

ASSET DECLARATIONS IN MOROCCO ILLICIT ENRICHMENT AND CONFLICTS OF INTEREST OF PUBLIC OFFICIALS

Transparency International is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

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INTRODUCTION

EXECUTIVE SUMMARY

Four years after unprecedented change rocked the Middle East and North Africa, many Arab governments and their citizens are finishing the chapter on revolution and writing a new one on reconstruction. Among the most important topics fuelling the call for change has been the salience of corruption among public officials, which diverts money from public programmes, has a significantly negative impact on development and has entrenched non-democratic leaders securely in power. The revelation that more than an estimated US\$160 billion¹ in public money was stolen by regime officials in Egypt, Libya, Tunisia and Yemen sounds the alarm for action to end impunity. As the region takes the first steps in building institutions for good governance, asset declaration laws are a key to promoting honest leadership, government accountability and social trust.

Asset declaration laws require public officials to declare all sources of income, as well as assets such as savings accounts and investments. Legally increasing government transparency can reveal graft and conflicts of interest, and they serve as a powerful deterrent to prevent corruption before it starts. Practical experience has shown that implementing a comprehensive asset declaration system helps deny the corrupt the fruits of their actions and, if properly enforced, can be an effective tool in strengthening integrity and accountability.

So far, countries in the Middle East and North Africa (MENA) have not met most of the standards put forth by the United Nations Conference against Corruption (UNCAC). Declaration requirements have fallen significantly short and there remains a large gap between law and practice. The MENA region continues to have the highest trend rate of growth of illicit financial flows in the world, with an average increase of 31.5 per cent every year throughout the decade ending in 2011.²

In order to facilitate greater integrity in the MENA region, Transparency International has commissioned this report as a peer-reviewed Scoping Paper examining current best practices in asset disclosure systems. Original research provides an evidence base for a comparative view of country-level systems via National Reports in Egypt, Lebanon, Libya, Morocco, Palestine, Tunisia and Yemen, as well as a Regional Report covering all the countries listed.

TRANSPARENCY INTERNATIONAL'S ROLE

Transparency International's focus on MENA is part of a global drive to end corruption and promote integrity in government. The global campaign focuses on increasing transparency via declarations of interest and assets to end impunity and make transferring the illicit gains of corrupt officials more difficult. The importance of tracking illicit enrichment and conflicts of interest is only the start of the process of establishing a standard, universal model of declaration of interests and assets. In MENA,

¹ Transparency International takes "billion" to refer to one thousand million (1,000,000,000).

² D. Kar and B. LeBlanc, *Illicit Financial Flows from Developing Countries: 2002-2011*

(Washington: Global Financial Integrity, 2013), p.10. Retrieved from

http://iff.gfintegrity.org/iff2013/Illicit_Financial_Flows_from_Developing_Countries_2002-2011-LowRes.pdf.

we focus first on advocating for the adoption and enforcement of national asset disclosure systems that are robust and legally based.

ASSET DISCLOSURE SYSTEMS IN ANTI-CORRUPTION

The disclosure of assets is increasingly being seen around the globe as a key tool in combating corruption. Although asset declarations have been utilised as an anti-corruption tool on a larger scale since the 1970s, the topic acquired renewed international focus with the passage of UNCAC, adopted by the UN General Assembly in 2003. UNCAC created an international legal basis for states to require public officials to declare their assets.

Articles 8(5) and 52(5) of UNCAC call on countries to adopt legislation that requires public officials to declare their assets. Together with the convention's provisions on international cooperation, the focus on assets created a genuine basis for governments to identify and track assets, and recover them if they are determined to have been stolen. UNCAC provided an impetus for the international donor community's global anti-corruption efforts in instituting or refining national legislation on asset declarations for politically exposed persons. Furthermore, the African Union, Arab, and inter-American conventions against corruption contain similar provisions on financial declarations by public officials (Article 7, Article 28, and Article III, respectively). The Council of Europe's Group of States against Corruption (GRECO) has been issuing recommendations on asset disclosure systems since 1999, and the Organisation for Economic Co-operation and Development (OECD) and World Bank have contributed to the ongoing process of standard setting by publishing handbooks in 2011 and 2012 (*Asset Declarations for Public Officials: A Tool to Prevent Corruption*³ and *Public Office, Private Interests: Accountability through Income and Asset Disclosure*⁴). In 2013, the Organization of American States published the *Model law on the declaration of interests, income, assets and liabilities of persons performing public functions*.⁵ The Group of 20 leading economies (G20) adopted High Level Principles on Asset Disclosure by Public Officials in Los Cabos in 2012.⁶ Finally, in October 2014, the Western Balkan countries adopted the first international standard on asset declarations.⁷

³ OECD, *Asset Declarations for Public Officials: A Tool to Prevent Corruption* (OECD Publishing, 2011). Retrieved from www.oecd.org/corruption/anti-bribery/47489446.pdf

⁴ The World Bank, *Public Office, Private Interests: Accountability through Income and Asset Disclosure* (Washington D.C.: World Bank, 2012), p.10. Retrieved from www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2012/03/23/000333037_20120323003424/Rendered/PDF/676270PUB0EPI0067882B09780821394526.pdf

⁵ www.oas.org/juridico/PDFs/model_law_declaration.pdf.

⁶ https://star.worldbank.org/star/sites/star/files/los_cabos_2012_high_level_principles_on_asset_disclosure.pdf

¹³ Regional School of Public Administration, *Western Balkan Recommendation on Disclosure of Finances and Interests by Public Officials*, 08-09 July, 2014. Sixth Meeting of the Ethics and Integrity Network (Danilovgrad: ReSPA, 2014). Retrieved from <http://respaweb.eu/11/library#respa-publications-and-research-18>.

10 PRINCIPLES FOR AN EFFECTIVE ASSET DISCLOSURE SYSTEM

Consistent with international standards (see previous chapter) and the Preventive Measures for governments outlined in Chapter III of the UNCAC, Transparency International identified 10 principles for an effective, legally based asset disclosure system based on its previous publications in this area:⁸

I. LEGAL BASIS AND PURPOSE

Asset declarations are an effective tool in preventing corruption as well as an instrument in facilitating the detection, investigation and possible prosecution of corruption and accumulation of illicit wealth of public officials. For this, a sound legal basis is required, and the law should make a clear statement that asset declarations serve dual purposes: to detect both illicit enrichment and conflicts of interest.

II. DECLARATION CONTENT

The information required for detecting illicit enrichment should capture all essential financial flows, including on the incoming side all sources of income, received loans and gifts; on the side of outgoing financial flows this includes immovable assets such as houses, moveable objects such as vehicles, jewellery and fine art, and financial assets such as cash, domestic and foreign bank accounts, stocks or bonds. Most of the information relevant for illicit enrichment will also reveal possible conflicts of interest: information on an outside employment will indicate generated income but also point to potential conflict of interest; the case of financial assets, such as shares in a company, is similar. However, there are also non-financial interests such as (unremunerated) corporate board memberships, which are only relevant in the context of conflicts of interest.

III. COVERAGE OF OFFICIALS

An effective asset declaration system should cover all public officials at risk for corruption. This includes senior executive office holders (ministers, deputy ministers, commissioners, agency heads); legislators; judges at all court levels; prosecutors; and any civil servant with some decision-making power. This should include not only national-level officials but also those at the sub-national level, where local authorities are entrusted with decision-making. Additionally, the asset declaration should also cover at least members of the immediate family and/or household members, as otherwise public officials can hide illicit income and assets behind them.

