

## CASE STUDY 18

## ASSET AND INTEREST DECLARATIONS

# Reform of Asset and Interest Disclosure in Ukraine

## Overview

Ukraine has required that public officials submit asset declaration forms since the mid-1990s, but up until 2014, the forms were merely a formality and were ineffective in preventing corruption. Following the dramatic events of the Revolution of Dignity (Euromaidan) in 2014, civil society successfully advocated an overhaul of the anti-corruption infrastructure, including the introduction of a new electronic asset and interest disclosure system. A new organization, the National Agency for Corruption Prevention, had to lead implementation of the e-declarations system. Despite numerous attempts by spoilers to block or weaken the reform, the new system became operational in September 2016, becoming one of the most comprehensive asset declaration systems worldwide in terms of how much information was disclosed and made publicly available. By the end of 2019, the system held over 4 million electronic documents, all of which were available for free public access, including in machine-readable format. The asset declarations register connected to 16 other government databases for cross-checks and operated an automated risk analysis system to select declarations for verification. Although the system itself was a success, the corruption prevention agency largely failed to use it to sanction non-compliance or ill-gotten gains. At the end of 2019, the agency was overhauled to improve its effectiveness.

## Introduction

In the winter of 2013-2014, hundreds of thousands of Ukrainians took to the streets in protest. While the main impetus for the demonstrations was a shift in government policy away from integration with the European Union, the protesters were also motivated by the widespread corruption that permeated Ukrainian politics. The protest movement—which became known as the Ukrainian Revolution of Dignity or Euromaidan—led to the ouster of President Viktor Yanukovich. Yanukovich and other public officials were accused of embezzling billions of dollars to pay for mansions, sports cars, and other luxuries.

In theory, Ukrainians should have been able to track elected officials' assets through an asset declaration system put in place in 1995 (and revised in 2011). But the system lacked an enforcement mechanism and provided for very limited public access to asset declarations. Officials submitted hand-written declarations to the respective human resources department, which usually kept them out of the public eye and rarely reviewed them. The amount of information that was disclosed was limited and did not allow effective identification of variations of wealth and conflicts of interest. As a result, asset declarations did not help the public hold officials accountable.

Following the revolution, which ousted the top leadership of the country, lawmakers embarked on a complete overhaul of the country's anti-corruption infrastructure. The new anti-corruption legislation called for a fully electronic and web-based system of asset and interest disclosure and a new institution to oversee the system and verify asset declarations of public officials. The law also extended significantly the scope of the disclosure, provided for online publication of data from declarations and strengthened sanctions for non-compliance, including criminal punishment. The new system aimed to prevent and detect conflicts of interest, monitor public officials' wealth, and ensure transparency of officials' assets and interests.

Implementing such a system was never going to be easy. Corruption was endemic throughout all areas of public administration, and many officials were resistant to change.

## The implementation process

### Designing a new system

The support of development partners, such as the World Bank, International Monetary Fund and the European Union through advisory assistance, budget support operations and the EU visa liberalization plan was essential for the design of the asset declaration system and its launch. The budget support operations and the EU visa liberalization plan focused on pillars of the system, such as legislation underpinning the verification of declarations as well as the launch of the electronic filing system.

Even before the government set up the National Agency for Corruption Prevention, which would be responsible for the operation of the new e-declarations system, preparations for the system's creation started. Following a request from the Ministry of Justice, in July 2015, the World Bank handed the draft terms of reference for the electronic system to the ministry, and two months later, the United Nations Development Programme (UNDP) in Ukraine used the terms of reference as a basis for calling a software development tender. The contractor was selected in December 2015 and delivered the software in mid-2016. A quality assurance group that included the Ministry of Justice and the World Bank provided advice during the software development process.

The design of the new system included a vastly improved asset and interest disclosure form, secure data storage through a public-access website separate from the main database, and protection against data tampering since submitted documents could not be withdrawn or changed in the system and each document had to display the date and time of its submission. The system's terms of reference also stipulated a free read-only access to the e-declarations by the public and the possibility of data re-use.

### Implementing the system

While the system was being designed, political interference threatened to block it from being implemented. In December 2015 parliament passed amendments that postponed the launch of the e-declaration system for one year. After civil society and international partners raised concerns, parliament returned to this issue, but instead of removing the amendment, it introduced a set of new restricting changes.

When the President vetoed those changes, opponents in parliament tried a new approach to thwart the new system, this time by drawing out the process to select commissioners for the new corruption prevention agency. The government appointed the minimum required number of commissioners only in March 2016. Opponents also tried to derail the launch by denying technical certification of the IT system behind the new asset declaration register. Some members of parliament (MPs) claimed that the system was deficient because the digital signature of one of the commissioners was allegedly compromised.

