.
- **Georgia** has an extensive system in place ensuring full public access to the digital asset and interest declarations filed by public officials.³ After the country introduced an independent monitoring and verification mechanism in 2017, the number of violations started to decline. Civil society organisations are using the publicly accessible declarations extensively to independently verify the data and to detect and publicly discuss possible conflicts of interests and identify red flags for corruption.⁴
- In **Bhutan** and **Indonesia**, asset declarations must be submitted annually by public officials, as well as upon starting and leaving a post. These reports are mostly managed via an electronic declaration system through which public officials submit their full report, which is then reviewed and verified by Bhutan’s Anti-Corruption Commission and Indonesia’s Corruption Eradication

¹ Regional Anti-Corruption Initiative: Signing Ceremony of the International Treaty on Exchange of Data for the Verification of Asset Declarations, <https://www.rai-see.org/all-events/signing-ceremony-of-the-international-treaty-on-exchange-of-data-for-the-verification-of-asset-declarations/>.

² Regional Anti-Corruption Initiative (2019): International Treaty on Exchange of Data for the Verification of Asset Declarations, <https://www.rai-see.org/what-we-do/regional-data-exchange-on-asset-disclosure-and-conflict-of-interest/>.

³ Civil Service Bureau of Georgia, <https://declaration.gov.ge/?cult=en-US>.

⁴ Transparency International Georgia (2020): The Georgian Asset Declaration System is in Need of an Update, <https://transparency.ge/en/blog/georgian-asset-declaration-system-need-update>; <https://transparency.ge/en/tags/asset-declarations>.

Commission (KPK). A summary of the declaration is made publicly available upon request in Bhutan, and published online in Indonesia.⁵

- In **Bulgaria** and **Greece**, oversight bodies have direct access to banking data,⁶ while in **France** and **Timor-Leste**, they may exchange data with Financial Intelligence Units.⁷
- Conflicts of interest violations are criminal offences in many countries, such as **France** and **Tunisia**.⁸
- **Albania** has been cleaning up its highly corrupt judiciary based on asset declarations. Since 2017, more than a hundred judges lost their jobs. In February 2021, the European Court of Human Rights confirmed the vetting procedure as being in line with human rights and as necessary to “ensure public trust” in public officials’ integrity (ECtHR 15227/19).⁹

Moving forward

- All Member States should require civil servants and public officials in decision-making positions and prominent public functions, including managers of state-owned enterprises, as well as politically exposed persons, in particular those in positions exposed to a high risk of corruption, to **comprehensively disclose their assets (held directly and indirectly, at home and abroad) and other relevant interests (including unpaid roles and positions, debts, sources of income and major expenses)**. These filings should be made annually (as well as upon taking and leaving a position) and be filed electronically to facilitate processing, verification and publication.
- Member States should **make a firm commitment to mandate the release of information from these interest and asset declarations to the public** through a **freely accessible central online registry**, including in open data formats to facilitate analysis.
- Member States should also **establish an independent monitoring mechanism, equipped with adequate powers and resources, to conduct checks of declarations, provide guidance, promote compliance and initiate sanctions** when officials fail to truthfully declare their assets and interests. Access to banking data, a limit of cash transactions, and an exchange of data with Financial Intelligence Units are important measures to improve the effectiveness of the monitoring mechanism.

⁵ UNODC (2018): Income and Asset Declaration Systems in Indonesia, https://www.unodc.org/documents/southeastasiaandpacific/topics/anti-corruption/Indonesia_Asset_declaration_systems_Country_report_revised_TH_1.pdf.

⁶ OECD (2018): Technical Report on Asset Declarations in Greece, <https://www.oecd.org/governance/ethics/technical-report-asset-declarations-greece-en.pdf>.

⁷ Article L.561-31 Monetary and Financial Code (France); Article 46 para. 3 Law No. 7/2020 (Timor-Leste).

⁸ Article 432-12 Penal Code (France); Chapter III, Law No. 2018-46 (Tunisia).

⁹ Hoppe, Tilman (2021): Money Talks: The ECtHR is Getting Rid of Corrupt Judges, VerfBlog, <https://verfassungsblog.de/money-talks/>.

- To ensure a clear separation of public position and private interests and to prevent and manage conflicts of interest (UNCAC Articles 7.4, 8 and 12.2(e)), **Member States should adopt, implement and enforce adequate and comprehensive frameworks to address conflicts of interest for decision-makers in the public sector.** Such frameworks should also regulate cases of the “revolving door” as well as lobbying by public officials.
- Member States should **include criminal liability, as well as taxation and confiscation of any inexplicable wealth (with the burden of proof ultimately shifting to the declarant) as possible sanctions when officials do not comply with the disclosure requirements.** Significant cases of non-compliance must lead to dismissal of public officials as well as to their ban from office.¹⁰
- To address one of the top challenges in verifying asset declarations, Member States should **engage in discussions on creating a framework for the international exchange of this information** (UNCAC Articles 8, 14, 43 and 52). The verification across borders is also facilitated by Member States ensuring free public access to the declarations themselves, including an English language interface,¹¹ as well as to relevant registries (land registries, company registries, beneficial ownership registries, public procurement data, etc.).¹²
- Similar frameworks for asset and interest declarations should also be introduced at least for senior officials in international organisations.

¹⁰ See Venice Commission CDL-AD(2015)042 at no. 39; ECtHR 9 Feb 2021, 15227/19, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)042-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)042-e).

¹¹ See Art. 8 para. 4 of the International Treaty on Exchange of Data for the Verification of Asset Declarations, <http://www.rai-see.org/regional-data-exchange-on-asset-disclosure-and-conflict-of-interest/>.

¹² The International Treaty on Exchange of Data can serve as a reference for such efforts, <http://www.rai-see.org/regional-data-exchange-on-asset-disclosure-and-conflict-of-interest/>.