IV. SUBMISSION OF DECLARATIONS

Asset declarations should be required when a person first assumes public office, to establish a baseline for any future accumulation of assets during their tenure. Regular, periodic updates should be made. The obligation to report should extend beyond the individual's tenure in post to capture deferred enrichment. As much as possible, submission of declarations should be done online. The online availability of data greatly facilitates automated analysis as well as later publication of the information.

V. VERIFICATION

An effective verification system concerns the verification of submission of declarations, as well as their formal accuracy. As for detecting illicit enrichment, it includes a financial audit. This requires

⁸ Transparency International, *Local Governance Integrity: Principles and Standards* (Berlin: Transparency International, 2015), pp.10-16.

access to state databases as well as to privately held information such as company or banking data. It will also entail on-site inspections of assets in single cases and the possibility to make enquiries of witnesses, if only for voluntary information. All declarations should be subject to submission and formal verification. Declarations subject to a financial audit should be chosen by a random sample as well as by risk criteria.

VI. OVERSIGHT BODY

An oversight body needs to be in place with sufficient resources to control declarations. This includes staff with competency on conflicts of interest as well as financial expertise in detecting hidden cash flows. The oversight body should also have access to publicly available data, or data that private individuals provide on a voluntary basis, and should have the option of (outside) inspections of assets in individual cases. The oversight body also needs up-to-date information technology to support online submission, processing and publishing of the data.

VII. COOPERATION

The oversight body cooperates with tax police and other police units, the prosecution services and financial intelligence units, so that these units can further trace down hidden cash flows, possibly with compulsory measures. Oversight bodies should also be obliged to notify other state bodies on any suspicion of a criminal, administrative or disciplinary offence. For undeclared income, the two most frequent offences are tax evasion and money laundering.

VIII. PUBLIC ACCESS

Experience shows that most successful investigations are triggered by complaints of citizens, NGOs or journalists with knowledge about the true situation of an unfaithful public official. Therefore, asset declarations should be publicly available online. Paper-based access only is too much an obstacle for research. Personal contact details, such as addresses and plate numbers of cars, can be redacted. The oversight body should also publish a regular overview of its activities and information on investigated cases.

IX. SANCTIONS

Failure to produce timely, complete and accurate declarations should at a minimum subject the filer to effective, proportionate and dissuasive sanctions. Criminal sanctions should apply to the most egregious offences – in particular, intentional errors or omissions. Should it turn out that public official was hiding a substantial amount of wealth, the sanction must include forfeiture of the hidden assets.

X. CIVIL SOCIETY

The oversight body should reach out to NGOs and the public at large, and publish regular reports containing inter alia case statistics and an analysis of trends. The internal procedures of the oversight body should be as transparent as possible to the public. Representatives of the public should have the opportunity to participate in, consult on and monitor the work of the oversight body.

ASSET DISCLOSURE IN MOROCCO

LEGAL BASIS AND PURPOSE

Morocco introduced asset declarations for the first time in **1974**. Under Article 16 of the Dahir on the Statute of the Judiciary⁹, all **judges** were required to file a written solemn declaration of their movable and immovable property, including such of spouses and minor children. Any change in their economic situation also had to be declared immediately. The Minister of Justice was responsible for monitoring the declarations and, after consultation with the Superior Council of the Magistracy (*Conseil supérieur de la magistrature*), inspect and evaluate the assets of judges.

In **1992**, Law No. 25 of 1992 introduced asset audits for “all **civil servants** and **employees** of the State, local authorities and public institutions, as well as members of the **government**, the House of **Representatives**, local councils and professional chambers”.¹⁰ This even included interns and daily workers. All were required to declare their “personal”¹¹ and immovable property, including such of spouses and minor children.

While the number of officials declaring was very high, there was no organised financial audit. Declarations were submitted to a fragmented multitude of entities. Article 9 of the Law prohibited disclosure of the declarations, without impose any sanctions though. Submission of false data was subject to disciplinary action, but not to criminal sanctions. The Law was never enforced, also due to the fact that “corruption” was still a taboo topic in 1992.

Following signature of the “United Nations Convention against Corruption” UNCAC in 2003 with ratification in 2007, a multitude of **9 different laws** was passed mainly in **2008** introducing declaration requirements for all public officials.

Since the adoption of the 2011 Constitution, monitoring the assets of civil servants has become a constitutional requirement. Article 158 of the Constitution provides that “any elected or appointed person holding public office must, in accordance with statutory procedures, file a written declaration of the goods and assets which they possess, whether directly or indirectly, at the time of assumption of office, during and after their term of office in the public service” (translation).

The Law No. 54-06 “On Creating a Declaration of Assets for Certain Elected Officials or Public Employees” requires “the people appointed to the positions as set out in Article 30 of the Constitution” to declare their assets. This provision references the outdated 1996 Constitution.

⁹ Dahir (Royal decree) No. 1-74-467 of 11 November 1974 on the Statute of the Judiciary, *Official Bulletin* (“Bulletin officiel”) of 13 November 1974, p.1578. The previous 1958 Statute (Dahir No. 1-58-303 of 30 December 1958, *Official Bulletin* of 22 May 1959, p.847) made no reference to auditing the assets of judges.

¹⁰ Law No. 25-92 enacted by Dahir No. 1-92-143 of 7 December 1992 and published in the *Official Bulletin* of 6 January 1993 (translation by authors).

¹¹ For a definition see below at 0.

There is therefore a need for harmonisation with the new 2011 Constitution, which follows a different procedure for the appointment of senior officials.¹²

Article 158 of the 2011 Constitution requires

“all persons, elected or nominated, who take on a public function, in accordance with the modalities of the law, to declare their goods and assets which they hold directly or indirectly, upon assuming office, during office, and on leaving office.”¹³

The terms of Article 158 of the Constitution are broader and less precise than those of Law 54-06 establishing mandatory declarations of assets.¹⁴ The phrase “public function” also remains to be defined. If all elected officials, civil servants or employees in the public service are under the obligation to declare their assets, much more staff than currently planned will be required to efficiently collect and monitor all the declarations.

There is no clear stated **purpose** of the declaration system in Morocco; however, the wording “goods and assets” aims rather at **illicit enrichment**, than at conflicts of interest, and there is no requirement to declare “interests” at all.

DECLARATION CONTENT

For detecting illicit enrichment, one assesses the lifestyle of a public official by adding up all assets he/she owns. Then, in a second step, one adds up all legal income a public official has. If the income does not match the lifestyle, there is at least a suspicion that this public official has hidden sources of income. Regularly, these would result from corrupt sources. Compared to a full picture of incoming and outgoing financial flows of a public official, Morocco’s asset disclosure system requires disclosure of the following financial items:

“Income”		“Expenditures/Lifestyle”	
Item	Declared?	Item	Declared?
Salary	Yes	Cash	No
Rental income	Yes	Bank deposits	Yes
Fees for services	Yes	Real estate	Yes
Interest, royalties	Yes	Movables	Yes
Loans received	Yes	Securities	Yes
Debts repaid to the official	No	Loans given	No
“Income for free” (Gifts, inheritances, assets sold, etc.)	No	Loans paid back by official	No
		Non-asset expenses (travel etc.)	No

¹² Organic Law No. 02-12 on the Appointment to Senior Positions pursuant to the Provisions of Articles 49 and 92 of the Constitution, enacted by Dahir No. 1-12-20 of 17 July 2012, *Official Bulletin* of 2 August 2012, p.2487. Retrieved from http://81.192.52.100/BO/FR/2012/BO_6092_Fr.pdf (French).

¹³ www.maroc.ma/en/content/constitution (French - translation by author).

¹⁴ Law No. 54-06 establishing Mandatory Declarations of Assets for Certain Elected Officials of Local Councils and Professional Chambers and for Certain Categories of Civil or Public Servants, *Official Bulletin* on 6 November 2008, p.1361. Retrieved from www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French).

