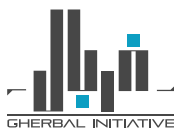


Citizen Guide to

The Asset and Interest Declaration and the Punishment of Illicit Enrichment Law



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Introduction and Historical Background

In 1953, Legislative Decree No. 38 on illicit enrichment was issued, followed by Law No. 5 in 1954, “on the declarations required from public officers and public service providers regarding their wealth.” In 1999, these two laws were cancelled and merged with some amendments into a unified law called the Illicit Enrichment Law No. 154.



These laws did not have a significant impact on limiting and preventing illicit enrichment within the public sector in Lebanon. There is hardly a single case that has been investigated and a ruling was issued based on Law No. 154, as the definition of the crime in particular did not conform to international standards and is not of any effectiveness in terms of the investigation and trial. Noting that all provisions of this law made it almost impossible for those intending to reveal illicit enrichment.

On October 16, 2009, the Parliament authorized accession to the United Nations Convention against Corruption under Law No. 33/2008, which places the Lebanese state on many obligations in terms of combating corruption in the public sector; as Article 20 of the agreement stipulates that:

“Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider Approving such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public officers that he or she cannot reasonably explain in relation to his or her lawful income.”

A law proposal was submitted to the Parliament to amend the Illicit Enrichment Law No. 154/2008.



In October 2020, the Parliament approved Law No. 189/2020; the Asset and Interests Declaration and Punishment of Illicit Enrichment, which greatly enhanced the legal system on public officers' declarations and illicit enrichment in the public sector in line with the provisions of the United Nations Convention against Corruption and the best relevant practices.

1953

Approving the Legislative Decree No. 38 on illicit enrichment

1954

Approving Law No. 5 on the declarations required from public officers and public service providers regarding their wealth

1999

Approving the Illicit Enrichment Law (merged and amended)

30-06-2008

Submitting a law proposal to amend the Illicit Enrichment Law no. 154

22-04-2009

Lebanon acceded the United Nations Convention against Corruption

03-07-2009

The government submitted a draft law to amend the Illicit Enrichment Law by Decree No. 2490/2009

23-02-2016

The Administration and Justice Committee finalized the amended draft law in its semi-final structure, which was approved by the General Assembly of the Council.

16-10-2020

Approving the Asset and Interest Declaration and Punishment of Illicit Enrichment No. 189/2020

In this guide, we present the most important provisions of the new law that must be known by citizens and other concerned parties to urge for interrogation and accountability within the public sector, in addition to comparing the most prominent new provisions with the old ones that impeded any interrogation or accountability on illicit enrichment in the public sector.



Knowing that the new law stipulates the subject of asset and interest declarations in its first section, to indicate that this system helps prevent corruption , and that the asset declaration is one of many means for proving enrichment.

This law was approved in light of the Lebanese uprising against corruption in the public sector which is a main contributor to the circumstances they are facing, and since this law is considered one of the leading tools for strengthening anti-corruption and enhancing accountability in particular. Therefore, it became possible to question and interrogate all public officers on every act falling under illegal enrichment and arising from various corruption crimes, as a result of which the public employee accumulated a wealth that he/she could not justify in relation to his/her legitimate income.

Asset and Interest Declaration



The law requires some categories of public officers to submit their asset and interest declarations under penalty of severe fines and sanctions. In this guide, we will be presenting the most important provisions of the new law.

Which public employees are subject to the Illicit Enrichment Law?

“Any person who performs a public function or provides a public service, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, with any person of public or private law, at the centralized and decentralized levels, and in general any person who performs work for the benefit of a public property, a public establishment, a public utility, a public Commission, a public interest, or public funds, whether wholly or partly owned by a person of public law, and whether s/he performs it legally or de facto, including in any constitutional, legislative, judicial, executive, administrative, military, financial, security, or advisory position.”



The Law indicates the public officers who are obligated to submit asset and interest declarations, and those who are not subject to the declaration as follows:



**Public officers
subject to the
declaration**

All category 3 officers and higher:

- President
- Speaker of the Parliament
- Prime Minister
- MPs
- Ministers
- Ministries' personnel
- Public administrations and establishments' personnel
- Governorates' personnel
- Municipalities' and Municipal Union' personnel

- The staff of the Ministry of Finance
- The staff of customs and land registry
- The head, members, and staff of the traffic administration
- The staff of the administrative committees,
- The staff of Independent and regulatory bodies established by law, of all ranks and categories, if their actions have financial consequences.

