

**RECOMENDATIONS ON AMENDMENTS AND ADENDA IN THE RA LAW ON PUBLIC SERVICE WITH RESPECT TO DECLARATION OF PROPERTY AND INCOME**

<b>PROBLEMS/GAPS PROVISIONS OF THE RA LAW ON PUBLIC SERVICE</b>	<b>SOLLUTIONS/RECOMENDATIONS</b>
<b>Scope of persons who have obligation to submit declaration</b>	
<p>➤ In the Republic of Armenia high-ranking official (hereinafter referred to as: HRO), HRO’s spouse, his parent living with him, as well as the adult single child living together with him have the obligation to submit declaration.</p> <p><i>Article 32.</i></p> <p>“1. High-ranking public officials submit property and income declarations to the ethics commission for high-ranking public officials in the manner prescribed by this Law.</p> <p>2. High-ranking public officials submit declarations on related persons to the ethics commission for high-ranking public officials in the manner prescribed by this Law.</p> <p>3. If the appointment of a high-ranking public official to a post is done by means of nomination by another body, then the candidate submits property and income declarations, and in cases prescribed by this Law, also declarations on the related persons also at the time of nomination.</p> <p>4. The spouse of a high-ranking public official, as well as the parent living together with him, as well as the adult single child living together with him in cases and in the manner prescribed by this Law with regard to high-</p>	<p>➤ To introduce the notion of “a public official who has obligation to submit declaration” which will include not only the HROs but also other public officials stipulated by laws on different services of public sphere (in accordance with the attached list);</p> <p>➤ To introduce the notion of “family composition” by including in it the spouse (including the factual spouse), child, parent of the public official who has obligation to submit declaration or persons who are under his custody and guardianship;</p> <p>➤ To consider the public official as a person submitting declaration and at the same time to prescribe obligation for the persons included in the “family composition” to present data on their property and income in the declaration submitted by the public official and to prescribe liability for the authenticity of the data relating to them (the public official shall be responsible for the trustworthiness of the data relating to the minor);</p> <p>➤ To prescribe obligation of a declarant public official to submit data on persons within the 1<sup>st</sup> degree of kinship with him or his spouse (spouse, children, sister, brother (full and born of the same mother or father),</p>

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<p>ranking public officials, submit property and income declarations to the ethics commission for high-ranking public officials”.</p> <p>Article 5, Subparagraph 16 “16) persons related to a high-ranking public official: persons having blood relationship of up to the 2<sup>nd</sup> degree of kinship. Persons having blood relationship with a high-ranking public official of up to the 2<sup>nd</sup> degree of kinship are the persons within the 1<sup>st</sup> degree of kinship, as well as persons within the 1<sup>st</sup> degree of kinship with the latter. Persons within the 1<sup>st</sup> degree of kinship are the children, parents, sisters and brothers”.</p> <ul style="list-style-type: none"> <li>➤ Among high-ranking officials there are many persons who participate in political decision-making process. With respect to emergence of corruption risks and their restraint, so far no assessment of the positions has been performed on the basis of risks of conflict of interests and abuse of official position, and persons who are included in respective groups of different spheres of public service, are not declarants currently.</li> <li>➤ The scope of “The spouse of a high-ranking public official, as well as the parent living together with him, as well as the adult single child living together with him” is very discretionary from the point of view of declaration process. Moreover, there are no concrete criteria that describe the circumstance of living together, and the feature “adult and single” can be seen as a ground to require declaration. The property and received income of the minors who are members of the family, currently are not subject to</li> </ul>	<p>parents, spouse’s sister, spouse’s brother, spouse’s parents, spouse’s children).</p>

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declaration.	
<b>Declaration form and content, declaration timeframes</b>	
<ul style="list-style-type: none"> <li>➤ The declarations of related persons are different from HRO declarations with their content and form. On the other hand, the content and form of the declaration of property and income of the parent as well as of the single adult child living together with the HRO, differs from that of the HRO' spouse. There is no objective substantiation with respect to these differences. For instance, the financial means of the parent as well as of the single adult child living together with the HRO are not subject to declaration, which impedes the efficient analysis of the declarations as well as the revelation of the risks related to the illegal enrichment.</li> <li>➤ In case of assumption/termination of official duties a declaration is submitted only by the HRO, and the declarant related persons submit annual declaration by submitting data on annual basis.</li> <li>➤ The declarations contain data on property and income, but no comprehensive data on interests is submitted.</li> </ul>	<ul style="list-style-type: none"> <li>➤ To introduce a unified sample of declaration by enhancing the scope of data subject to declaration (including the data on interests) (in accordance with the attached template);</li> <li>➤ To stipulate by law Commission's power to define a sample declaration;</li> <li>➤ In the declaration of assumption and termination of the post to reflect the data on property, income, related persons, interests and obligations as of the moment of assumption/termination of the post, and in the annual declaration – the respective data as of December 31 of each year, as well as data on transactions performed in the period between January 1 and December 31 of the given year.</li> </ul>
Article 33. "1. The high-ranking public official submits declarations as of the date of assuming and terminating his/her official responsibilities to the Ethics Commission for high-ranking public officials within 15 days following the mentioned date. These persons also submit declarations as of 31 December of each year no later than 15 February of the year following the year in question".	<ul style="list-style-type: none"> <li>➤ To extend the timeframes for submission of declarations so that <ul style="list-style-type: none"> <li>a) the declaration on assumption/termination of the post will be submitted in 30 days period,</li> <li>b) the annual declaration will be submitted no later than on March 30 of the year following the current year.</li> </ul> </li> </ul>
Article 32. "3. If the appointment of a high-ranking public official to a post is done by means of nomination by another body, then the candidate submits property and income declarations, and in cases prescribed by this Law, also declarations on the related persons also at the time of nomination".	To remove the mentioned provisions from the RA Law on Public Service taking into consideration the fact that according to Paragraph 5 of Article 8 of the RA Electoral Code - candidates shall submit a declaration