An Order by the Prime Minister of 2009 established a “model declaration” for all public officials obliged to declare (see below Annex II).¹⁵ The declaration form foresees the following financial categories to be declared:

- All professional activities/or elective posts
- Real estate
- Liabilities
- Movables
 - Commercial assets
 - Bank account deposits
 - Bonds
 - Subscriptions in companies
 - Moveable assets obtained through inheritance
 - Motorised vehicles
 - Loans
 - Artistic works and antiques
 - Jewellery and jewels
 - Other moveable valuables
- Shared assets, including those which the public official only “manages” on behalf of someone else
- Revenues received in any capacity whatsoever during the year preceding appointment or election

In above list of “movable”, apparently, “**loans**” means loans given (as opposed to loans received), but this is not specified in the form; however, as liabilities are a different category and since loans received are not an asset, this interpretation seems sensible. It would make sense to clarify this in the form, as not all public officials have the necessary financial understanding to make such rather sophisticated distinctions.

Furthermore, **shared assets** should normally be something included in the positions “real estate” and “movables”, and not a separate category. An interesting position is “assets which the public official **manages** on behalf of someone else. Such assets are outside the income or lifestyle (expenditures) of a public official; however, the public official might have transferred property of certain assets to a third person just as a formality, while keeping the asset *de facto* in full control.

In the original Arabic-French bilingual declaration, the French word “revenu” translates as “income. Linguistically, **income** is defined (in English) as follows: “a gain or recurrent benefit usually measured in money that derives from capital or labor”.¹⁶ This definition would not apply to gifts, inheritances, troves, lottery winnings, financial awards granted in law suits, or proceeds from selling assets. Without including such “income for free”, there is a **serious gap** in the declaration system. An oversight body verifying a declaration could always get information on the salary of a public official (as defined by law or as provided by a human resource department). However, a public official could always claim an inheritance, a gift, or a lottery win to explain his/her lifestyle. There are many cases in other countries where public officials successfully used such explanations in court.

¹⁵ Decree No. 2-09-207 of 8 December 2009 on the Establishment of the Model for the Mandatory Asset Declaration and the Deposit Receipt and on the Minimum Value of the Property to be declared, Official Bulletin No. 5814 of 18 February 2010, p.108. Retrieved from http://adala.justice.gov.ma/production/news/fr/FR5814_2-09-207_108_13.pdf (French); Prime Ministerial Order No. 3-87-09 of 11 February 2010 establishing the Minimum Value of Personal Assets to be Declared by the Persons subject to the Asset Declaration, Official Bulletin No. 5814 of 18 February 2010, p.121. Retrieved from www.adrare.net/XYIZNWSK/elemsnts/pdf2/comptabilite_publique_des_collectivites_locales.pdf (French).

¹⁶ www.merriam-webster.com/dictionary/income.

In 2009, a decree and a Prime Ministerial order set the **minimum value** for the property to be declared.¹⁷ Real property is to be reported at its acquisition value or, in cases of inheritance, at its reported value. Pursuant to an Order by the Prime Minister, the minimum value for movables to be declared is 300,000 dirhams (≈US\$36,000) for **each** of the 10 above mentioned categories of movables.

The threshold for each of these categories is **outrageously high** in relation to national income. The average monthly salary for a civil servant is 7,250 dirhams (≈US\$860),¹⁸ per annum 87,000 dirhams (≈US\$10,400). Thus, a civil servant could spend three times his/her annual gross salary on one single item such as stocks, without having to declare this. For all 10 categories of movables a public official could even spend **30 times** his/her **annual gross salary** (≈US\$360,000) without having to declare. In other words: the declaration system currently allows detection only of public officials who spent more than 30 times their annual gross salary (and apparently generate the equivalent or more per year in illicit activities). This would not even take into account that these officials could easily spend another 30 times of their annual gross salary on **non-asset expenditures** (luxury travel etc.) which the system does not even require to declare at all.

The threshold for each of these categories is also outrageously high compared **internationally**. In Georgia, for example, the threshold for each movable is already rather high with US\$6,000, but it is still 6 times less than in Morocco); at the same time, Georgia has almost the same GDP per capita (US\$7,165) than Morocco (US\$7,200).¹⁹

Regrettably, **cash** is not covered by the declaration form. This gives public officials an easy way out: they could always claim that they had vast amounts of cash stored outside a bank account (stemming from before taking office); this “cash” they can always use as a “joker” to explain for the purchase of any luxury asset. The problem of large cash amounts is all the more virulent in the entire MENA region, as the share of the shadow economy (including the concomitant cash culture) is high.²⁰

As for **conflicts of interest**, securities – and to some extent bank deposits, real estate and valuable movables – can be a cause. For example, a judge would be in conflicts of interest if he/she had stocks from a company that was a party to one of his/her trials. However, financial interests typically causing conflicts of interest, such as gifts, and non-financial interests are missing in the declaration form. It is thus questionable, whether an oversight body would actually be in a position to verify conflicts of interests of public officials in any meaningful way.

COVERAGE OF OFFICIALS

The following public officials are obliged to declare:

- Government members, heads of their cabinet and positions assimilated to government members for their administrative functions²¹

¹⁷ Decree No. 2-09-207 of 8 December 2009, *ibid*; Prime Ministerial order No. 3-87-09 of 11 February 2010, *ibid*.

¹⁸ As of 2013, Report on Human Resources by Ministry of Finance, p.7. Retrieved from www.finances.gov.ma/Docs/2014/DB/snth%20reppport%20RH%20_eng_%20_2.pdf.

¹⁹ <http://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

²⁰ M. R. Farzanegan/A. M. Badreldin, *Shadow Economy and Political Stability: A Blessing or a Curse?*, Study Paper, p.5 (Marburg: November 2013).

²¹ Dahir No. 1-08-72 of 20 October 2008 supplementing Dahir No. 1-74-331 of 23 April 1975 on the Status of Government Members and the Composition of their Cabinet, *Official Bulletin* of 6 November 2008, p.1349. Retrieved from www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French).

- Members of the Constitutional Council²²
- Members of the House of Representatives²³
- Members of the House of Councillors (the upper house of the Moroccan Parliament)²⁴
- Judges²⁵
- Judges of audit courts (i.e. the Court of Auditors and the various Regional Court of Auditors)²⁶
- Members of the High Authority of Audiovisual Communication²⁷
- Certain elected officials in local councils:
 - Presidents of the Regional Council
 - Presidents of the Prefectural or Provincial Council
 - Presidents of the Municipal Council
 - Presidents of groups of urban and rural municipalities
 - Presidents of borough councils, presidents of professional chambers²⁸
- Certain categories of civil or public servants. According to Article 2 of Law No. 54 of 2006:²⁹
 - 1- People appointed to the positions as set out in Article 30 of the Moroccan Constitution;
 - 2- Civil servants and officials of the State, local authorities, state-owned companies and other organisations, who have the power to:
 - a) authorise revenues and expenditure or act as an auditor or a public accountant in accordance with Law No. 61-99 on the Liability of Authorising Officers, Auditors and Public Accountants;
 - b) determinate the tax base and the base for any other authorised product under the laws and regulations in force;
 - c) collect the taxes, charges, revenues and compensation for services rendered towards the State, local authorities, state-owned companies and other organisations as defined by Article 1 of Law No. 69-00 on the Financial Control of State-Owned Companies and Other Organisations;
 - d) authorise the grant, the assignment or the use of a public or private property or service of the State, local authorities or public institutions;

²² Organic Law No. 49-07 supplementing the Organic Law No. 29-93 on the Constitutional Council, *Official Bulletin* of 6 November 2008, p.1350 www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French).