Public Officers ranking from the fourth category and below or its equivalent, assigned to any task of a higher category



**Public officers
not subject to the
declaration**

Personnel ranking from the fourth category and below or its equivalent, not assigned to any task of a higher category.

Teaching staff at the Lebanese University, public schools and institutes.

What is the declaration mechanism?

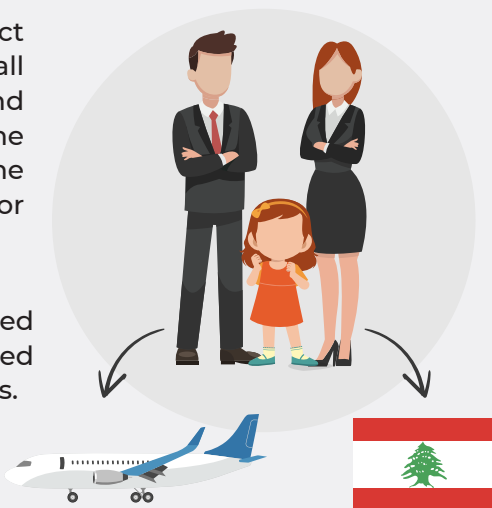
Regarding the declaration's form

- The declaration must be submitted on the competent form and shall be signed by the public officer, provided that he/she states all the elements of the assets and interests related to him/her, his/her spouse and minor children, in Lebanon and overseas.
- The declaration form is currently available as hard copies and shall be electronically available later on.

Check Annex No. 1, to view the asset and declaration form within the Law No. 189/2020.

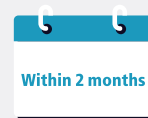
Regarding those included in the Declaration

- The public officer, the spouse and the minor children in Lebanon and abroad.
- When both spouses are subject to Declaration, each of them shall submit a separate declaration and indicate it herein, provided that the guardian among them submits the declaration about his/her minor children.
- One declaration shall be considered sufficient when the concerned officer hold many public offices.



Regarding the declaration's due date

- A first declaration shall be submitted within two months from the date of assuming public office; which also applies to every renewal or extension of position.
- A final declaration shall be submitted within two months from the date of the end of the public official services for any reason.
- All public officers subject to this declaration must submit it every three years, from the date of submitting the previous declaration.
- Upon the approval of the law in 2020, public officers subject to declaration were obligated to submit a new declaration within three months from its publication in the Official Gazette, even if he/she had previously submitted a declaration as provided for by the repealed Law No. 154. Noting that this period has been extended for 3 additional months by virtue of Law No. 212/202 due to Covid-19 pandemic at the time, which limited the ability to work and move around.





Form for the declaration of assets in Lebanon and overseas ¹

Required from public servants ²

According to the requirements of the Illicit Enrichment Law ³

Personal data on the person assigned to submit the declaration, and on spouses and minor children

Full name of the assigned person	
Number of civil registry	
Financial registration number	
Any other nationality	
Date and place of birth	
Actual residence address	
Occupation	

¹ This form shall be used for the three types of required declaration: upon assuming public office (first declaration), once every three years from the date of submitting the first declaration (periodic declaration), and upon completion of services (final declaration). The nature and date of this declaration shall be determined by filling in the relevant space on the last page before signing.

² Please use separate sheets to complete the information to be declared if the space in this form is not sufficient. Please indicate on each additional page the additional subject of declaration.

³ Care must be taken to ensure the declaration is complete, accurate and correct. As a reminder, a false declaration shall be considered a criminal offense, and the offender shall be subject to a prison sentence of six months to a year and a fine ranging from 10 to 20 the official minimum salary.

Signature

1

Professional rank					
Functional area					
Email address					
Landline and cell phone numbers					
Marital status	Single	Married	Separated	Divorced	Widowed
Name of spouse/s ⁴					
Names of minor children and year of birth					

⁴ Please use a different form for both husbands and wives and minor children who have assets that must be declared.

Signature

2

VI- Other rights and income in Lebanon and overseas

Declaration	Explanation
Income from various commercial activities	
Gifts	
Money transferred by inheritance or will	
Any other income not mentioned in this form	
Total	

Signature

19

A copy of the asset and interest declaration can be downloaded by scanning this QR code



Regarding the declaration's content

What should the declaration include?

In accordance with Article 4 of the Law and the competent form, the declaration shall include the following:



Any income derived from the public office.



