

ASSET DECLARATIONS IN CENTRAL AND EASTERN EUROPE: CURRENT TRENDS

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Introduction

The negative effects of corruption on the quality of democratic governance, economic prosperity and societal well being are widely recognized, and have been the object of numerous international, national and local policy interventions.

Improving the levels of transparency of public institutions lies at the core of preventing and curbing corruption in government and administration bodies, and contributes to the efficiency of public service delivery.

Design and establishment of asset declaration systems targeting political representatives and officials in public duty has gained traction as one of the essential tools in the anti-corruption policy toolbox. The necessity for individuals in positions of public influence to regularly provide information on their wealth and possessions has made inroads into strategic advice offered by international development agencies, European Union accession conditionality, as well as demands raised by non-governmental organizations towards those holding important public offices.

The value in introducing asset declaration systems resides in:

- Contributing to the prevention of conflicts of interest in government, administrative and judicial bodies.
- Promoting integrity in the discharge of public duty.
- Preventing and investigating illicit enrichment cases and other illegal activities by individuals assuming public functions.
- Increasing transparency and citizen trust in government and public institutions.¹

The significance attributed to well-functioning asset declaration systems in the fight against corruption is reflected in the G20 High-Level Principles on asset disclosures by public officials, endorsed by the countries of the G20 group in 2012, with a view to provide guidelines and boost the adoption of adequate and effective asset declaration mechanisms. The document sets out foundational principles such as transparency of applicable rules, their anchoring in legal acts, appropriateness of the information gathered about an official's wealth, the degree of public disclosure of information necessary to ensure public accountability while paying due respect to privacy of individuals, targeting of officials based on their importance in the decision-making hierarchy and risk of conflict of interest, resources required for institution and maintenance of successful asset disclosure systems, and the elements needed for ensuring the systems' enforceability.

These principles provided a guiding light for the present analysis of asset disclosure systems in operation in the region of Central and Eastern Europe. The document at hand thus seeks to provide an insight into the trends in asset declaration mechanisms in the region, highlight advances and identify outstanding challenges. It takes stock of the results of these countries' efforts to establish asset disclosure systems over the past decade. Ultimately, the analysis will serve to inform the drafting of a "model law on asset declarations," as well as of advocacy guidelines for organizations and individuals promoting more effective and efficient asset disclosure systems in the region of our focus and beyond.

Methodology

The report constitutes an analysis of data collected through a survey conducted in 18 Central and Eastern European countries in the summer of 2017. The analysis encompasses the following states: Albania, Azerbaijan, Bosnia and Herzegovina, Croatia, Czech Republic, Georgia, Hungary, Kosovo, Latvia, Moldova, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, Turkey, and Ukraine. In each country, leading non-governmental organizations working in the field of transparency and accountability of public institutions contributed with providing answers to 35 questions related to the existing rules and systems of asset declarations. While a unified methodology was employed in order to allow for cross-country comparisons, the resulting analysis reflects the diversity of approaches adopted by the individual countries.

The report was drafted based on two main data sources: primary, gathered through the above mentioned survey, and secondary, a review of the existing literature on asset disclosure policies across the world. It was prepared by Open Data Kosovo in cooperation with partner organizations in the TransparenCEE network. TransparenCEE is a network of Central, Eastern European and Eurasian NGOs promoting the use of technology for the improvement of transparency in public institutions.

The report proceeds in three parts; the first part offers an analysis of the **current state-of-affairs of asset disclosure systems in the region**, the second part elaborates on four country cases highlighting the most significant **successes and shortcomings** identified through the research, while the final section draws a number of **general conclusions**.

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Summary of the findings

The type and rank of officials subject to the asset disclosure obligation varies from country to country, with each model necessarily making a number of compromises in terms of costs and benefits.

Determining the scope of the obligation to disclose assets held by public officials constitutes one of the fundamental building blocks of any asset declaration system. The type and rank of officials subject to such an obligation varies from country to country, with each model necessarily making a number of compromises in terms of costs and benefits. While the more comprehensive systems cover high-level officials all the way to the lower echelons of leadership and their family members thus enabling greater control of potential conflicts of interest and abuse, they also require more robust resources (whether financial, human or technical), thereby increasing the burden of the asset declaration system on the state budget. One of the ways to address this tradeoff and maximize its effectiveness while minimizing the costs is to impose the declaration obligation based on the risk of conflicts of interest and abuses of office that derive from the decision-making and managerial powers of individual officials.² This implies a differentiated system in which the strictness of the applicable rules increases with the level of responsibility and the related risks. At the same time, it also means that the asset declaration obligation could also apply to "private entities and individuals empowered to provide public services through outsourcing", which goes beyond the strict understanding of asset disclosure as a requirement for individuals in public office only.³

In CEE region, members of parliaments, governments and judicial bodies are required to submit declarations of assets. Typically, public officials who are in a position of taking executive decisions, carrying out supervisory roles and exercising control functions are obliged to declare their assets. However, the countries differ in the ranks of officials in public duty subjected to the obligation, covering the full spectrum from all public servants having to declare their wealth to only directors and decision-makers being required to do so.