²³ Organic Law No. 50-07 supplementing the Organic Law No. 31-97 on the House of Representatives, *Official Bulletin* of 6 November 2008, p.1353. Retrieved from www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French). This Law introduces the Chapter 10a on the declaration of assets. The Organic Law No. 31-97 was repealed and replaced by the Organic Law No. 27-11 on the House of Representatives (*Official Bulletin* of 3 November 2011. Retrieved from <http://adala.justice.gov.ma/production/html/Fr/liens/..%5C176408.htm> – French) but the previous Law's Chapter 10a on asset audits remains in force.

²⁴ Organic Law No. 51-07 supplementing the Organic Law No. 32-97 on the House of Councillors, *Official Bulletin* of 6 November 2008, p.1355. Retrieved from www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French). This Law introduced the Chapter 8a on the declaration of assets. Organic Law No. 32-97 was repealed and replaced by the Organic Law No. 28-11 on the House of Representatives (*Official Bulletin* of 19 July 2012) but the previous Law's Chapter 8a on asset audits remains in force.

²⁵ Law No. 53-06 repealing and replacing Article 19 of the Dahir No. 1-74-467 of 11 November 1974 on the Statute of the Judiciary, *Official Bulletin* of 6 November 2008, p.1357, www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French).

²⁶ Law No. 52-06 amending and supplementing Law No. 62-99 establishing the Code of Audit Courts, *Official Bulletin* of November 6, 2008, p.1357. Retrieved from www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French).

²⁷ Dahir No. 1-08-73 of 20 October 2008 supplementing Dahir No. 1-02-212 of 31 August 2002 establishing the High Authority of Audiovisual Communication, *Official Bulletin* of 6 November 2008, p.1360, www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French).

²⁸ Law No. 54-06 establishing a Mandatory Declaration of Assets for Certain Elected Officials of Local Councils and Professional Chambers and for Certain Categories of Civil or Public Servants, *Official Bulletin* on 6 November 2008, p.1361. Retrieved from www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French).

²⁹ Ibid.

- e) manage public funds, hold securities and equities and receive deposits and guarantees;
 - f) monitor and find infringements to the specific laws and regulations and prosecute such infringements;
 - g) issue permits, licenses, authorisations or approvals;
 - h) register or file a lien or a tangible or intangible right.
- 2- Civil servants and officials with a public mission, other than those mentioned above, who are authorised signatories for the deeds and procedures mentioned in the above Point 2 or for deeds which may directly or indirectly impact the public funds.”

The above coverage of public officials is very comprehensive. Based on data in a report by the Court of Auditors (see next chapter), a total of more than **110,000** public officials is required to declare their assets.

The list of public officials under Article 2 of Law No. 54 of 2006 is quite problematic. The definition is not by position, but by descriptive function. This leads to uncertainties on who actually fulfils these criteria and on who is deciding on this, let alone in a uniform way. So it comes as no surprise that, in practice, more public officials are submitting declarations than is actually required (see next chapter).

The system does cover members of the **judiciary**. This is fortunate, as members of the judiciary are at high risk of illicit enrichment in corruption prone countries, and it is thus important and standard to monitor their wealth.³⁰

The Law does include **family members**, i.e. spouses and minor children. This is important as public officials often use close family members to hide illicit income and assets behind them. However, the coverage is only for certain positions in the declaration form (real estate, movables), but leaves out income and liabilities. If one does not know the income of family members, it is impossible to make an estimate whether their assets are financed by themselves or rather a possible transfer from the public official.

A **Council of Europe** Project has recommended reviewing the broad coverage of officials (“the benefits of a reduction of the number of persons required to make declarations should be studied”).³¹ However, this is rather a reflection of the fact that submission to a multitude of institutions has been rather chaotic so far, no financial verifications are conducted with this multitude of declarations, nor is their content available to the public. This raises indeed the question, whether the asset declaration system in Morocco is rather a huge accumulation of paperwork for the mere purpose of window-dressing, than worth the effort.

However, there is an additional benefit of asset declarations that is often overlooked: they “may provide key evidence in **criminal investigations** triggered by evidence from other sources. For example, allegations of bribery, including anonymous charges or press reports, may lead to an investigation that is inconclusive without additional evidence. Such supplementary evidence may be

³⁰ Tilman Hoppe, *The case for asset declarations in the judiciary*, U4 Brief, May 2014. Retrieved from www.u4.no/publications/the-case-for-asset-declarations-in-the-judiciary-identifying-illicit-enrichment-and-conflicts-of-interests/downloadasset/3474.

³¹ Council of Europe Project on “Promotion of good governance, the fight against corruption and money laundering (SNAC Morocco)”, *Assessment of the anti-corruption framework*, Executive Summary (Council of Europe, 2014), at no. 44, Retrieved from www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/snac/pdf/SNACMor_diagnostic_rep-sum_en.pdf (French version): www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/snac/pdf/SNACMor_diagnostic_resumerapport_fr.pdf.

found in an asset declaration on file and accessible to prosecutors. When discrepancies exist, they may provide grounds for search warrants or other investigative measures, or simply offer useful leads for further investigation.”³² In countries, where there is no central database of bank accounts, the information in asset declarations may for example help prosecutors identify bank accounts of suspects. Therefore, even if the oversight body will have only the capacity to verify a rather small sample of all declarations, the other, “dormant” declarations can be put to use once the respective public official becomes subject to a corruption investigation.

SUBMISSION OF DECLARATIONS

Declarations are due upon **assuming** office, every **three years** during office, and upon **leaving** office. The declarations need to show “changes, if any, in the activities, income or assets of the individual subject to the declaration requirement”.

There are five different bodies in charge for receiving the declarations, depending on the category of officials concerned:

- **Registrar of the Court of Auditors**
 - Government members, heads of their cabinet and positions assimilated to government members for their administrative functions
 - Members of the Higher Council for Audiovisual Communication
 - Civil or public servants with national competence
- **Special body of the Court of Auditors**³³.
 - Members of the Constitutional Council
 - Members of the House of Representatives and the House of Councillors
- **Secretariat of the Superior Council of the Magistracy** (*Conseil supérieur de la magistrature*).³⁴
 - Judges
- **Judicial Council for Audit Courts** (*Conseil de la magistrature des juridictions financières*)
 - Judges of audit courts
- **Registrar of the Regional Court of Auditors.**
 - Elected officials of local councils and professional chambers
 - Civil or public servants with competence on the regional level

Implementation of submissions has been quite chaotic so far. The following is an overview of submission compliance in 2011 (with submission obligations coming into force in 2010).³⁵

³² Tilman Hoppe, *The case for asset declarations in the judiciary*, U4 Brief, May 2014. Retrieved from www.u4.no/publications/the-case-for-asset-declarations-in-the-judiciary-identifying-illicit-enrichment-and-conflicts-of-interests/downloadasset/3474.

³³ Consisting of: the First President of the Court of Auditors, who chairs the body; the President of the First Chamber of the Supreme Court; the President of the Administrative Chamber of the Supreme Court; a general secretary designated by the First President of the Court of Auditors amongst the senior court managers; two councillors from the First Chamber of the Supreme Court and two councillors from the Administrative Chamber of the Supreme Court.

³⁴ The 2011 Constitution replaces the Superior Council of the Magistracy (*Conseil supérieur de la magistrature*) with the Higher Council of the Judicial Authority (*Conseil supérieur du pouvoir judiciaire*), which has a different composition and different powers. The Statute of the Judiciary is also expected to be modified during current reforms.

