



Assessment of Legislative Amendments on Asset Declaration

Draft Law, Initiator



Legislative Initiative: [Amendments to the Law on Conflict of Interests and Corruption in the Public Service](#)

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Essence of the Draft Law



According to amendments to the Law of Conflict of Interest and Corruption in the Public Service, new norms have entered into force starting January 1, 2017 that involve monitoring of asset declarations filed by public officials based on random selection by the unified electronic system or a substantiated written statement.

According to the initiators of the draft law, the amendments are aimed at correcting legal shortcomings related to the monitoring of asset declarations, including separation of substantive and non-substantive violations, so that public officials are not fined for all types of violations.

The 2017 monitoring report by the Civil Service Bureau confirms that errors are a common occurrence in asset declarations. Of the 287 asset declarations [examined](#), errors were found and officials fined in 224 cases (78%), 56 cases (20%) were error free and 7 were transferred to the Prosecutor's Office for further action.

Existing Regulation



1. Rules for declaring accounts and deposits

Data on accounts and/or deposits opened in credit institutions of Georgia or abroad, which are administered by an official or their family member, as well as data on cash owned by an official or their family member, which exceeds GEL 4,000, shall be declared as of the date of completion of the declaration.¹

2. Rules for assessing violations

Based on monitoring results of an official's asset declaration, the Bureau shall make one of the following conclusions:

- Non-existence of violations in the official's asset declaration
- Existence of violations in the official's asset declaration

3. Fine Amount

Upon identifying a violation in an asset declaration, the public official is fined for GEL 1,000.

Proposed Amendments



1. Rules for declaring accounts and deposits

Accounts and/or deposits opened in credit institutions of Georgia or abroad, which are administered by an official or their family member, shall be declared as of the first day of the month of completion of the declaration.

2. Rules for assessing violations

The Bureau shall have the ability to identify non-substantive violations in asset declarations. The draft law defines 5 categories of non-substantive violations:

- In case of real estate ownership, the difference between the declared and registered area of: Residential real estate does not exceed 20%, but is no more than 40 square meters; Non-residential real estate - does not exceed 20%, but is no more than 20 square meters; Non-agricultural land - does not exceed 10%, but is no more than 100 square meters; Agricultural land - does not exceed 20%, but is no more than 500 square meters. Real estate ownership of a public official is misattributed to a family member, or to the public official if the property is owned by a family member; co-ownership is incorrectly declared.
- In case of accounts and/or deposits opened in banks and/or other credit institutions of Georgia or abroad, which are administered by an official or their family member, balance sheet errors must not exceed GEL 500 (positive or negative balance); A public official has failed to declare an account and/or deposit in a bank and/or other credit institution in Georgia or abroad that is administered by them or their family member, but which has been inactive during the reporting period, with either no turnover (or other bank transactions being carried out) or turnover of no more than GEL 100.
- A public official has failed to declare information about their or their family members' direct and /or indirect participation in an enterprise in Georgia or abroad, which has not functioned for a period of 5 or more years before the filing of the declaration.
- In case of any paid work performed by an official or their family member in Georgia or abroad, the difference between the declared and received remuneration does not exceed GEL 500.
- In case of any contract concluded by an official or their family member in Georgia or abroad, the difference between the declared and actual calculation of material results does not exceed GEL 1,000.

3. Fine Amount, Form of Liability

- In case of a substantive violation, the official shall be fined for 25% of their salary, but not less than GEL 500.
- In case of a non-substantive violation, the official is issued a warning. In case of a repeat non-substantive violation, the Bureau shall conclude that a substantive violation has taken place and fine the official accordingly.

Assessment / Recommendation



Transparency International Georgia has raised the issue of incorrectly filled asset declarations by Members of Parliament on a number of occasions, including a [report](#) published in September 2017 that investigated the undeclared property and business connections of MPs and their family members, which served as the basis for the Civil Service Bureau to launch the monitoring of 54 MP asset declarations.

Obligating public officials to file asset declarations is an effective means of identifying corruption and possible conflict of interest. Of all the information included in such declarations, especially important are business shares held by officials. While it is important to evaluate the practice of existing regulations and improve the monitoring process, this must not be done by introducing vague regulations that could potentially reduce transparency and the ability to identify corruption.

We believe that the approach, whereby an official is issued a warning and is not fined in case of their first violation, is justified.

- The list of non-substantive violations must not include vague entries. The law must clearly define what cases constitute a "non-functioning" enterprise, and what kind of evidence must be presented by the official to verify this circumstance.
- In order for a violation related to accounts and deposits to be non-substantive, the account must be inactive (no turnover) for 5 or more years before the date of filing of the declaration, with the burden of proof being imposed on the official.
- It is recommended for the GEL 1,000 fine to remain unchanged for substantive violations, while repeat non-substantive violations should be fined for 25% of the official's salary, but not less than GEL 500, as proposed by the draft law.
- In addition to issuing warnings and fines, violations must also result in asset declarations being updated to reflect non-declared or incorrectly declared information (for example, in the form of comments in a new field).
- Public officials must be obligated to update their asset related information in the Public Registry, which will be technically connected to the process of filling the asset declaration.

¹ Law of Georgia on Conflict of Interest and Corruption in the Public Service, Article 14, Paragraphs 6 and 7

