

Law No. 2006/001 Of 25 April 2006 Relating To The Declaration Of Assets And Property

Section 1: This law, enacted pursuant to Article 66 of the Constitution, relates to the declaration of assets and property.

Chapter 1

General Provisions

Section 2: (1) The following shall be liable to declaration of assets and property, in accordance with the provisions of this law:

the President of the Republic;

the Prime Minister;

members of Government and persons ranking as such;

the President and members of the Bureau of the National Assembly;

the President and members of the Bureau of the Senate;

members of Parliament, Senators;

all holders of elective offices;

Secretaries-General of Ministries and persons ranking as such;

Directors of the Central Administration;

General Managers of public and semi-public enterprises;

Judicial and Legal Officers;

Personnel of government services in charge of the tax base, collection and handling of public funds and budget control;

All managers of the public votes and property.

(2) The following shall also be liable to declaration of assets and property:

- the President of the Economic and Social Council;

- Ambassadors;

- Rectors of State Universities;

- Government Delegates to certain councils;

- Board Chairpersons of enterprises of the public and semi-public sector;

- Provincial Governors and Senior Divisional Offices;

- Chairpersons of Tender Boards;

- President of Trade Chambers;

- Managers of projects funded externally and/or with State subsidies;

- Officials in charge of Administrative and judicial liquidations;

- Officials of the public administrative establishments and State-owned corporations up to the rank of Director;
- Central Administration officials ranking as Central Administration Directors.

(3) Any authorizing officer in a partnership or private body that receives public funds in the form of subventions or donations shall also declare his assets and property at the beginning and the end of his tenure of office.

Section 3: (1) Mandatory declaration of assets and property shall concern all property.

(2) Declaration shall concern movable and immovable property and tangible and intangible property in and out of the country and belonging to the person liable, his spouse and their minor descendants right up to the first degree.

(3) It shall also concern any benefit enjoyed by the person concerned and his minor descendants of the first degree or beneficiary ascendants, as well as any interest they hold in any private company, whatsoever.

(4) Household equipment and personal effects shall not be subject to the declaration of assets and property.

Chapter II

Conditions of Assets and Property Declaration

Section 4: (1) The officials and persons referred to in Section 2 above shall file the declaration of assets and property on their honour in the form and under conditions provided for by law, and forward same to the competent body within 90 (ninety) days of their election or appointment and no more than 60 (sixty) days following the end of their tenure of office.

Section 5: Where and when necessary, the declaration of assets and property may be updated within 30 (thirty) days of its submission.

Chapter III

Assets and Property Declaration Reception Commission

Section 6: A Commission responsible for receiving, exploring and preserving declarations from the persons referred to in Section 2 above, hereinafter referred to “Assets and property Declaration Commission”, is hereby set up.

Section 7: (1) The Commission shall be composed as follows:

Chairman

A personality appointed by the President of the Republic.

Members

two personalities appointed by the president of the Republic;

a personality appointed by the President of the National Assembly;

a personality appointed by the President of the Senate;

a State Inspector, representing the Supreme State Audit Services;

two representatives of the Supreme Court, including one members from the audit Bench;

a representative of the Association of Notaries.

(2) Commissioners shall be appointed by decree of the President of the Republic, for 5 (five)-year term of office, renewable once, where necessary. They may be replaced only in the same form, in the event of death, resignation or gross misconduct.

(3) Commissioners shall take the following oath before the Supreme Court prior to assuming office: “I swear to discharge my duties with objectivity and integrity and to keep secret any information I have been acquainted with in the discharge of such duties”.

(4) Commissioners shall be bound, before and after assuming office, by mandatory declaration of assets and property, under the conditions provided for in Section 4 above.

(5) During and after the performance of their duties, Commissioners shall be bound to reserve and secrecy in respect of all or part of the assets and property declarations issues.

(6) The organization and functioning of the commission shall be defined by decree of the President of the Republic.

Section 8: (1) The Commission may communicate its comments on the declaration of assets and property to any declarant through any written means. The declarant shall be bound to acknowledge receipt thereof and respond within 45 (forty-five) days.

(2) Any refusal to reply to Commission’s comments shall be tantamount to failure to

declare assets and property.

(3) The Commission shall ensure the confidentiality of the information received and of its discussions with declarants.

(4) However, the Commission may, within the context of a criminal investigation, forward all or part of the declaration to judicial authorities should the latter so request.

Section 9: (1) When in doubt of the authenticity of a declaration of assets and property and in the absence of supplementary information from the official concerned, the Commission may request the competent State bodies to probe the actual status of the property of the person concerned.

(2) In the event of false declaration, the declarant shall be liable to sanctions provided for under Section 15 of this Law.

Section 10: In the event of refusal to declare assets and property by the persons liable or doubt on the declaration, the Commission may request any competent public or private service to communicate to it, any information that may help establish the assets and property of the persons concerned.

Section 11: (1) The premises of the Commission shall be inviolable during the performance of its duties.

(2) The records of the Commission may not be published or disclosed in whole or in part by any means whatsoever.

Chapter IV

Transitional, Miscellaneous and final provisions

Section 12: Persons liable who are currently in office shall declare their assets and property within 90 (ninety) days, with effect from the date of the setting up of the Commission.

Section 13: (1) Where after the declaration of assets and property provided for by this law, the Commission notices that the declarant is in possession of assets of unjustified origin or not commensurate with the declarant's annual income or earnings serving as such, it may resort to compromise, for the benefit of State, of all or part of the

declarant's movable and immovable property, under conditions provided for by Law No. 73/7 of 7 December 1973 on the treasury's rights to safeguard public funds.

(2) In the event of non-acceptance of the compromise, the Commission shall propose to the President of the Republic the transmission of the file to the Minister of Justice for the intention of public proceedings.

Section 14: (1) The Commission shall, each year, forward a progress report to the President of the Republic.

(2) The Commission shall, at any time, inform the president of the Republic of any obstacle to the performance of its duties, compliance or non-compliance by the officials referred to in Section 2 above, with the mandatory declaration of assets and property.

Section 15: (1) Any holder of an elective office, who either makes a false declaration or fails to declare his assets and property, shall not be eligible for any election at the end of his tenure of office.

(2) Any person appointed to a position provided for in section 2 of this law, who fails to declare his assets and property, shall be dismissed from office, subject to compliance with the appointment procedure.

(3) Any appointed manager of public property and funds, who makes a false declaration of his assets and property, shall also be dismissed from office, subject to compliance with the appointment procedure. In addition, such person may not be appointed to any of the positions specified in Section 2 of this law, for a period of 5(five) years.

(4) However, dismissal may occur only following a warning for further period of 45 (forty-five) days issued to the defaulting official by the Commission.

(5) Any public funding in the form of subventions or donations of a partnership or any other body whose expenditure authorizing officer has not declared his assets and property, shall be suspended. Such suspension shall be lifted once the official concerned declares his assets and property.

Section 16: (1) Whoever discloses all or part of a declaration of assets and property in

any manner whatsoever without authorization shall be liable to the sanctions provided under Section 310 of the Penal Code.

(2) However, the declaration of assets and property may be disclosed to their parties where the declarant so requests in writing, giving reasons for such request.

Section 17: Decrees of the President of the Republic shall, as and when necessary, define the conditions of implementation of this law.

Section 18: This law shall be registered, published according to the procedure of urgency, and inserted in the Official Gazette in English and in French.