2011 Category	required	submitted	
	Total	Total	%
Civil servants (national)	13,648	11,712	78 %
Government (national)	17	17	100 %
Constitutional Court	12	12	100 %
High Authority of Audiovisual Communication	17	17	100 %
Judges of Audit courts	236	236	100 %
Members of Parliament	395	394	99 %
Councillors (national)	257	246	96 %
Regional civil servants and elected officials	94,639	77,734	86 %

The total of public officials required to submit declarations to the Court of Auditors is reportedly 15,052. There is no information on the number of declarations submitted to the Superior Council of the Magistracy. The total of public officials apparently required to submit declarations can therefore be estimated to be well above **110,000**.

For 2012, there are fewer numbers available, as public officials only declare every three years.³⁶ The respective report only lists declarations by public officials who left their position, or are new to the job. As of 31 March 2012, a total of 15,639 declarations is now deposited with the Court of Auditors and the Judicial Council for Audit Courts. By end of 2012 a total of 674 reminders was sent out for submitting declarations with which 330 officials complied with so far.

VERIFICATION

Verification of declarations should usually consist of the following four steps:

1. Submission compliance
2. Formal check
3. Plausibility of the declaration (intrinsically)
4. Financial audit

Depending on the resources, each step could be done on a different sample of declarations, with submission compliance done on all declarations, and financial audits done only on a sample of declarations which is partly selected on a random basis, and partly by risk criteria.

Step 1: In order to verify the **submission** of declarations, the oversight body needs to establish, maintain and monitor a roster within the database of all the officials who are obliged to declare their

³⁵ Rapport de la cour des comptes 2011, p.452 f. Retrieved from www.courdescomptes.ma/index.php?id=52&no_cache=1&tx_abdownloads_pi1%5Baction%5D=getviewclickeddownload&tx_abdownloads_pi1%5Buid%5D=119&no_cache=1.

³⁶ Rapport de la cour des comptes 2012, p.382 f. Retrieved from www.courdescomptes.ma/index.php?id=52&no_cache=1&tx_abdownloads_pi1%5Baction%5D=getviewclickeddownload&tx_abdownloads_pi1%5Buid%5D=121&no_cache=1.

finances.³⁷ To this end, all state bodies employing public officials obliged under the Law to declare would have to send lists to the oversight body with names of concrete individuals.

Apparently, in **Morocco**, at least the **Court of Auditors** performs some form of submission verification. Therefore, the Court is able to publish compliance statistics (see previous chapter). The Court also sent reminders to non-compliant public officials. Furthermore, in its 2011 Report, the Court made the following observations:

- Certain government authorities sent the lists of individuals covered by the declaration requirement too late or only after a reminder from the Court of Auditors.
- Certain public bodies sent non-exhaustive lists.
- Certain lists were sent by unauthorised persons.
- Certain declarations were wrongly deposited to the Court of Auditors, and not to the Regional Courts.
- The lists were heterogeneous and inconsistent with the statutory model of asset declarations and deposit receipts.

It is a good feature that – apparently – the Court of Auditors is checking completeness of the lists of public officials obliged to submit declarations; this is for two reasons: An official could escape his duty of declaration by managing to avoid insertion in the list or be taken off the list; furthermore, public perception could be negative if the lists were incorrect and there was no mechanism at all at the oversight body’s disposal for verifying a sample of the lists.³⁸ However, it is not clear whether such checks are anywhere near sufficient.

Step 2: The next step of verification would be a **formal check** of the declarations (are all necessary fields filled out with relevant and conclusive information?). Neither the report of 2011, nor the report of 2012 of the Court of Auditors contains any information on formal checks being carried out.

Step 3: The calculation algorithm for monitoring the **plausibility** of the declaration is as follows:³⁹

Financial flows		
Period	Incoming side	Outgoing side
Beginning	Existing assets	
During	All coming in	All going out
End		Existing assets
Total incoming must = total outgoing		

If the outgoing side (= the “lifestyle”) goes beyond the means of the official (incoming financial flows), there is at least a suspicion of illicit enrichment. Usually, on the incoming side a declaration (should) include all financial flows. On the outgoing side, it cannot. There are a number of daily

³⁷ T. Hoppe/V. Kalnins, *Practitioner manual on processing and analysing income and asset declarations of public officials* (Council of Europe, January 2014). Retrieved from www.coe.int/t/DGHL/cooperation/economiccrime/corruption/Projects/EaP-CoE%20Facility/EaP_TP_default_en.asp.

³⁸ Ibid.

³⁹ Ibid.

expenses (food, clothing, transportation, etc.) which the declaration does not catch. Therefore, the oversight body needs calculate also a lump sum for daily expenses.

In **Morocco**, a plausibility check would be required according to the law. The relevant provision is Article 96bis par. 6 and 7 of Law No. 62 of 1999 (as amended):⁴⁰

“6 - When the formalities of the declaration set out in paragraphs 3 and 4 above show an obvious **contradiction** between the accumulation of assets of the individual, and his declared income and activities, the first president may decide to allow the Councillor-rapporteur to investigate any inaccuracies or omissions contained in the declaration of assets [...]”

However, in Morocco, there is no methodology in place for establishing the plausibility of declarations (which in other countries outside the region is sometimes contained in the law itself, a decree, or an internal decision of the oversight body). Neither the report of 2011, nor the report of 2012 of the Court of Auditors contains any information on formal checks being carried out. The sheer number of declarations (110,000 or more) and their submission in paper form would not allow conducting a plausibility test for all of them. At the same time, there is no provision on which sample of declarations should be selected and how. Furthermore, as easy as plausibility checks might sound in theory, as difficult is their practice. The checks would need trained staff with financial expertise. The members of the commissions foreseen in the law would normally not have such expertise.

Step 4: As for the **financial audit** of the declaration, the oversight body needs to establish in a first step a true picture of all incoming and outgoing financial flows of a public official. To this end, the oversight body needs to compare the declared data with data available by the following sources:

- Tax authority.
- Motor vehicles registry.
- Land registry.
- Civil registry.
- Business registry.
- Register of bank accounts.
- Patents and licenses registry.
- Financial Intelligence Unit.
- Party finance databases.
- Foreign public databases.

Information from internet research, publicly available files, commercial databases, on-site visits, informal testimony, and data on banking transactions complements above sources. This way, the oversight body can look at the declaration from the following three angles:

1. Verifying the amount of incoming financial flow.
2. Verifying the amount of outgoing financial flow.
3. Verifying the relation of the incoming and outgoing financial flow.

The financial audit should not limit itself to comparing data of the declaration with other databases, but should aim at actively detecting undeclared cash-flows and their possible illicit origin.

⁴⁰www.courdescomptes.ma/index.php?id=53&L=uabvkzfohumuoxgg%27%27&tx_abdownloads_pi1%5Baction%5D=geviewclickeddownload&tx_abdownloads_pi1%5Buid%5D=39&no_cache=1.

In **Morocco**, there is no methodology in place for financial audits. However, the law foresees financial audits whenever a declaration is not plausible and grants the **Court of Auditors** some limited powers. The relevant provision is Article 96bis par. 6 and 7 of Law No. 62 of 1999 (as amended):⁴¹

“6 - When the formalities of the declaration set out in paragraphs 3 and 4 above show an obvious contradiction between the accumulation of assets of the individual, and his declared income and activities, the first president may decide to allow the Councillor-rapporteur to **investigate** any inaccuracies or omissions contained in the declaration of assets of the individual and, to that end, **request** any supporting **evidence** or documents likely relevant for the declaration of the individual and proceed the hearing of persons if it considers the **testimony** necessary; in the exercise of this function, the rapporteur cannot be obstructed with professional secrecy. However, any request for information from the **tax department** must be made on order of the president of the Court of Auditors.

