

Legal regulation

There is an outstanding public interest linked to the possibility of accessing and checking the financial situation and enrichment of certain persons discharging public duties.

The relevant legal regulation is complex. A person discharging a given public duty (or because of him, his relative) may be required by law to make a formal statement of assets in every case. Act CLII of 2007 on Certain Obligations to Make Statements of Assets (hereinafter: Asset Declaration Act) stipulates the persons who are subject to the obligation to make statements of assets, in addition, the Act sets forth an extensive and exhaustive list of other positions concomitant with such obligations, as well as jobs and responsibilities (for instance deputy secretaries of state, CEO of Magyar Fejlesztési Bank Zrt., members of the boards and supervisory boards of business organisations with a state majority holding, etc.).

However, beside the Asset Declaration Act, there are over 20 legal regulations requiring persons discharging certain public duties to make statement of assets. Examples include, Act XXXVI of 2012 on the National Assembly for Members of Parliament, Act CLXXXIX of 2011 on the Local Governments of Hungary (hereinafter: Municipalities Act) for municipal representatives or Act CXII of 2011 on the Right to Informational Self-Determination and the Freedom of Information (hereinafter: Privacy

Act) for the president and vice president of NAIH.

Accessibility: public and non-public statement of assets

There are also two categories of the **public statement of assets** according to the way in which access to them is ensured in accordance with the relevant provisions of the Privacy Act.

The broadest accessibility via the Internet, which is in fact unlimited subject to the condition of dissemination tied to purpose, is associated with the statements of assets, which must be published under the rules of electronic freedom of information regulated in Chapter IV of the Privacy Act (leaders of state, judges of the Constitutional Court, members of Parliament, etc.).

The other category includes statement of assets, which are also accessible on the grounds of public interest, their content must be made accessible to anyone through individual request for data (mayors, municipal representatives, etc.).

In the case of persons making **non-public statements of assets**, the law requiring this does not stipulate the publication of the data of the statement of assets (ordered on the grounds of public interest).

In view of the protection of personal data, individual data requests on the ground of public

interest may not be granted. These accessibility rules hold for instance in the case of public notaries, prosecutors, bailiffs, government officials in senior positions.

Finally, from the viewpoint of accessibility the most protected category of the non-public statements of assets includes the relatives of the persons subject to the obligation of making statements of assets. Making statements concerning one's financial situation is an obligation not only of persons undertaking public service, but also that of their relatives to some extent. The legal regulations in force, however, do not qualify these documents and their data content as public because family members in this capacity do not discharge public duties, they have to make statements of assets only because of being relatives.

Actors of municipalities

- Pursuant to Section 39 of the Municipalities Act, **the municipal representative (the mayor, deputy mayor)** is required to make a statement of assets within 30 days from his election and from 1 January of each year thereafter. The person subject to the obligation to make a statement of assets has to attach the statement of assets of his spouse or life companion and of his child living in the same household to his own.

“with the exception of identification data provided for checking, the statement of assets of the municipal representative shall be accessible on grounds of public interest. [...] The statement of the relative of the municipal representative shall not be accessible, it can only be inspected by members of the committee for the review of statement of assets for the purposes of checking it.”

Annex 1 to the Privacy Act (General Publication Scheme) currently does not provide for the mandatory publication of the statements of assets of municipal representatives. At the same time, there is no provision that would prohibit municipalities to order the publication of statements of assets in an Individual Publication Scheme, based on the consent or initiative of the data subjects.

- Pursuant to the Municipalities Act, **members who are not municipal representatives** may also be elected **as members of a municipal committee**. The rights and obligations of the member who is not a municipal representative are the same as those members who are municipal representatives at the meetings of the committee. In the course of discharging their duties, the external committee members may be in a position to make recommendations, decisions and carry out investigations identical with those members of the committee who are representatives from which it follows that the non-representative members of the committee are also under an obligation to make statements of assets, but their disclosure to the public can be excluded.

The representative member of the committee meets his obligation to make a public statement of assets in his capacity as representative and not in relation to being a member of the committee.

- Articles 103(1) and (3) of Act CLXXIX of 2011 on the Rights of National Minorities provide only for the accessibility of the statements of assets of **representatives in national minority self-governing bodies**, but these provisions do not require their publication. Consequently, it can be established that the documents referred to belong to the category of public statements of assets accessible through request for data in the public interest.



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NAIH information on

on the accessibility of statements of assets



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