Some of the examined countries take the obligation even further; Ukraine requiring anti-corruption activists and their contractors to fill asset declarations in addition to all the other public officials, whereas Slovenia demands the same from its citizens who hold office in the EU institutions, EU bodies and international institutions to which they have been appointed or elected on the basis of secondment or proposal by the government. Other countries adopt a broader approach, thus leading to high proportions of their populations having to file asset declarations. This applies to Kosovo where 2.3% of the total population is compelled to do so, and Turkey where this number amounts to 4.3%. In addition, the latter does not take into account the relatives of these individuals, which further increases the count and the concomitant costs to state treasury. However, application of asset disclosure rules to judicial and prosecutorial bodies and its employees remains a challenge in some countries. In Croatia, the Act on Conflict of Interest fails to impose such an obligation on the country's judges and prosecutors.

Majority of the countries included in the research require relatives of public officials to also regularly undergo the asset declaration procedure. Namely, this practice is established in Albania, Azerbaijan, Georgia, Hungary, Kosovo, Moldova, Russia, Serbia, Slovakia, Turkey, and Ukraine. The remaining seven countries ask individuals holding public offices to merely provide the names of their relatives or do not consider family members at all, as is the case in the Czech Republic.

In order to ensure that a system of asset declarations enables monitoring and tracking of individuals' wealth, it is essential that it collects all the relevant data and their fluctuation over time.

Ability to spot suspiciously dramatic fluctuations is at the heart of asset declaration systems' effectiveness.

As for the CEE, the information sought by asset declaration systems includes data related to income from public and private sources, real estate, movable property, and liabilities such as debts and mortgages. More advanced systems also include gifts and sponsorship deals as well as any potential conflicts of interest.

The table below highlights the differences between asset disclosure systems and the scope of information required and collected by each country:

Types of assets required to be declared	Countries
Income (From Private And Public Sources)	All
Real Estate (Buildings, Apartments, Land And Agricultural Property And Other)	All
Movable Property (Cars, Boats And Other)	All Except Azerbaijan
Money (Cash, Bank Accounts, Foreign Currency, Credits, Obligations)	All Except: Azerbaijan (Information About Obligations Is Not Collected) Croatia (Information About Cash And Foreign Currency Is Not Collected) Czech Republic (Information About Cash, Bank Accounts And Foreign Currency Is Not Collected) Russia (None Of The Information Is Collected, But Collects Information On Expenditures If They Exceed A 3-Year Income) Slovenia (Information Collected Only If Cash, Accounts And Debt Exceed 10,000 EUR)

Types of assets required to be declared	Countries
Beneficial Ownership (Company Management, Board Members, Shares, Stocks, Gifts)	All Except: Poland, Ukraine, Bosnia And Herzegovina, Azerbaijan, Slovakia, Croatia (Do Not Collect Information On Gifts) Russia (Does Not Collect Information On Beneficial Ownership At All) Slovenia (Collects Information Only On Company Management And Board Membership) Turkey (Collects Only Information On Shares And Stocks)
Management Of NGOs	The Only Countries That Require Collection Of Information On Public Officials' Involvement In NGO Management Are: Albania, Croatia, Latvia, Moldova, Poland, Romania, Slovenia, Ukraine
Membership In Organisations	Only: Albania, Croatia, Latvia, Romania, Serbia
Subsidies	Only: Albania, Croatia, Latvia, Moldova, Romania
Collectables (Such As Art Works)	Only Albania, Hungary
Allowances And Benefits Accruing To The Official From The Political Party Or National Assembly	Hungary

Public access to the collected asset information plays an important role in fostering transparency and contributes to trust-building between citizens and the institutions serving them.