7 - The reporting judge may also, by order of the president of the court, require from **banks** and lending institutions all information on the status of deposit accounts or securities which the declarer, spouse or their ascendants or descendants own. It may require for the same purpose of the general curator of the land an inventory of **registered property**, or being registered, in the name of the declarer, his spouse or parents or children. In the exercise of this function, the rapporteur cannot be obstructed with professional secrecy.” [emphasis by author]

There are no statistics in the Reports for 2011 and 2012 on any declaration being audited or having led to an investigation by law enforcement body. According to Article 95bis par. 9, any substantiated case has to be referred to the law enforcement bodies for further proceeding. This complete lack of cases does not tally with the widespread corruption and illicit enrichment among public officials, even if the declarations would only allow detection of egregious cases of illicit enrichment (see above at “Declaration Content”).

Audits conducted by the **Regional Court of Auditors** are the same as for the Court of Auditors (Article 156bis of Law No. 62-99).

As for declarations of ordinary judges, the Law does not foresee any specifics for audits performed by the **Judicial Councils**. However, for judges of the audit courts, Article 185 of Law No. 62 of 1999 (as amended by Law No. 52 of 2006) foresees more or less similar procedures and competences for audits than the one foreseen for the Court of Auditors in Article 96bis.

OVERSIGHT BODY

The bodies in charge of receiving the declarations are also in charge of performing the audits, with the only exception of the judicial councils. The oversight bodies have some powers to perform verification including access to banking information or information from the tax administration. However, performing financial audits of asset declarations is a highly specialised task, for which the oversight bodies lack the necessary staff.

⁴¹ Promulgated by Dahir n° 1-02-124 of 13 June 2002, Official Bulletin No. 5030 of 15 August 2002. Retrieved from www.courdescomptes.ma/index.php?id=53&L=uabvkzfohumuoxgg%27%27&tx_abdownloads_pi1%5Baction%5D=getviewclickeddownload&tx_abdownloads_pi1%5Buid%5D=39&no_cache=1.

CO-OPERATION

Article 96bis of Law No. 62 of 1999 foresees a referral of cases to the Public Prosecutor in cases of substantiated suspicions. However, co-operation of the verification bodies with **other state bodies** is also necessary with regards to the following other state bodies:

- Tax administration: hiding income and wealth regularly entails violations of tax offences (and other way round). The tax administration therefore needs to have a regular exchange with the Anti-corruption Commission.
- Financial intelligence units: hiding wealth is regularly a money-laundering offence. The Anti-corruption Commission should therefore be in regular exchange with the FIU on relevant cases and information. At the same time, the FIU would need to use asset declarations in order to examine suspicious financial movements related to public officials.
- Disciplinary bodies: non-submission of declarations or submission of false declarations regularly constitutes a disciplinary offence. The Anti-corruption Commission therefore needs to notify such bodies in cases of violations.

For all above co-operations, the oversight bodies should have standards on reporting and information exchange, possibly supported by memoranda of understanding with the respective institutions, or a joint set of guidelines. Co-operation would also profit from joint workshops and trainings on verifying asset declarations and investigating illicit enrichment with representatives of these state bodies. There is no indication that the cooperation between these entities is sufficiently established.

PUBLIC ACCESS

All individuals dealing with asset declarations are bound by strict professional **secrecy**. They are forbidden to disclose, exploit or use this information for any reason whatsoever, unless the matter is brought to court. Any disclosure is subject to penalties under Article 446 of the **Criminal Code** (fine or imprisonment of one to six months).⁴²

Experience shows that most successful investigations are triggered by complaints of citizens, NGOs, or journalists with knowledge about the true situation of an unfaithful public official. In addition, public availability of declarations would be a strong incentive for public officials to actually comply with submission requirements, because anybody will be able to see whether they are compliant or not. Therefore, asset declarations should be information publicly available online (see Principle 8). Confidentiality of asset declarations rather occurs in totalitarian systems and is not in line with the standard of open, participatory democracies. It is of utmost importance that declarations are not public only as an image scan of the paper-version of the declaration, but as a text-file in machine readable format. Otherwise it is impossible to search for the declaration on the internet or to electronically analyse it.

A **good example** – out of many more others – is **Georgia**. Following a previous paper based system, declarations became online in February 2010. The Civil Service Bureau scanned and published more than 50,000 declarations from 1998-2010. Since 2010, all senior Georgian officials submit their asset declarations annually at <http://declaration.gov.ge/eng/> (English version of the

⁴² <http://adala.justice.gov.ma/production/legislation/fr/penal/Code%20Penal.htm> (French; this version of the Penal Code on the website of the Ministry of Justice is outdated and does not contain changes made as early as 2008).

website).⁴³ Submitted declarations appear instantly on the same website. Currently, the website hosts more than 60,000 declaration documents. In 2013, it won the “United Nations Public Service Award” in the category of “Preventing and combating corruption in public service”. It should be noted that such an online system is not a privilege of highly industrialised nations. When introducing its online system in 2010, Georgia had a GDP per capita of only US\$ 5,837 per year.⁴⁴ By comparison, **Morocco** in 2013 had a significantly higher value (US\$7,200).⁴⁵

SANCTIONS

The Moroccan law follows a two-pronged system of sanctions:

- Disciplinary sanctions
- Criminal sanctions

The various oversight bodies in charge of receiving asset declarations can send warnings to the respective public officials and may even order their dismissal if they fail to comply with their declaration obligation. In case of top-level officials, the case is submitted to the King.

As for criminal sanctions, a new section with one offence was introduced into the Penal Code in 2008:⁴⁶

“Section VII. - Breach of obligation of declaring assets
Article 262 bis. - Without prejudice to more severe penal provisions, any person subject by reason of his office or elected office with the obligation to declare their assets, which did not proceed within the legal time this statement after leaving office or expiry of his term or whose statement is not in line with rules [“conforme”] or incomplete is punishable by a fine of 3,000 to 15,000 dirhams.”

The fine is the equivalent of US\$360 to US\$1,800. Compared to the fact that a public official could “legally” hide illicit enrichment up to US\$360,000 the fines are ridiculously small.

At the same time, it should be noted that the crime of illicit enrichment is only available for defendants **convicted** of crimes against property (Article 529-530 Penal Code),⁴⁷ but not for corruption crimes, or for public officials in general.

⁴³ See also: World Bank, *Fighting Corruption in Public Services: Chronicling Georgia's Reforms* (World Bank, 2012), 108 pages, <http://elibrary.worldbank.org/doi/pdf/10.1596/978-0-8213-9475-5>.

⁴⁴ World Bank, GDP per capita. Retrieved from <http://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

⁴⁵ World Bank, GDP per capita. Retrieved from <http://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD>.

⁴⁶ *Official Bulletin* of 6 November 2008, p.1365. This Law introduced a new section into the Criminal Code on the failure to comply with the reporting requirement. This section only contains Article 262a; www.justicemaroc.org/fr/bo_declaration_patrimoine_Madalim.pdf (French); the consolidated version of the Penal Code on the website of the Ministry of Justice is outdated and does not contain Article 262bis.

⁴⁷ <http://adala.justice.gov.ma/production/legislation/fr/penal/Code%20Penal.htm> (French; this version of the Penal Code on the website of the Ministry of Justice is outdated and does not contain changes made as early as 2008).