All movable and immovable properties in Lebanon and overseas, the method of their acquisition (such as by purchase, inheritance, will, gift) and the revenues generated from it and through irrevocable power of attorney, credit contracts, jewellery, etc.



Obligations and debts, with a specification of their value and conditions, such as the maturities and interests accruing thereto.

All interests that generate any financial income from any source other than the public office, movable and immovable property, and the value of this income:

- All activities and investments in any economic project, such as owning shares in a certain company.
- Positions, roles, posts and memberships, whether by appointment or election, in persons of public or private law, such as membership of boards of directors of public Commissions or companies.
- Any other interests that may fall within the scope of the declaration, considering that declaring persons and those about whom the declarations are made, are the economic right holders (i.e de facto and legal owners).
- All previous interests that do not generate any financial income.

Regarding the periodic declarations, the declarant must indicate the differences in declarations and their reasons.

To whom shall these declarations be submitted?

The National Anti-Corruption Commission is solely entitled to receive asset and interest declarations from those who are subject to this obligation. The Commission's Head and members shall submit their declarations to the Presidency of the Council of Ministers, which will also be published on the Commission's website.



! The said Commission is now the only entity authorized to receive and keep all declarations, noting that more than 15 entities had that right prior to the appointment of the Commission's members.

Where are these declarations kept?

Declarations are kept at the Central Bank and shall be moved to the National Anti-Corruption Commission upon the availability of the necessary means to keep them.



How are public officers informed of the declaration process?

The National Anti-Corruption Commission shall send a circular to the administration, to which the public officer subject to Declaration is related, during the first month of every year to ensure compliance with the provisions of the Law provided that the circular shall indicate the legal time limits that must be adhered to in submitting declarations and the legal consequences of failing to do so.





Are public officers' declarations confidential?

Principle:

All declarations are confidential

Exception:

Declarations are not confidential before:

The National Anti-Corruption Commission, in all cases

The competent judicial authorities, in terms of any prosecution, investigation or trial



May review the content of the declarations and verify their authenticity



- The confidentiality is limited to the content of the declaration and does not apply to their numbers, for the “National Anti-Corruption Commission” shall count the number of declarations that must be submitted and then of those actually submitted, in order to enhance transparency and respect the right to access information, as refraining from declaring may conceal other legal violations of interest to society to urge interrogation and accountability.
- The National Anti-Corruption Commission is authorized to look into the content of declarations, whether based on a complaint or by taking the initiative, in order to ensure the deposition of a declaration inside the submitted sealed envelope.

What is the imposed sanction when failing to or delaying the declaration submission?



1 Principle:

- The declaration submission shall be considered:
 - A condition for assuming a public office
 - A condition for maintaining a public office
 - A condition for earning salaries, compensations and any other financial rights



2 Sanctions:

- The public officer shall be deemed to have resigned:
 - If he failed to submit the first declaration on time
 - If he failed to submit the subsequent required declarations, within the legal time limit, without a legitimate excuse and failed to do so for a period of three months from being notified of this obligation.
- The cessation of payment of salaries, compensation and financial entitlements shall be considered as a notification.



3 Sanctions signature:

- In case the specified legal time limits have expired and the declarations have not been submitted, the Commission shall then notify all public officers subject to Declaration of this obligation.
- The Commission shall simultaneously inform the following:
 - The administrations and entities to which the violating public officers are affiliated.
 - The central accountant or whoever is delegated the tasks of disbursing the financial entitlements.
- As soon as this notification is sent, the payment of salaries and other financial entitlements shall cease immediately and this measure shall be maintained until the two above-mentioned entities are informed again by



the Commission to authorize repayment after verifying that the required declaration has been to authorize repayment after verifying that the required declaration has been duly submitted, provided that the public officer shall have a receipt proving the duly declaration submission in accordance with the required conditions.

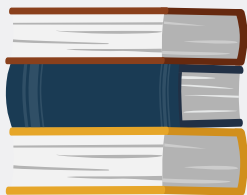
- Any financial entitlement received after the notice of payment cessation shall be considered as a debt owed by the beneficiary to the treasury, that shall be paid and subject to legal interests from the date of payment.
- The foregoing measures do not affect the validity of the legal actions carried out by the violating officers.
- The Asset and Interest Declaration and the Punishment of Illicit Enrichment Law stipulated the obligation of establishing a mechanism to link the computers of the various administrations and concerned parties with each other, in order to facilitate the notification process and cessation of payment of the financial rights of violating officers, in addition to facilitating the calculation of committed officers and those in violation. This task requires the cooperation of all administrations and concerned authorities with each other, especially with the National Anti-Corruption Commission to carry out this linking process.

