

The Declaration System and Public Sector Ethics Regulations in Argentina

The financial declaration system in Argentina was established in 1953.

Initially, it had no anti-corruption focus and was mainly directed on the detection of tax liabilities. The Argentinian financial disclosure system is only for the high-ranking officials of executive branch.

The aim of this system is the detection of the cases of illicit enrichment, conflict of interest and position incompatibility.

The Anti-Corruption Office of Argentina has the following functions:

- study of submitted of complaints from citizens,
- initial “investigation”,
- maintenance of declaration registry and identification of officials who have not submitted their declamations
- publication of declarations,
- detection of illicit enrichment cases,
- detection of conflict of interest cases,
- detection of incompatibility and prohibition violation cases,
- oversight over the asset and income declarations of 2500 high-ranking officials

The Anti-Corruption Office of Argentina also:

- applies to the court on the basis of detected cases,
- acts as prosecutor at court,
- submits recommendations on applying sanctions towards the high-ranking officials who made a violation,

- applies sanctions against high-ranking officials who have not submitted declarations.

The scope of public officials who are required to submit declarations includes 42500 high-ranking official from the executive branch, including the president, prime minister, ministers, their advisers, assistants, minister deputies, directors of non-governmental organizations, rectors, deans, internal troops, bank directors and others, directors of state commercial companies, public officials, having licensing and oversight functions, including tax and custom service officers and others.

According to the legislation, in more than 200 state institutions there are responsible staff members, who submit the list of the public officials to the Anti-Corruption Office, as well as preserve the hard copies of the non-high-ranking officials' declarations. They are also responsible for guiding the officials on declaration filing and warning about the declaration deadlines. According to the legislation, more than 200 state institutions have such responsible officials.

Declaration content, structure and submission deadlines

Declarations include the information on property (movable, immovable), shares, securities, monetary assets, credits, incomes. Interests, other positions, shares, investments, loans and borrowings, data on past work experience are declared separately. The latter are declared by the high-ranking official for his/her family members (spouse, children) as well. The declarations are submitted in one united form including entry and termination, as well as on annual basis.

The assets in the declaration are reflected in Argentinian pesos. The transaction with other currencies (securities, monetary assets) shall be recalculated

to pesos and declared with the exchange rate of December 31 of the reporting year. The declaration includes also data on credit cards. The securities are declared with exchange rate. In “Shares” section of the declaration, information on the commercial company’s participation in public procurement is also declared. The deadline for declaration submission is one-month period as of entering or terminating the position and for annual declaration until April 15.

Declarations submission procedure

The declarations are submitted electronically at the same time with the income declarations submitted to the tax revenue. Unlike ordinary citizens, the high-ranking officials also submit declarations of interest. The Tax Revenue Service provides that part of the declaration, as well as data of asset and income declarations to the Anti-Corruption Office. At the same time, the declarant submits information on bank accounts, credit cards in enclosed envelopes. The closed envelope can be opened by the judge, in cases of suspicions and an instituted proceeding or by the Anti-corruption office coordinated with the Minister of Justice.

In Argentina, from 15 days to 2 years of imprisonment and life sentence punishment is foreseen for submission of false data in the asset and income declaration.

The crime is considered committed, when, after receiving the appropriate notification on fulfilling the obligation, the person does not fulfil the obligation within the period as prescribed by the law. Administrative sanctions are applied for not following the regulation on conflict of interest.

High-ranking officials, who did not submit asset and income declarations within the given period, are given warning and 15 day-period for submitting their

declarations. 20% from the salary of the high-ranking official is taken for non-submission of the declaration within the defined period, which is refunded after the declaration submission.

In Argentina, illicit enrichment is criminally punishable. A sanction is set for it, if the latter is applied within two years after the termination of duties.

For filling in the electronic declaration, the declarant enters the electronic declaration system with his ID number and creates a password.

If the high-ranking officials have already the filled-in/incomplete declaration, the system allows uploading data from that declaration.

During the process of filling in the declaration, the system reminds the user about the criminal sanctions for providing the false data and the declarant, pushing the respective sign, confirms that he is familiar with the regulation.

As a result of declaration submission, the declarant gets confirmation of submission.

The electronic system of Tax service has access to electronic databases of all state agencies of the country (registries of real estate, cars, central bank, tax service, social security, depository, “black lists” etc.).

The required data, in accordance with law, is provided to the Anti-Corruption Office for the further analysis.

With the electronic system of Tax Service, the oversight is conducted with the risk based methodology. The computer program allows detecting the basis of the property at the beginning and the end of the year presented in income.

If the property increase exceeds the income in 30 percent, an investigation is conducted and, in that case, the system makes it possible to compare all the transactions of the citizen during that period of time, including the investigation of

the relations, addresses, property types, the declared price of the transaction, payments with credit cards etc.

Declaration publication

The data of high-ranking officials' declarations is uploaded from the Tax Revenue's databases to the Anti-Corruption Office's electronic system, from where they are published in accordance with the declaration template in PDF format.

In order to see the declaration in the website of the Anti-Corruption Office, anyone can register in the system, thus having the opportunity to access only one high-ranking official's declaration.

Public sector ethics regulations

Public officials are not allowed to have participation in commercial organizations. That limitation is applicable only towards the persons having positions higher than deputy ministers. In all the cases, having participation in commercial organizations, the high-ranking officials with their official activities cannot conduct direct oversight or have influence over those organizations. The existence of the influence towards the organizations is evaluated by the Anti-Corruption Office. Public Officials cannot provide services, on their own or with the intervention of the third person, to the state agency or its organization, where he has a position. The scope of the third persons is defined by the Anti-Corruption Office.

In Argentina, limitations to combine other work and other positions are defined. The respective department of the declarations collects data on it.

A proceeding is instituted to regulate the limitations of activity, if there is publication on media about it or a reporting has been received. Unanimous letters

are also registered, if there is concrete data and information in it. Approximately 70 % of the letters is unanimous.

The decision regarding the conflict of interest situation is made by the Anti-Corruption Office. If the conflict of interest case is approved, the respective transaction is considered cancelled and in order to apply a sanction towards the high-ranking official, the Anti-Corruption Office submits recommendation to the head of the appropriate state body. A proceeding is not instituted towards the people having political positions and they simply leave their office.

The Argentinian Anti-Corruption Office has the Investigation Department, which conducts administrative investigation on the basis of the received complaints, media publications, information received via hotlines and other means, as well as detected risks through declaration analysis, conflict of interest and on other incompatibilities. The Department investigates conflict of interest and illicit enrichment cases.

During the detection of conflict of interest and incompatibility cases, the influence of the high-ranking official's action is evaluated based on three types of indicators. The first is the economic indicator, in which case the influence of the high-ranking official's action on economy (for example, in case of exceeding 1 million pesos) is assessed. In the second case, the influence of the action on separate social groups and specific groups is evaluated (for example, health care). And in the case of institutional assessment, the influence of the high-ranking official's action on the reputation of the public institution is considered. Detection of illicit enrichment and conflict of interest cases is the function of the Anti-Corruption Office.