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	<p>of their property and income to the relevant electoral commission, which includes the property as of the first day of the month of the submission of documents for registration stipulated by the RA Electoral Code, as well as the income received during 12 calendar months preceding the month of submission of documents for registration. The form (electronic form) of declaration and the procedure for submission thereof shall be prescribed by the Central Electoral Commission.</p>
<b>Declaration registry</b>	
<ul style="list-style-type: none"> <li>➤ The registry of declarant persons is an inseparable part of the registry of declarations. The law has stipulated Commission’s function to maintain declaration registry but it does not have any provision on maintaining registry of declarants.</li> <li>➤ There are also no provisions on the procedure of the maintenance of registries of high-ranking officials and their declarations.</li> <li>➤ The law does not contain provisions on making changes in the submitted declaration.</li> </ul> <p>Article 43, Paragraph 1 The functions of the Commission are:</p> <p>“1) maintaining the register of declarations of high-ranking public officials and other persons foreseen by this Law”.</p>	<ul style="list-style-type: none"> <li>➤ To stipulate a Commission’s function to maintain registry of declarant public officials;</li> <li>➤ With the purpose to ensure proper maintenance of registry to stipulate an obligation for the heads of staffs of state bodies to submit information on assumption and termination of the posts of public officials in the prescribed form and timeframes. To prescribe a provision on liability for not fulfilling that obligation.</li> <li>➤ To attribute to the Commission a power to define the list of data of the registry and to make changes in it;</li> <li>➤ To stipulate by law the conditions of making changes and addenda in the submitted declarations.</li> <li>➤ To attribute to the Commission a power to define the procedure of making changes in the declared data.</li> </ul>

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<p>Article 37. “1. Within 3 working days following the receipt of the declaration, the ethics commission for high-ranking public officials <b>places it</b> in the declaration registry”.</p> <p>Article 43, Paragraph 1 “6) defining the requirements with regard to filling in the declaration and the procedure for its submission”.</p>	
<b>Declaration analysis</b>	
<p>Article 43, Paragraph 1 The functions of the Commission are: “2) analysis and publication of declarations”.</p> <ul style="list-style-type: none"> <li>➤ The law does not specify the content and analytic methods (comparison of declaration data and mathematical analysis, data reliability check, financial audit, monitoring on the official’s “way of life” and so forth) of “declaration analysis”.</li> <li>➤ The law does not specify the powers of the Commission to regulate the procedure of the declaration analysis, to determine the categories of declarations, to define risk criteria.</li> </ul>	<ul style="list-style-type: none"> <li>➤ To stipulate by law the methods of declaration analysis;</li> <li>➤ To stipulate by law the powers of the Commission to regulate the procedure of the declaration analysis; to determine the categories of declarations; to define risk criteria.</li> <li>➤ With the purpose of verifying the reliability of the declaration data, to stipulate by law provisions which will provide access for the Commission to the electronic database of the state officials, and in case of cases provided by law also non-governmental bodies.</li> <li>➤ To reserve for the Commission a power to demand data with respect to public officials during the declaration analysis in cases provided by law.</li> </ul>
<b>Declaration publication</b>	
<p>Article 37. “2. The list of data subject to disclosure (dissemination), their content and form are stipulated by the Government of the Republic of Armenia. The list of data subject to disclosure may not contain data</p>	<ul style="list-style-type: none"> <li>➤ To stipulate by law the list of data of declarations not subject to publication. To define the list in a way, so to restrict the personal data related to the passport, ID</li> </ul>

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<p>identifying the person or property”.</p> <ul style="list-style-type: none"> <li>➤ The list of data approved by the Government's decision, which is be included in the declarations and is subject to publication (provision), is not exhaustive, and the Commission has no opportunity to make other data available for the public, media and civil society. The address of the property location, including the state, is now closed by the RA Government decision № 1835-N.</li> <li>➤ The law does not specify the publication methods of declaration.</li> <li>➤ There is no provision on the deadlines related to the publication of declarations. It is not evident what period of time is allocated to the Commission to publish the declarations, and how long they should remain in the Commission's website. The issues related to the archiving and publishing of the data with respect to retired public officials are not clear either.</li> <li>➤ The law does not specify provisions on the public clarifications (explanations) on the declarations.</li> </ul>	<p>card, bank accounts, the list of the expensive property, the names of investment funds, banks, foundations, payers, the personal data of the persons being a party in a contract with respect to public officials and their family members. To “close” the addresses of the location of property and assets partly publishing the names of the state and residence location.</p> <ul style="list-style-type: none"> <li>➤ To define by law provisions related to the method and deadlines with respect to the publication of declarations.</li> <li>➤ To reserve for the Commission the power to regulate other issues related to the publication of the declarations.</li> <li>➤ To define the procedure of publishing, by the Commission, of the data related to the officials, having submitted declarations late or with violations of the requirements of the guideline on the how to fill in and submit declarations or not having submitted declarations, and related to the liability means with this respect.</li> <li>➤ To stipulate by law the procedure of submitting clarifications on the declaration by the public official.</li> </ul>