

Open Society Georgia Foundation

Riga/Tbilisi, May, 2015

Verification of Asset Declarations: Why Georgia Needs It and What International Practice Tells Us

POLICY BRIEF

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This policy brief covers period from September 2014 (when EU\Georgia AA/DCFTA and Association Agenda provisionally entered into force) - till April, 2015.

This policy brief is prepared within the framework of the Open Society Georgia Foundation's in-house project monitoring implementation of the EU/Georgia Association Agreement by coalition of civil society organizations. The views, opinions and statements expressed by the author and those providing comments are his only and do not necessarily reflect the position of Open Society Georgia Foundation. Therefore, the Open Society Georgia Foundation is not responsible for the content of the material.

Executive summary

The EU-Georgia Association Agenda, signed in June 2014, provides a plan for the implementation and enforcement of the key areas of the EU-Georgia Association Agreement, including governance. The Government of Georgia's (GoG) respective action plan includes monitoring/verification of public officials' asset declarations as one element of its anti-corruption efforts for 2014-2015.

Although Georgia currently has a transparent electronic system for the disclosure of public officials' assets, there are no mechanisms for the verification of the contents of these declarations. The Civil Service Bureau, which is the agency in charge of collecting the declarations, has no mandate to review their content.

Evidence (including research conducted by civil society organisations) suggests that the lack of verification has made it possible for multiple public officials (including members of Parliament) to provide incomplete and/or inaccurate information in their asset declarations, failing to report, among other things, their connections with private sector entities. Indeed, when the public is not fully informed about the private interests of public officials, there is a greater risk of conflict of interest and corruption in public service.

As the country tries to develop a verification mechanism, decisions need to be made regarding the key elements of such a system: 1) which declarations should be selected for verification; 2) the type and scope of verification; and 3) what agency will be responsible for verification. This paper provides recommendations for ways to address these three issues. First, Georgia needs to develop a risk assessment methodology for identifying which declarations should be verified. There should also be a provision for verification based on submitted requests. Second, examining asset declarations for internal inconsistencies is the minimum level of verification that needs to be performed. Further, the existence of a number of electronic databases of public informa-

tion (such as the online company registry) in Georgia makes it relatively easy to cross-check the information from the asset declarations and determine the need for further investigation. Finally, in terms of selecting the agency responsible for verification, the Civil Service Bureau's mandate can be expanded to include checking the declarations for internal inconsistencies and cross-checking the information with public databases. However, it will require the assistance of other public agencies for more thorough inquiries in exceptional cases. In the long run, Georgia could also consider the possibility of establishing an independent anti-corruption agency whose responsibilities would include verification of asset declarations, among other things.

Introduction: Prevention of corruption as Georgia's commitment under the Association Agreement with the European Union

The fight against corruption is one of Georgia's commitments under the Association Agreement (AA) with the European Union and the corresponding Association Agenda, which guides the implementation of the AA. The AA contains a number of provisions that reiterate the commitment of the parties to the "fight against corruption."¹ The Association Agenda further identifies the fight against corruption as a main policy direction and refers to Georgia's commitment to "take adequate measures at all levels of society to prevent, detect and address corruption especially high level corruption."²

As part of the fight against corruption, the GoG plans to establish a system of monitoring public officials' asset declarations. The establishment of this system was included in the government's actions plans for implementation of the Association Agreement in both 2014 and 2015.³

According to the Georgian Government's report on the implementation of the Association Agreement in 2014, the Civil Service Bureau undertook preliminary steps to introduce a monitoring system in 2014 and will follow up by drafting the necessary legislative amendments in 2015.⁴

The role of asset declarations in preventing corruption and the importance of a monitoring/verification system

Public disclosure of the assets and income of public officials is an important tool for the prevention of corruption. The UN Convention Against Corruption (to which Georgia is a signatory) requires the states parties to establish effective systems for asset disclosure.⁵ According to a 2012 World Bank study, the requirement for this kind of disclosure is "intended to deter the use of public office for private gain" and can "help reduce the incidence of conflicts of interest in the exercise of official duties and assist in the detection and prosecution of illicit enrichment by public officials."⁶

¹ See Articles 4, 17, 392, 394, 395, 396 of the Association Agenda, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:261:FULL&from=EN> (accessed on 1 April 2015)

² Association Agenda between the European Union and Georgia, available at: http://eeas.europa.eu/delegations/georgia/documents/eap_aa/associationagenda_2014_en.pdf (accessed on 1 April 2015)

³ See the activity #45 in the 2014 Action Plan and the activity #58 in the 2015 Action Plan. Both documents are available at <http://www.eu-nato.gov.ge/en/eu/association-agreement> (accessed on 1 April 2015)

⁴ <http://www.eu-nato.gov.ge/sites/default/files/Georgia%E2%80%99s%20Progress%20Report%20on%20the%20EU%20Integration%20Related%20Activities%20%202014-final-december.pdf> (accessed on 16 April 2015)