Through a combination of public campaigns and consultations with government stakeholders, civil society advocacy groups and international development partners maintained their focus on the need to avoid delays in the implementation of this vital reform. Eventually those efforts paid off, and in June 2016 the newly established National Agency for Corruption Prevention formally accepted the software and approved the bylaws necessary for the system's functioning.

The new system became operational in September 2016 when the first wave of filers submitted their e-declarations. Within two months, over 100,000 declarants submitted forms through the electronic

system. Once submitted, all declarations became immediately public online. The agency fully launched the system on January 1, 2017, when about 1 million filers from the public sector had to file their declarations.

The initial launch of the electronic filing system did not go smoothly. The system experienced overloads in peak periods, and the corruption prevention agency had insufficient capacity to advise declarants who were trying to submit their forms. To make it easier for declarants to comply with disclosure requirements, over time the agency introduced additional support for declarants, such as guidelines, video aids, and an online training course.

One important part of implementation was integrating the new system with external registers, such as the land register, company register, vehicles register and tax database. Such integration required a lot of inter-agency negotiations and time to technically arrange for the data exchange. Legal obstacles also hampered integration with some databases. Ultimately, parliament had to amend the law to remove these obstacles.

While there was an overall drive to strengthen anti-corruption efforts, there were also temporary setbacks. When the anti-corruption drive of politicians linked to the revolution weakened, some political groups and parts of government tried to roll back the new achievements, including by curtailing the asset and interest disclosure system. In 2017, parliament instituted requirements that anti-corruption NGOs and activists also file asset declarations, a decision that violated international standards.<sup>7</sup> The new requirements were criticized by Ukrainian civil society and international partners, who perceived parliament's actions as a backlash against the civil society actors who advocated for the new system and defended attempts to undermine it. The e-declarations for civil society activists remained in force until the Constitutional Court revoked them in June 2019.

### Enhancing the effectiveness of the system

National elections held in 2019 brought in a new government that had campaigned on an anti-corruption agenda. The administration change opened a new window of opportunity for anti-corruption reforms. In October 2019, parliament passed amendments that extended the disclosure requirements to cover new

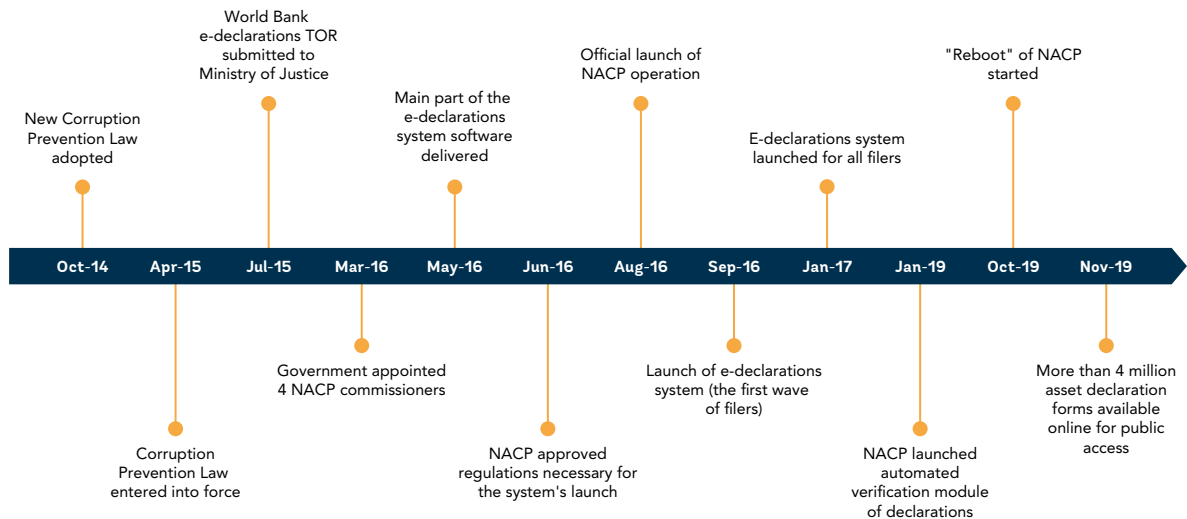
categories of high-risk declarants whom the law had previously missed, such as leadership of the president's office, and assistants to judges. The new amendments clarified the definition of family members and the definition of property use which filers had to report, and introduced requirements for the disclosure of beneficial ownership in trusts and similar legal arrangements, cryptocurrencies, bank accounts and bank safe deposit boxes in Ukraine or abroad.