CIVIL SOCIETY

So far, civil society has only a minimum role in the asset declaration process: citizen can report any suspicion they have on the illegal gain or any other violation of a public official. However, citizens have no possibility at all to look at asset declarations. There is no transparency of the asset declaration process towards the public at large, such as statistics on financial verifications, overview on cases and trends, and on the work of the responsible institutions. State institutions do not reach out to citizens, the media, or civil society organisations to participate in the process. The Annual Report by the Court of Auditors for 2012 does only contain statistics on the submission of declarations.⁴⁸ Shutting civil society off the asset declaration system in such a way seriously hampers the effectiveness of the system. Other regional research has shown that successful investigations of asset declarations are most often triggered by citizens or the media.⁴⁹

It should be underlined that it is often (substantiated) **anonymous** complaints which trigger successful investigations into asset declarations. Potential reporting persons often face a risk of reprisal by the public official, either privately or in their official position. Banning anonymous complaints thus cuts off a substantial source of promising leads. In this context, one should keep Article 13 par. 2 UNCAC in mind: “

“Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including **anonymously**, of any incidents that may be considered to constitute an offence established in accordance with this Convention.”

⁴⁸ Rapport de la cour des comptes 2012, p.382 f. Retrieved from www.courdescomptes.ma/index.php?id=52&no_cache=1&tx_abdownloads_pi1%5Baction%5D=getviewclickeddownload&tx_abdownloads_pi1%5Buid%5D=121&no_cache=1.

⁴⁹ ReSPA/Tilman Hoppe (lead author), *Comparative Study: Income and Asset Declarations in Practice* (Danilovgrad, 2013), p.218. Retrieved from <http://www.respaweb.eu/11/library#respa-publications-and-research-18>.

RECOMMENDATIONS

The international community and regional bodies have developed comprehensive principles and procedures to build effective asset disclosure systems, and many countries have even adopted these as law. The policies help reduce corruption by exposing illegal activity, opening the door to investigation and creating enforcement and monitoring mechanisms. As the data illustrates, Morocco has fallen behind international standards on asset declaration. The following recommendations are based on the research conducted for this report and seek to provide a set of priorities for improving the effectiveness of asset disclosure in Morocco:

Legislative reforms

Introduce a clear legal basis for conflicts of interest: The opaque multitude of regulations needs to be streamlined into ideally one piece of legislation on asset declarations for all public officials, as is the case in many countries with a functioning declaration system. The law would need to state monitoring of conflicts of interest as a purpose in addition to detecting illicit enrichment. There should be only one declaration for both purposes as otherwise the double bureaucracy would discourage public officials to comply at all.

Broaden the scope of information: Declarations need to show the fullest picture possible of incoming and outgoing financial flows during public officials' time in office, in particular salaries and fees, royalties, gifts, loans, and other incoming cash flows such as inheritances. Without information on the income of officials, no meaningful verification of the declaration is possible. Declarations also need to include information relevant for detecting conflicts of interest, such as second jobs, business relationships and memberships in relevant interest groups.

Keep the coverage of public officials and extend it to family members: The total number of public officials is currently very high. However, as asset declarations are also a useful piece of evidence in criminal investigations, it is recommended to keep the broad scope of public officials, streamlining submission procedures, and starting to implement meaningful financial verifications on a sample of declarations each year (see below). Furthermore, family members need to be included for all positions of the declaration form.

Increase the frequency of declaration: Declarations need to be filed annually for illicit enrichment purposes, at least in the case of senior public officials. The current multitude of entities to which declarations are submitted has created chaos and a lack of transparency; hence, submission and storage should be with one entity only (preferably a specialised anti-corruption body).

Implement a verification procedure: Countries urgently need to establish meaningful verification mechanisms. Failing this, declarations have no deterrent effect, making illicit enrichment less unattractive and severely weakening the asset declaration framework. A methodology for submission verification, formal verification, and financial audits of declarations needs to be in place based on a legal act. The oversight body should be obliged by law to verify a sample of declarations by public officials. The samples should be chosen randomly, as well as be based on specific risk criteria. Finally, a legitimate verification procedure must follow up on any substantiated anonymous complaints. Until appropriate monitoring mechanisms are in place, existing aspects of a country's asset declaration system are vulnerable to exploitation and loopholes.

Provide access to the public: Asset declaration laws mean nothing if they are not applied, which often requires the watchful oversight of engaged citizens and active civil society organisations. The

public is the most important watchdog; therefore, information should be made available through an open web portal that is centralised at each level of government. If a web portal is not available or is underutilised, the information should be widely disseminated through alternative media. Digital information should be published in widely used formats that are non-proprietary, searchable, sortable, platform-independent and machine-readable. On any of these platforms, there should be clear guidelines and explanation for the limited exemptions for non-publication or exclusions. Although the legal framework on access to information is still weak in many countries of the MENA region, there are at least policies in place that should be used to support a wider dissemination of asset declarations, limiting the waiting time between receiving and answering a query on assets.

Fully criminalise violations: The fine for intentionally providing false data should be a multitude of the possible economic enrichment, not a fraction of it; for serious cases of providing false data, imprisonment needs to be available as sanction too. Substantiated anonymous complaints should be grounds for investigations. Most importantly, the law needs a provision criminalizing illicit enrichment based also on proceeds from corruption and allowing forfeiture of any inexplicable wealth, including from third persons to whom such wealth has been transmitted. The offence of illicit enrichment needs to be formulated with specific guidance: Any substantial difference between the declared and real finances of a public official should constitute a criminal offence and provide the basis for asset forfeiture. A respective definition in the offence could read for example:

“Any increase in wealth that happens after assuming the service or the actualization of the status of the person subject to this law or his spouse or minor children when it is not proportional with their resources as stated in his/her asset declaration. If the expenditures exceed the income of the person by more than 10% or alternatively by 10,000 € this is considered a disproportionate increase in wealth.”

Engage civil society: The oversight body should be obliged to publish regular reports containing inter alia case statistics and an analysis of trends. The internal procedures of the oversight body should be as transparent as possible to the public. Representatives of the public should have the opportunity to participate in, consult on, and monitor the work of the oversight body.

Organisational reforms

Alleviate submission of declarations: In order to allow for automated processing and verification, and thus reducing the administrative burden, declarations should gradually be submitted online in machine readable form. Declarations shall be submitted in printed form only when the technological means are not available in the workplace or at home of the public official concerned. At least senior public officials should gradually submit their declarations online. Ideally, online declarations are already prefilled with existing data from state databases such as salaries, vehicles, real estate, and other information, in order to facilitate the filling out of declarations.

Facilitate the work and cooperation of oversight bodies: The current oversight body or any future uniform anti-corruption body in charge for all asset declarations needs sufficient staff with training on verification procedures including financial analysis and conflicts of interest. Other state bodies, which usually benefit from asset declarations, such as tax administration or the unit on anti-money laundering, need to be trained as well and there should be standards on reporting and information exchange, possibly supported by memoranda of understanding with the respective institutions, or a joint set of guidelines.

Account for implementation: Law enforcement bodies need to show a track record of investigated cases and should regularly report on case statistics to the public.

ANNEX I: METHODOLOGY

The main focus of the country reviews is to compare:

- a) the existing legislative framework against the emerging **international standard**
- b) the existing legislative framework of asset disclosure with its **actual implementation**

The main sources were:

- **desk review** of the legislative and regulatory framework on the respective asset disclosure system.
- **semi-structured interviews** with up to six experts per country drawn from the public sector as well as the private sector, including civil society or academia

Experts for the semi-structured interviews were selected from the following two categories:

- **Key experts**, i.e. practitioners or ex-practitioners in the area of asset disclosure (these included officials in the agency or agencies tasked with managing asset declarations, law enforcement officials, lawyers and accountants, human resources/ministerial staff, experts from tax authorities, and any others with practical experience).
- **Informed experts**, i.e. individuals who are not experts on asset declarations but have an informed opinion on the workings of the public administration and understand how asset declarations could increase transparency and accountability (these included journalists, civil society activists and informed citizens). Interviews with this group were optional depending on the level of information obtained through official interviews.