⁵ The United Nations Convention Against Corruption, Articles 8, 52, available at: http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf (accessed on 1 April 2015)

⁶ Stolen Asset Recovery Initiative, Public Office, Private Interests: Accountability Through Income and Asset Disclosure, International Bank for Reconstruction and Development / International Development Association or The World Bank, 2012, p. 7

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A lack of monitoring/verification procedures is a serious shortcoming of any asset disclosure system and increases the risk of conflict of interest and corruption in government. As noted in the World Bank study cited above, if an asset disclosure system is expected to “establish a credible threat of detection of illicit enrichment and conflicts of interest, then some sort of scrutiny of declarations is required.”⁷

Evidence suggests that the lack of a verification system has created significant problems in Georgia. Informal reviews of asset declarations conducted by Georgian civil society organisations have identified multiple cases where public officials (including members of Parliament and senior members of the executive branch) have failed to disclose their involvement with various private sector companies or to fully report their income in their asset declarations.⁸ Given the limited nature of the reviews conducted by civil society organisations (due to limited resources and restricted access to certain types of data), it is very likely that many more cases of this type have gone undetected. The OECD Anti-Corruption Network for Eastern Europe and Central Asia, which monitors Georgia’s anti-corruption policies, has also recommended that the country introduce a verification and monitoring system “in line with international best practice.”⁹

The research conducted by civil society organisations cited above has identified a number of common problems and trends concerning the asset declarations of Georgian public officials:

- In some cases, public officials have not reported their full income for a given year (leaving out the bonuses they had received)
- A number of public officials have failed to disclose the fact that they are owners or co-owners of private companies
- A number of public officials have failed to disclose the fact that they continue to hold management positions in private companies (in violation of the law)

Irregularities of this kind have been identified in Parliament, the executive branch, and local government bodies, indicating that the lack of a verification system creates an opportunity for conflict of interest and corruption in different institutions and at all levels of government

Key elements of a verification system and international practices

The sections below contain an overview of the key elements of a successful monitoring/verification system and the various models used in different countries for each of these elements.

⁷ Stolen Asset Recovery Initiative, Public Office, Private Interests: Accountability Through Income and Asset Disclosure, p. 60

⁸ See, for example: <http://idfi.ge/en/misconducts-linked-with-the-asset%20declarations-of-senior-officials> ; <http://transparency.ge/en/blog/undisclosed-business-activities-members-georgian-parliament>; <http://transparency.ge/en/node/5180> (accessed on 1 April 2015)

⁹ OECD Anti-Corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan, Third Round of Monitoring: Georgia, Monitoring Report, OECD, Paris, 25 September 2013, p. 54

Selection of declarations for verification

Given the large number of declarations filed by public sector employees, verifying all declarations will pose a tremendous logistical challenge. A selection method has to be established for the verification system to be an effective deterrent of corruption and conflicts of interest in the public sector. Reports by the World Bank, OECD and the UN Office on Drugs and Crime describe several methods for selecting specific declarations for verification:¹⁰

Verification of asset declarations of key government officials: This approach entails monitoring asset declarations of several high-ranking officials. Because this method has a distinct focus on important decision-makers in the government, it would not include mid-level professionals who also have leeway in allocating government funds.

Systematic random sampling of documents for verification: A fixed number or percentage of filed asset declarations are randomly chosen and then verified by a government entity. One shortcoming of this method is that it could potentially miss the public employees who are engaged in illicit activities but are never chosen for verification through random sampling.

Risk-based selection: Asset declarations are selected for further investigation based on a risk analysis of the government employees or their asset declarations. There are different selection criteria, depending on what information is considered. A risk analysis could be based solely on the information contained in the asset declarations, or involve a comparison of declarations over the years. Risk evaluation takes into account significant fluctuation in assets, wealth or lifestyle of a government employee. It also targets those government employees more prone to engage in corrupt activities, based upon their exposure and access to government funds.

Verification upon requests from other institutions or citizen complaints: A designated government body conducts inquiries into asset declarations in case of a request from law enforcement authorities or due to citizen and civil society complaints.

Types and scope of verification

The process of verification involves procedures of different type and scope.¹¹ The scope of verification establishes which information in an asset declaration needs checking. These vary from the simplest checks of asset declarations for incorrect entries to a more sophisticated, cross-agency analysis.

Simple check of asset declarations: Declarations are reviewed for obvious mistakes and missing information. This procedure could be entirely electronic and does not require extensive resources.