However, it may also compete with protection of privacy that should be respected for every person, whether private or public. While high-level officials and MPs might be subjected to greater public scrutiny given their decision-making and managerial powers and direct accountability towards the electorate, disclosure of information of lower ranked officials may be more limited. According to the advice offered to policy-makers by the OECD, "the right degree of public disclosure should be determined on the basis of a careful weighing of various considerations, such as domestic traditions, perceptions of corruption in a given country, possible safety concerns, and other dangers."⁴

The CEE countries present a mixed picture reflecting these competing considerations. The most common way of making asset disclosure information publicly available is online, via websites of agencies charged with the collection of asset declarations. However, there are significant differences between countries. **8 countries in the CEE region publish declarations online**, while **Azerbaijan, Bosnia and Herzegovina, Slovenia and Turkey do not make them available at all**. Instead, the information should be requested from the relevant institution.

Neither Hungary, Latvia, Moldova, Poland, Slovakia nor Ukraine provide full access to asset declarations, rather, it is restricted to specific categories that are made accessible to the public. For illustration, information about assets of the Polish President, Prime Minister and Ministers are publicly unavailable and disclosed only by good will.⁵ In Ukraine, information on assets owned by employees of the secret service and military chiefs is classified. The same goes for the Moldovan intelligence and security officers, investigation officers in law enforcement bodies and officers of independent public agencies, whose wealth cannot be publicly disclosed by law.

Further differences exist in the nature of information made public. Countries differ widely in terms of content of asset declarations that are publicly shared. Only 7 countries publish all asset declaration documents. Albania, Azerbaijan, Bosnia and Herzegovina, Czech Republic, Latvia, Moldova, Poland, Russia, Slovakia, Turkey, and Ukraine have not entirely provided all necessary information in documentation. In most countries, personal information such as the personal identification number and home address are submitted but not published through online asset declarations. Information about bank accounts and statements is equally withheld from the public's gaze.

The lifetime of the publicly available asset declarations in an online database varies from country to country; some took their first steps in late 1990s (Hungary) or early 2000s (Poland), while others sought to address the matter more recently (Georgia 2010; Kosovo 2010; Romania 2014 Moldova 2014, Serbia 2010, Ukraine 2016).

The overall institutional setup and scope of public duty positions that are required to submit regular asset declarations determines which body(ies) will be entrusted with data collection and verification.

The priority should be placed on ensuring the body's effective functioning and political independence.

Majority of CEE countries has a separate agency entrusted with the asset declaration data management. Bosnia and Herzegovina, Czech Republic, Hungary, Slovakia, Russia, are the exceptions from this positive trend. The political independence of these agencies, however, is one of the major challenges identified through the present research. The question of political independence was either answered negatively or not at all by an overwhelming majority of researchers from the studied countries.

Azerbaijan presents an interesting case as its Commission on Combating Corruption has 5 members appointed by the President, 5 by the Parliament and 5 by the Constitutional Court. However, despite the fact that the Commission is charged with the duty of collecting asset declarations, it has been found inactive through the recent research.

Other potentially politically influenced agencies can be found in Turkey or Slovakia. The latter's Committee for the Incompatibility of Functions is being elected on the basis of the principle of proportional representation of political parties and movements in the National Council (parliament). Only members of parliament can be part of the Committee, which puts into question independence of the body. In fact, experience shows that the Committee's decisions often depend on the will of the political parties, rather than the compliance with the applicable law. The responsible institution in Moldova is not functional at all due to a protracted institutional reform, while the previous

body faced charges of major ineffectiveness – only 17 administrative sanctions were applied and 2 penal cases initiated out of the total number of 280 infringements identified over the course of 3 years (2013-2015). Likewise, Serbia's agency has for long not been working at its full capacity due to the fact that the National Assembly has not elected new Board members.

Slovenia paints a somewhat more optimistic picture. Its Commission for the Prevention of Corruption was one of the most respected bodies in the country, only to be crippled by a change in leadership and the resulting loss of public trust since 2014.

Unless the information collected through asset declaration systems is regularly verified, it is difficult to ensure its accuracy and truthfulness.

This is particularly of particular concern in societies where corruption is rife and distrust towards public officials is high. Verification of the asset information allows for identification of any irregularities, including of potential criminal nature, helps maintain the integrity of the country's asset disclosure system (avoiding accumulation of incorrect information in case of error).⁶ Verification can be conducted randomly, based on the level of risk associated with the given public function or combining the two approaches. However, blanket verification of all or large number of submitted declarations is often considered too costly as the costs of such endeavor vastly outweigh the relatively limited gains from identifying potential irregularities.