In 2019 the corruption prevention agency started using the software for the automated analysis of declarations. The analysis included automated cross-checks with 13 external government registers and checked data against more than 100 pre-determined red flags.<sup>8</sup> Based on such analysis, the system ranked all submitted declarations according to their risk rating and determined which declarations should be prioritized for full verification conducted by the agency's staff. Ukraine was one of the first countries in the world to introduce such an automated risk analysis of declarations in bulk, which also included data cross-checks.

The availability of information through the new e-declarations system fostered a range of new civil society initiatives. All documents submitted in the web-based system immediately became available online at <https://public.nazk.gov.ua>. Documents were also disclosed through an open application programming interface (API) as machine-readable data, allowing NGOs to develop new watchdog instruments.

"Introduction of the new e-declaration system was one of the main anti-corruption achievements in Ukraine in the past 5 years," said Vitaliy Shabunin, head of the leading anti-corruption NGO "Anti-corruption Action Centre". "Journalists, NGOs and, first of all, voters got access to comprehensive information about wealth of politicians and officials. The scope of data and the possibility of its processing in a machine-readable format afforded the country multiple investigations into unlawful assets of public officials. Such investigations doomed many political and civil service careers of corrupt officials who managed to keep their positions even after the two prior revolutions."

For example, a group of activists developed a website ([declarations.com.ua/en](http://declarations.com.ua/en)) that presented the data retrieved from the official database with advanced search and filtering features, a more user-friendly interface, and data analytics and visualization tools. The site also included digitized forms of previous paper

**FIGURE 8.1** Implementation Timeline of Electronic Asset and Interest Disclosure System in Ukraine**BOX 8.1****Scope of Asset and Interest Disclosure Form**

Ukraine's form of electronic declaration captures a very broad range of disclosure items. Most systems target real estate, vehicles, corporate rights, income, gifts, etc. In addition to such usual disclosure items, Ukraine's form also covers assets that reflect current corruption and money laundering typologies in the country and abroad. The form covers, for example, the following:

- Beneficial ownership (control) in legal entities, trusts and similar legal arrangements in Ukraine and abroad.
- Cryptocurrencies.
- Bank accounts regardless of the balance, opened by any person in the declarant's or family member's name, safe deposit boxes and persons who have access to them.
- Any property or income that formally belongs to a third person, but which is in fact controlled by the declarant (family member) or from which the declarant (family member) receives or can receive income.
- Use of any property.
- Any expenditure or transaction as a result of which the declarant acquired or ceased to own or use any asset.

Some of the items above (e.g. trusts, cryptocurrencies) were recently introduced and filers have to disclose them in declarations that cover the period starting January 1, 2020.

declarations, which allowed citizens to track the assets of officials to earlier periods. The same group operated another website ([ring.org.ua](http://ring.org.ua)) where 19 databases, including asset declarations, the company register and public procurement database, were integrated to provide cross search and a comparison of data.

Another anti-corruption watchdog NGO created a database of domestic politically exposed persons<sup>9</sup> using a range of public sources, including e-declarations. The database was used by banks for customer due diligence and by anti-corruption investigators and investigative journalists. Information was available in English and was integrated in the WorldCheck database and other commercial data aggregators. The database aimed to prevent Ukrainians from using financial institutions to transfer ill-gotten assets abroad and disguise their origin. Inspired by this example, other groups in Europe and Asia began establishing similar databases in their countries.<sup>10,11</sup>

### Overhauling the anti-corruption agency to improve enforcement

By the end of 2019, the e-declaration system contained over 4 million electronic documents.

Despite the public availability of this data, the corruption prevention agency failed to gain public trust. Verification of declarations and enforcement of sanctions for non-compliance, in particular, remained a weak spot. The corruption prevention agency and the police focused their enforcement efforts mostly on minor infringements. Allegations of arbitrary application of the law and ineffectiveness discredited the agency and led to calls for its urgent overhaul.<sup>12</sup> Those calls grew louder after a whistleblower from the corruption prevention agency disclosed in 2017 that the President's office at the time allegedly gave instructions to the agency's staff concerning verifications they conducted.

After the 2019 elections, where a majority of MPs that won seats were from the new president's party, parliament passed amendments to reboot the agency and replace its leadership through an open competition. Giving a fresh start to the corruption prevention agency was one of the electoral promises of the new president and his party.