¹⁰ OECD (2011), *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, OECD Publishing. <http://dx.doi.org/10.1787/9789264095281-en>
Ruxandra Burdesco et al, *Income and Asset Declarations: Tools and Trade-Offs*, The World Bank and UNODC publication, 2009

¹¹ Laura Pop, "Asset Declaration Monitoring Systems," presented in Tbilisi, Georgia on 16 July 2013 http://csb.gov.ge/uploads/Asset-Declaration-Monitoring-System-WB-Laura_Pop.pdf (accessed on 12 March 2015)

Verifying information provided only in asset declarations: Information gathering is exclusively limited to asset declarations. This procedure analyses information from a single asset declaration or cross-checks declarations across the years to detect significant changes, investigate whether the declarants' wealth is sufficiently explained by their sources of income, and whether their loans are serviceable given their level of income.

Comparing asset declarations with other publicly available information: The agency in charge of verifying declarations compares them with other publicly available information about the declarant's assets and wealth. This procedure is greatly enhanced if the external databases are available online. For instance, in Argentina, auto and real estate registries are accessed online, so cross-checking declarations with these registries takes 20 minutes per declaration.¹²

Verifying asset declarations with confidential databases: The verifying agency requests additional documents from other public institutions, tax registries or banks, in accordance with local legislation, or through a court order. It could also solicit further explanations from declarants. These requests could be made as part of the regular verification, or to account for inconsistencies detected at an earlier stage of verification. However, local legislation and privacy laws could be a hindering factor for this method.¹³

Selection of the agency that conducts verification

Even though the specifics of income and asset verification systems differ across countries, several general observations could be made regarding the agency in charge.

The department in the government entity that receives asset declarations conducts verification: This type of institutional set-up is used in Argentina and Guatemala. In both cases, even though the same agency is in charge of asset disclosure systems, there is a departmental divide between those who process asset declarations and those who investigate them.^{14,15}

A separate entity is charged with verifying declarations: For example, in the United States, the Office of Government Ethics manages declaration forms and, in cases of complaints or irregularities, refers the case to prosecutorial agencies (the FBI, the Inspector General's Office) for more substantive investigation.¹⁶ If the filing agency does not have adequate resources, delegating verification to a separate agency could prove to be a solution.

An anti-corruption agency is tasked with verifying declarations: Since anti-corruption activities are the main focus of such an agency, asset verifications would fall within its purview. The Slovenian Commission for the Prevention of Corruption is one example of this approach.¹⁷

¹² Jean-Pierre Brun, "Public Office, Private Interests: Accountability through Income and Asset Disclosure," StAR Initiative, 2012, <https://star.worldbank.org/star/publication/public-wrongs-private-actions> (accessed 31 March 2015), p. 69

¹³ Ibid., p. 60

¹⁴ FUNDAR, "Fighting Corruption by Improving Transparency and Access to Information," 2012, http://www.right2info.org/resources/publications/asset-declarations/fundar_fightingcorruptionbyimprovingtransparencyandaccesstoinformation_2012 (accessed on 13 March 2015), p. 4

¹⁵ The World Bank, "Income and asset disclosure," p. 60

¹⁶ Jean-Pierre Brun, "Public Office, Private Interests: Accountability through Income and Asset Disclosure," StAR Initiative, 2012, <https://star.worldbank.org/star/publication/public-wrongs-private-actions> (accessed on 31 March 2015), p. 32

¹⁷ Ibid., p. 187

Conclusions and recommendations

The Georgian Government's commitment to establishing a system for the monitoring and verification of asset declarations means it will have to make important decisions concerning the key elements of such a system, including determining how asset declarations will be selected for verification, defining the scope of verification, and identifying the agency responsible for the process.

For **selection of declarations for verification**, a mixed model is preferable, as it combines the advantages of different selection methods. However, since this model would be the most resource-intensive, the government may have to:

- Limit the number of selection methods, at least during the initial phase of the system's operation
- Develop a risk assessment methodology and select the declarations for verification according to that methodology
- Allow for the verification of a certain number of declarations based on external requests (such as those submitted by civil society organisations).

As far as the **scope of verification** is concerned:

- A simple check of asset declarations for internal inconsistencies is the minimum level of verification that must be instituted.
- Cross-checking the information from asset declarations with other publicly available data should be a relatively simple task in Georgia since the country operates a number of sophisticated electronic databases of public information (making it easy, for example, to compare the information that public officials provide in their declarations regarding their involvement in private companies with the information from the country's official company registry).
- A more comprehensive review of the content of an asset declaration can take place in exceptional cases where the simpler check identifies inconsistencies, inaccuracies or omissions and the official in question fails to provide an explanation/justification.

Finally, as far as the **agency responsible for the verification** is concerned:

- The Civil Service Bureau (which presently collects the asset declarations from public officials in Georgia) should be able to conduct the simpler types of verification described above.
- A more thorough examination of asset declarations in cases where there are suspicions of corruption would require cross-agency collaboration and the involvement of other bodies that can collect the types of information that the Civil Service Bureau has no access to.
- In the long run, the Georgian Government could also consider the option of establishing a separate anti-corruption agency whose responsibilities would include, among other things, the verification of asset declarations. The establishment of this agency would also address a number of other gaps in terms of the enforcement of Georgia's anti-corruption regulations.