ANNEX II: DECLARATION FORM

[unofficial translation by TI; several empty lines in the form for inserting information have been redacted in below version to save space]

Schedule I

Form of Declaration or Supplementary Declaration of Property⁵⁰

Royal Decree or Law¹

Civil Status:

Name and family name:

Date and place of birth:

Marital status:

Address:

National or electronic identity card no.:

Minor children:

Name and family names and dates of birth:

.....

.....

¹ State the Royal Decree or Law under which this declaration is made.

⁵⁰ Note: The model declaration was published in the Official Bulletin, see above footnote 15.

Professional activities and/or electoral functions:

.....
.....

Date of appointment and/or commencement of functions:

.....

Date of renewal of appointment and/or functions:

.....

Date of cessation of functions:

.....

Administrative status

Employer:

Place of appointment:

Date of commencement:

PPR no.:

Grade:

Function:

List 1

Real properties

Nature and origin of real property	Date of acquisition	Contents	Location	Value*	Share of ownership	Property reference (registered or unregistered properties)	
							Declarant
							Minor children

* Purchase value or declared value in case of inheritance

Liabilities

Lending organisation or name and address of creditor	Nature, date and subject of the debt	Total amount of the loan	Amount outstanding	Monthly instalment amount

List 2

Movable assets

Description of moveable assets (*)	Date of acquisition	Purchase value	
			Declarant Minor children

*

Categories of moveable assets

Commercial assets

Motorised vehicles

Bank account deposits

Loans

Bonds

Artistic works and antiques

Subscriptions in companies

Jewellery and jewels

Moveable assets obtained through inheritance

Other moveable valuables

List 3

Revenues received in any capacity whatsoever during the year preceding appointment or election

Description	Date of receipt	Value	
			Declarant

Schedule II

Kingdom of Morocco

Court of Auditors

Clerk of the Court

Receipt

The Chief Clerk of the Court of Auditors certifies that he has received from Mr/Mrs:

Personal name:

Family name:

Capacity:

A declaration of his properties in a sealed envelope.

Deposited by:

Made out in Rabat on

A Signature of the Chief Clerk of the Court

List 4

Shared assets

Description of shared assets	Date of acquisition or appointment as manager	Value	
			Declarant

Kingdom of Morocco

Court of Auditors

The Authority for Receipt and Monitoring of Declarations of Properties by Members of the Constitutional Council

General Secretariat

Receipt

The General Secretary of the Authority for Receipt and Monitoring of Declarations of Properties by Members of the Constitutional Council at the Court of Auditors certifies that he has received from Mr/Mrs:

Personal name:

Family name:

Capacity:

A declaration of his properties in a sealed envelope.

Deposited by:

Made out in Rabat on

B Signature of the General Secretary of the Authority

Kingdom of Morocco

Court of Auditors

The Authority for Receipt and Monitoring of Declarations of Properties by Members of the House of Councillors

General Secretariat

Receipt

The General Secretary of the Authority for Receipt and Monitoring of Declarations of Properties by Members of the House of Councillors at the Court of Auditors certifies that he has received from Mr/Mrs:

Personal name:

Family name:

Capacity:

A declaration of his properties in a sealed envelope.

Deposited by:

Made out in Rabat on

D Signature of the General Secretary of the Authority

Kingdom of Morocco

Court of Auditors

Regional Court of Auditors for

Clerk of the Court

Receipt

The Chief Clerk of the Regional Court of Auditors for certifies that he has received from Mr/Mrs:

Personal name:

Family name:

Capacity:

A declaration of his properties in a sealed envelope.

Deposited by:

Made out in Rabat on

E **Signature of the Chief Clerk of the Court**

ANNEX III: LAW 62 OF 1999 (EXCERPT)

[French version]

Article 96 bis:

1 - Dès réception de la déclaration prévue par la législation en vigueur relative aux déclarations obligatoires de patrimoine, le greffier de la Cour des comptes vérifie la qualité du déclarant sur la base de la liste des assujettis, délivre au déposant un récépissé daté et avise le premier président de la cour des comptes et le procureur général du Roi près ladite cour du dépôt de la déclaration.

2 - Le premier président de la Cour désigne un conseiller rapporteur chargé de vérifier le contenu de la déclaration et de veiller à l'application des dispositions législatives concernant son renouvellement.

3 - Le conseiller rapporteur communique au premier président et au procureur général du Roi ses observations contenues dans le rapport sur la forme et le contenu de la déclaration.

4 - Au vu du rapport prévu au paragraphe 3 ci-dessus, le premier président, après avis du procureur général du Roi, peut décider de mettre en demeure le déclarant de compléter sa déclaration ou de présenter au conseiller rapporteur toutes explications ou précisions jugées utiles pour répondre aux observations formulées. Il lui fixe un délai de soixante jours, à compter de la date de la réception de la mise en demeure, en vue de régulariser sa situation.

Le premier président demande également à l'assujetti défaillant de régulariser sa situation. A cet effet, il lui fixe un délai de soixante jours à compter de la date de la réception de la demande.

5 - Il est fait rapport au premier président et au procureur général du Roi des diligences effectuées et des observations qu'elles appellent.

6 - Lorsque les diligences du conseiller rapporteur énumérées aux paragraphes 3 et 4 qui précèdent font apparaître des incohérences manifestes et injustifiées entre l'évolution du patrimoine de l'intéressé, ses revenus et ses activités déclarées, le premier président peut décider d'autoriser le conseiller rapporteur à enquêter sur les éventuelles inexactitudes ou omissions contenues dans la déclaration de patrimoine de l'intéressé et, à cette fin, se faire communiquer tous documents ou pièces justificatives de nature à le renseigner sur les éléments des déclarations de l'intéressé et procéder à l'audition des personnes dont il estime le témoignage nécessaire, sans que ces dernières ne puissent lui opposer un éventuel secret professionnel. Toutefois, toute demande d'information auprès de la direction des impôts doit être faite sur ordonnance du premier président de la Cour des comptes.

7 - Le conseiller rapporteur peut également, sur ordonnance du premier président de la Cour, requérir des établissements bancaires et établissements de crédit aux fins de lui fournir tous renseignements sur l'état des comptes de dépôt ou des valeurs dont le déclarant, son conjoint ou ses ascendants ou descendants sont détenteurs. Il peut aux mêmes fins requérir du conservateur général de la propriété foncière un inventaire des biens immeubles immatriculés ou en cours d'immatriculation au nom du déclarant, de son conjoint ou de ses ascendants ou descendants. Dans l'exercice de ces missions, il ne peut lui être opposé un éventuel secret professionnel.

8 - Le conseiller rapporteur peut saisir le procureur général du Roi afin que soit mis à sa disposition l'ensemble des pièces ou documents dont la Cour est saisie à l'occasion de l'exercice des compétences qui lui sont dévolues par les chapitres I, II et III du présent titre et qui ont un rapport avec le déclarant.

9 - Lorsqu'il apparaît, au vu des procédures prévues par les paragraphes ci-dessus, des présomptions graves et concordantes de commission d'une infraction par le déclarant son conjoint, ses ascendants ou descendants, le procureur général du Roi, à la demande du premier président, saisit l'autorité judiciaire compétente après en avoir informé les intéressés.

L'autorité judiciaire compétente informe le président de la Cour des comptes de toute décision judiciaire rendue par elle à l'encontre des personnes assujetties à la déclaration obligatoire du patrimoine.

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