To choose a new leader for the agency, the

government set up a six-member panel that included representatives of two prominent anti-corruption Ukrainian NGOs and international experts from Slovenia, Germany, and US proposed by international organizations. The selection process was transparent and merit-based, including general skills and psychological tests, essays, and interviews with the 30 candidates who applied. In January 2020, the newly-selected head announced a broad reform of the agency to win back the public's trust.

## Reflections

Ukraine's new asset and interest disclosure system was recognized both by Ukrainian citizens and the international community as one of the key tools to turn around the country's reputation for high levels of corruption. "By publicly disclosing officials' incomes and assets via an open, directly accessible digital system, the e-declaration system was Ukraine's breakthrough instrument to prevent corruption," said Blerta Cela, the UNDP's deputy country director.<sup>13</sup>

Support from international organizations like the EU, IMF, UNDP, and the World Bank, and advocacy from civil society organizations on the ground in Ukraine, was critical to get the system up and running and to overcome efforts to block its implementation. In the absence of broad political will and a strong national institution to oversee the design and implementation of the new system, civil society and international partners stepped in to provide the necessary technical expertise and advocacy support to develop and launch the new system. Later, those groups mounted a defense against attempts to curtail the robust asset disclosure provisions.

The submission compliance levels in Ukraine were high—despite the lack of sanctions handed down. Part of the reason for this was that it was relatively easy to detect non-submission of declarations since the law required entities that employed declarants to check if they submitted their declarations on time and report back to the corruption prevention agency, and the fact that all declarations were available online for public scrutiny.

The newly revealed details about officials' wealth sent shockwaves around Ukraine. While Ukrainians had long suspected that many public officials were

incredibly wealthy, the extent of the riches they had amassed caused a media storm. A survey conducted shortly after the new asset and interest disclosure system's launch found that Ukrainians thought the new system was one of the four biggest successes of 2016 in the country.<sup>14</sup> A poll conducted in 2017 showed that 72% of Ukrainians had a positive or somewhat positive opinion about the system.<sup>15</sup>

Several aspects of the Ukrainian reform made it stand out as one of the most promising asset and interest disclosure systems around the world. "The Ukrainian system of asset declarations is probably one of the most advanced globally in terms of the information covered, the use of innovative digital solutions, and the level of transparency," said Ivan Presniakov, Deputy Chairperson of the corruption prevention agency, who had previously managed the e-declarations system development project at the UNDP. "It has three distinct features. First, the scope of reported data is comprehensive and leaves almost no loopholes to abuse the system. Second, there are strong sanctions for false data or untimely submission. And, third, what is of crucial importance, almost all data is publicly disclosed, which guarantees that assets of any official are under the scrutiny of public or law enforcement eye."

Ukraine's digital by design approach provided many benefits, especially because the e-declaration data was available for public use in machine-readable format. The availability of this information triggered civil society activism, the emergence of data analytics tools, and new forms of civil society and journalism watchdog activities. The digital approach also allowed the corruption prevention agency to continuously improve the system by adding additional functionalities, such as the automated red-flag analysis and the automated cross-checks with registers. As well as being cost effective, the digital approach eliminated the burden of storing and processing paper forms and limited manual work.

While the system itself was a success, its effectiveness was hampered by the corruption prevention agency's limitations in verifying the asset declaration information and sanctioning non-compliance. Although there were strong sanctions in place for submitting a false declaration or failing to submit a declaration altogether, there was little enforcement. The agency's struggles highlighted that in order for an asset declaration system to function effectively, the responsible agency

needs broader powers and resources, including the ability to impose sanctions, get information from different actors, access financial information and other government registers, and request information from abroad. In addition, it was important to have multiple points of verification, including criminal investigation of false statements in the declarations, since criminal investigators usually have more powers and resources to pursue effectively cases of false disclosure.

In Ukraine, however, even the criminal investigators ran into difficulties in pursuing cases. The National Anti-Corruption Bureau of Ukraine, a criminal investigation body targeting high-level corruption that was set up in 2015, opened more than 60 criminal proceedings into false disclosure by high-level public officials, but failed to deliver tangible results of dissuasive sanctions because judicial reform lagged behind.

In late 2019 the judicial reform started to make progress, promising to ensure that those who failed to comply with the asset and interest disclosure legislation would be sanctioned. In September, a new anti-corruption court took over the cases from the ordinary courts that had proven ineffective in dealing with corruption cases. In early 2020, this new court delivered a conviction for the non-submission of asset declaration by a judge, and more verdicts in cases of false asset disclosure were expected throughout 2020.