In more than half of the CEE countries asset declaration information is verified on a regular basis either following a published risk assessment methodology or in reaction to notifications about unjustified wealth. Latvia provides a good example of a verification system prioritizing a small number of high influence persons in public duty. The Corruption Prevention and Combating Bureau selects 120 officials for verification of their declarations based on risk assessment methodology with the aim of identifying potential conflicts of interest. The State Revenue examines the truthfulness of the information disclosed in asset declarations only upon reception of notification about its possible falsehood. In Russia, asset information related to specific individuals is verified upon request by the media, members of parliament, non-governmental organisations or other stakeholders. On the other hand, in Croatia, Hungary, Slovakia and Turkey relevant declarations are subject to verification only in the case of prosecution of the concerned person(s). Kosovo represents a mixed case, relying on both random verification of 20% of individuals who submitted asset declarations in the given year and on requests coming from law enforcement institutions prompted by notifications about possible unjustified wealth.

On the least scrupulous end of the spectrum can be found Bosnia and Herzegovina and the Czech Republic, neither of whom conducts any verification of the asset information.

Few of the 18 studied countries compile and publish reports including verification results. This practice has so far taken roots only in Albania, Kosovo, Serbia, Slovakia, and Slovenia.

Existence of legal sanctions has an important dissuasive function and helps ensure compliance with the requirement of submitting asset declarations

While legal sanctions are not required to ensure effectiveness of asset declarations systems if there is a sufficient scrutiny of the public arena by citizens, civil society, and the media, most societies cannot fully rely on such societal watchdogs. Existence of legal sanctions also has an important dissuasive function and helps ensure compliance with the requirement of submitting an asset declaration by concerned officials. The panoply of possible sanctions includes administrative and disciplinary measures, as well as criminal sanctions.

Most CEE asset disclosure systems comprise financial fines and criminal prosecution in case of submission of false information. The exceptions in this area are Bosnia and Herzegovina and Turkey, where no fines are imposed in such cases. On the opposite side of the spectrum lies Kosovo, where failure of public officials to declare their assets may be considered a criminal offense.

In Moldova, the different types of sanctions are employed based on the severity of the transgression, namely administrative fine for non or late submission, removal from public office for failure to submit after notification, and criminal prosecution for the reporting of wrongful information. The sanctions for false declarations include a fine of up to 1,400 EUR or imprisonment for up to 1 year, and in both cases are accompanied by deprivation of the right to occupy certain positions or engage in certain activities for up to 5 years.

The key element in the ability to verify information in submitted declarations is the length of the time during which they are stored by the entrusted institutions.

In the CEE region, the time varies from indefinitely to just few years. Specifically, records of asset declarations are kept indefinitely in Albania, Georgia, Kosovo, Romania, Russia, and Turkey. In Latvia it is 30 years, while in Poland and Slovenia records are kept for 10 years. In Serbia, data concerning an officials' assets is deleted 3 years from the date of termination of public office. Poland thus keeps the records of each given asset declaration for the duration of up to 10 years, while it is only 3 years in Russia. In Ukraine, records are erased 5 years after the individual's departure from public duty besides the last declaration that is preserved indefinitely. Finally, the length of record keeping is unspecified in quite a few countries, including Azerbaijan, Bosnia and Herzegovina, Croatia, Moldova and Slovakia.

The legal anchoring of asset disclosure requirement differs from country to country depending on their legal and institutional traditions.

While some countries chose to regulate the asset declaration system with a single law, others have included its elements into a number of separate legal acts. While the number of legal acts that deal with the matter is not of particular importance in itself, the Organisation for Economic Co-operation and Development advises that principles of asset disclosure should be embedded in primary legislation so as to create space for a public debate and consensus-building around the existence of a disclosure requirement and to allow for limiting privacy rights of public officials.⁷

There is a wide diversity of legal acts regulating the matter of asset declarations among the CEE countries. The Czech Republic, Georgia,

Kosovo, Romania, Serbia, Turkey, and Ukraine regulate their asset disclosure systems with a single law. Other countries have included elements of their systems into several separate legal acts.

In Azerbaijan, this is done by the law on combating corruption, the civil service law and the law on rules for submitting financial information by officials.

In Bosnia and Herzegovina, the asset disclosure legal framework is dispersed across multiple laws, including the election law (for elected officials), the law on government service (for public servant and all government employees), the law on high judicial and prosecutorial council (for judges and prosecutors).

Similarly, in Hungary the asset disclosure legal framework consists of a law on the parliament (for MPs), laws on public servants, judges and prosecutors, and the law on municipalities.

The situation is not much different in Poland and Slovakia, where the framework is composed of legal acts referring to the status of the specific public official, i.e. for members of parliament, judges, prosecutors, civil servants, local government officials, head officials performing work in the public entities etc. Similar fragmentation can also be observed in Russia.