Which sanctions shall be imposed when submitting a false declaration?

- Imprisonment for a maximum period of 1 year
- Fine ranging from 10 to 20 times the minimum wage

The “National Anti-Corruption Commission” is authorized to look into the content of declarations, in order to ensure that the data provided are correct and do not contain false information, otherwise the above-mentioned sanction must be imposed on violators.





Summary of the most prominent provisions of the declaration regulations

- 1 Expanding the definition of a public officer and defining the categories subject to the Declaration.
- 2 The possibility of accessing the declaration online.
- 3 Adopting a more detailed and enhanced form for asset and interest declaration, including the disclosure of various incomes and debts.
- 4 Unifying the 15 entities that used to receive declarations and limiting them to one, the National Anti-Corruption Commission.
- 5 Declaration submission is obligatory upon assuming public office, periodically every three years, and upon leaving the public office.
- 6 The inapplication of confidentiality of declarations before the National Anti-Corruption Commission, which has the authority to investigate, and to open and review declarations when needed, in addition to investigate corruption crimes and refer them to the competent authorities.
- 7 A warning to the employee who failed to submit his/her declaration before discharging them from public office.
- 8 Increasing the sanction through ceasing the payment of salaries and compensations to those who fail or delay the declaration submission.



Punishment of Illicit Enrichment



The law introduced a new effective definition of the illicit enrichment crime, simplified the procedures for prosecuting the violators, and specified the appropriate severe sanctions.



What is the crime of illicit enrichment?

Every large increase in the assets of any public officer that cannot be reasonably justified in relation to his/her legitimate resources:

- after assuming public office
- in Lebanon and overseas
- whether the public officer is subject to the declaration or not



The aforementioned absence of justification shall be considered an element of the crime.

Both the spouse and minor children are considered as one person, as well as fronting persons, and/or fiduciaries and/or guardians.



Noting that the declaration submission system is not a condition of prosecution for the crime of illicit enrichment, for declarations are used as a proof when initiating procedures to prosecute the crime of illicit enrichment.

Who is the competent judicial authority for the crime of illicit enrichment?

The crime of illicit enrichment falls within the jurisdictions of the judicial courts, which apply the Code of Criminal Procedure, the inquiry and investigation principles stipulated by the law on Combating Corruption in the Public Sector and Establishing the National Anti-Corruption Commission.



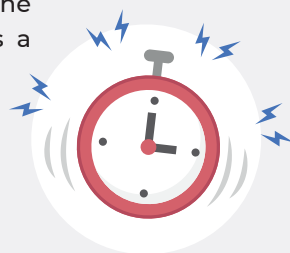
Is a permission or an authorization needed to prosecute a public officer?

A public officer who committed a criminal offence can be prosecuted without issuing a prior permission or authorization.



Is the crime of illicit enrichment subject to the statute of limitation?

The crime of illicit enrichment shall not be subject to any statute of limitation; that is, it does not matter when the crime was committed or when it was discovered, as a criminal or civil case can be brought at any time.



Does the new law require any guarantees for reports, complaints and direct lawsuits?

The law encourages the submission of reports, statements and complaints to the National Anti-Corruption Commission, as according to the Law:

- **Free of charge:**

- The reports, statements and complaints submitted to the National Anti-Corruption Commission.
- Complaints and direct prosecution brought by the National Anti-Corruption Commission.

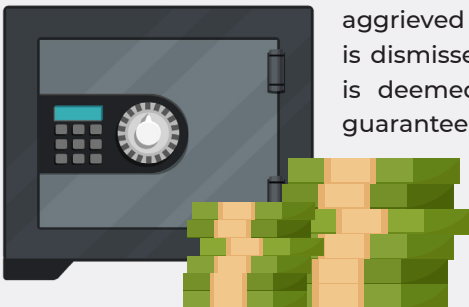
- **Subject to a bank guarantee of three million Lebanese Pounds*:**

- Direct prosecution brought by the aggrieved party to the competent judiciary.



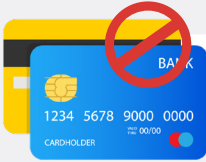
*Prior to the amendment of the Law, the bank guarantee was valued at twenty-five million Lebanese Pounds.

Is it possible to impose sanctions or fine the aggrieved party who filed a direct lawsuit if the public officer is acquitted, or in case the prosecutions against this latter are revoked?