Among the studied countries, Moldova stands out as the only country to regulate the asset disclosure system based on the process through which the collected information passes – the Law on declaration of assets and personal interest regulates the process of submission of asset and personal interest declaration, and the Law on the National Integrity Authority regulates the process of verification of asset declarations and the sanctions applied.

The means used for collecting the asset disclosure information from individuals in public office vary as the countries themselves.

Kosovo, Ukraine, Georgia, Slovenia and Latvia have established a central online service through which declarations are collected. Albania, Croatia, and Russia use forms that are filled out electronically on a computer, whereas in Poland, Bosnia and Herzegovina, Czech Republic, Azerbaijan, Moldova, and Turkey the asset declarations are filled out by hand.

From 2018, Moldova is expected to move to a mandatory electronic submission. Finally, Hungary, Romania, Slovakia, and Serbia use a mixture of those methods, thus posing a challenge to the in-country harmonisation of the whole process.

The criterion of openness requires information to be published in formats that enable the data to be easily readable and usable for further analysis.

The readability and reusability of the data stored in scanned copies of hand-filled forms in several of the CEE countries is very limited. Countries like Montenegro, Croatia, Georgia, Latvia, Ukraine and Kosovo are some of the few examples that publish their assets declarations in formats such as PDF, docx format, HTML tables etc. which allows at least to copy-paste provided information. However, significant improvements can be made to increase openness of asset disclosure data in CEE. Namely there is no country that collects information in structured, validated form that would ease verification.

Civil society organizations have played a crucial role in increasing the transparency and accountability of public institutions

Civil society organizations active in the studied countries have played a crucial role in increasing the transparency and accountability of public institutions to the citizens, also by the means of advocating for the establishment and strengthening of asset declaration systems. Among other things, they have exercised a monitoring and control function, which is of particular importance in the countries of the region that have struggled to create solid and independent public oversight bodies and have faced high levels of public distrust towards public institutions and high perception of corruption.

Civil society can thus exercise a disciplining function and nudge public officials towards living up to their legal obligations. While the civil society is by definition external to the decision-making taking place in public institutions, it is able to perform control and exert pressure indirectly, including through regular monitoring of data asset disclosure data published by state bodies, highlighting of dubious cases to the public via media and own initiatives and prompting law enforcement organs to take investigative action, formulating proposals for improvement, advocating towards public officials or galvanising public support for changes to the existing asset declaration systems.

The case in point is the Georgian Institute for Development of Freedom of Information who has used the available asset disclosure information to calculate the amount of money received by MPs as bonuses and supplements after the legislative body refused to provide this data. Similarly, it has conducted comparisons of asset declarations submitted by officials two months following their entry into public service and after one year in office, thus revealing that several high level officials at the Ministry of Internal Affairs accumulated potentially suspiciously large amounts of money over a short period of time. Such monitoring and data analysis enables the civil society to exercise oversight in the face of uncooperative behaviour of public institutions and act as an important accountability mechanism. It also serves as a red-flagging system, bringing to attention of the law enforcement institutions cases that warrant investigation and potentially prosecution.

Conclusions

All of the 18 Central and Eastern European countries studied as part of the present research have created systems of asset disclosure in an attempt to thwart corruption and increase transparency and trust of citizens in public administration.

There are significant differences in the way these systems are regulated and work. On the basis of the above presented results, it is

possible to draw a number of conclusions as to the strengths and weaknesses of systems in the CEE region.

Among the strengths can be found:

- Existence of relatively strict sanctions for violation of rules related to asset disclosure.
- Wide coverage of public officials and their family members.
- Regularity of collection of asset declarations.
- Increasing online accessibility of asset declaration information.
- Accessibility of information to the public and the media as a way to enhance oversight and control.

However, there are a number of weaker elements that policymakers would be advised to seek to remedy in the near future, namely:

- Lack of a fully digitized format of asset declarations.
- Limited to nonexistent political independence of control, oversight and verification bodies.
- Questionable effectiveness of monitoring and inspection mechanisms.
- Inability to verify the origin of assets.
- Failure to make asset declaration information public in an accessible way in a number of countries.
- Limited numbers and capacity of staff in data collection bodies.

In order to fully utilize the potential of the asset disclosure mechanisms to contribute to curbing corruption, increasing transparency and accountability of public institutions, and thus improving quality of public services provided to citizens, significant improvements need to take place in most of the CEE countries. This study has sketched the current trends and hopes to have laid the groundwork for further efforts to improve transparency and accountability in the region.