No sanctions or fines shall be imposed on the aggrieved party, but in the event that lawsuit is dismissed by a final decision and the plaintiff is deemed to abuse his/her rights, the bank guarantee shall be confiscated to the treasury.

What are the precautionary measures that can be issued by the investigative judge and the competent court in case the funds are suspected to be related to illicit enrichment?



Freeze the accounts of the concerned public official for a period of six months, renewable for a similar period.



Annotate the records and registers pertaining to movable or immovable property, stating that these funds are the subject of investigation by either of them. This annotation shall be maintained until a final judgement is issued by the competent court to abort the prosecution or declare innocence.



Taking precautionary measures regarding movable and immovable property in respect of which records and registers are unavailable, in order to restrain any transaction thereon.





What are the sanctions imposed on a public officer who commits the crime of illicit enrichment?

- 1 Imprisonment from three to seven years. 1
- 2 Fine ranging from thirty times to two hundred times the official minimum wage. 2
- 3 Assets acquired through illicit enrichment shall be reimbursed to the concerned or aggrieved parties, if any, otherwise it shall be confiscated to the treasury. 3
- 4 The judgement shall be published in two local newspapers. 4
- 5 When necessary, a ruling shall be passed to confiscate the assets belonging to a third party in any form, while safeguarding the rights of bona fide third parties; that is, in cases when it was unaware of the illegal source of funds prior to its acquisition. 5
- 6 The penalty shall be increased from one third to one half for every public officer who applies violence, coercion, threat, enticement, clout, or power abuse to influence procedures related to his/her prosecution or trial. 6



The most prominent provisions of the punishment of illicit enrichment

- 1 A new and effective definition of the crime of illicit enrichment.
- 2 Illicit enrichment penalty increase to a felony with a seven years imprisonment sanction.
- 3 Effective procedures to combat corruption crimes and punish illicit enrichment.
- 4 Complaints and disclosures are free of charge when submitted to the National Anti-Corruption Commission.
- 5 The reduction of the guarantee's value required to file a direct lawsuit to three million Lebanese Pounds.
- 6 The cancellation of the imprisonment sanction and the fine of two hundred million Lebanese Pounds on the complainant in the direct lawsuit when the prosecutions are revoked or the defendant is acquitted.
- 5 The statute of limitation does not apply to illicit enrichment crimes, noting that the statute previously started upon discovering the crime.



Annex No. 1: Law on Asset and Interest Declarations and the Punishment of Illicit Enrichment No. 2020/189 including the Asset and Interest Declaration Form

Unofficial Translated Version – UNDP

The Lebanese Republic Parliament

Bill on the Declaration of Assets and Interests and the Punishment of Illicit Enrichment

Part I: Definitions

Article 1- Definition of terms

In implementing the provisions of this Law, the following terms shall mean:

1. Public Official : Any person who performs a public function or provides a public service, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, with any person of public or private law, at the centralized and decentralized levels, and in general any person who performs work for the benefit of a public property, a public establishment, a public utility, a public institution, a public interest, or public funds, whether wholly or partly owned by a person of public law, and whether s/he performs it legally or de facto, including in any constitutional, legislative, judicial, executive, administrative, military, financial, security, or advisory position.
2. The Public Official Subject to Declaration: every Public Official, with the exception of those ranking from the fourth category and below or its equivalent, not assigned to any task of a higher category, [and to the exception] of the teaching staff at the Lebanese University, public schools and institutes. Shall also be subject to the declaration, the staff of the Ministry of Finance, customs, Land Registry, traffic administration, as well as the head, members, and staff of the administrative committees, independent and regulatory bodies established by law, of all ranks and categories, if their actions have financial consequences.
3. The Commission: The National Anti-Corruption Commission that was established under its own law.

Part II: Declaration of assets and interests

Article 2- The obligation to submit a declaration

- A. Every public Official subject to Declaration shall submit declarations signed by him/her, in which s/he states all the elements of the assets and interests related to him/her, his/her spouse and minor children, in Lebanon and overseas, in accordance with the provisions of this Law.
- B. When both spouses are subject to the obligation of the declaration, each of them shall submit a separate declaration and indicate it herein, provided that the guardian among them submits the declaration about his/her minor children.

Article 3 - Frequency of declaration

- A. Declarations are submitted according to the following schedule:

A copy of the Law on Asset and Interest Declaration and the Punishment of Illicit Enrichment can be downloaded by scanning this QR code



