



*Directorate-General for
Research and Documentation*

RESEARCH NOTE

Requirement for judges to declare their financial interests

[...]

Subject: [...] research note [...] on the requirement for judges, under the laws of the various Member States and under UK law, to declare their financial interests.

[...]

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[...]

SUMMARY NOTE

1. The purpose of this research note is to examine whether and to what extent there is a requirement, under the laws of the various Member States and under UK law, for judges to declare their financial interests. [...]
2. It should be noted at the outset that the general context has further changed since 2016¹ and that the trend towards both the introduction of a requirement for judges to declare their financial interests in the legal systems which hitherto had no such requirement (French,² Swedish and Czech law) and the strengthening of that requirement in a legal system in which that requirement already existed (Portuguese law) has been further consolidated. Moreover, it is important to note that, in the context of the appointment of judges, Maltese law introduced in August 2016³ a requirement not to be involved in any commercial or professional activity and not to be in a financial situation which could raise doubts as to the ability properly to perform judicial functions, which shows that financial interests are in any event subject to scrutiny in the course of the procedure for the appointment of judges.
3. To provide an overview of the situation under the laws of the Member States and under UK law, such a requirement, albeit differing in scope, is provided for in a clear majority (22) of those national laws (Austrian, Bulgarian, Croatian, Czech, Danish, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Netherlands, Polish, Portuguese, Romanian, Slovakian, Slovenian, Spanish and Swedish law). No requirement for judges to declare their financial interests is laid down in six national laws, namely Belgian, Cypriot, Irish, Luxembourg, Maltese and UK law.
4. With regard to whether the declaration requirement is extended or limited in nature, it should be noted that only five of the twenty-two legal systems laying

¹ Such a change in context had already been noted in 2016 (at that time, by comparison with the situation as it stood [...] in November 2010 [...]).

² In 2016, in French law there was only one Government bill in that respect.

³ Act No XLIV of 2016 of 5 August 2016 amending the Constitution of Malta.

down such a requirement provide for limitations, which differ in scope. In those five legal systems, the declaration requirement relates only to ancillary activities⁴ in a restricted sense (German and Austrian law),⁵ in a broad sense, including activities on behalf of undertakings (Netherlands and Swedish law), or only to activities which are remunerated (Danish law).

5. In the rest of those 22 legal systems, the declaration provided for is very broad in scope, encompassing, in almost all those systems, income, immovable property, some categories of movable property (means of transport and other movable property of medium and high value), company shares, savings, income from capital and from insurance and debts. It should be noted that in some Member States (Spain and France) the scope *ratione personae* of that declaration requirement is nevertheless limited.
6. Considerable differences also exist as regards the public disclosure and accessibility of declarations of financial interests. It should be noted that in 10 legal systems there is either no publication or very limited access so far as concerns scope *ratione personae*, in particular in relation to the court to which the judges concerned belong (Austrian, Croatian,⁶ Czech, Estonian, French, German, Greek, Hungarian, Italian, Portuguese and Swedish law). In the other 12 legal systems, public access to the information in the declarations ranges from access which is very extensive (Bulgarian, Estonian,⁷ Polish, Romanian, Slovakian and Spanish law) to access which is limited to a very specific category of information (as is the case, for example, in Slovenian law, which allows access only to information concerning increases in assets), and comprises systems which, although not limiting access to certain categories of information, have opted to exclude from public disclosure some categories of information,

⁴ That is to say, non-judicial activities, although the scope of that concept, as it relates to the declaration requirement, is not the same in all the legal systems concerned.

⁵ However, it should be noted that, under Austrian law, constitutional judges are not covered by that limitation, but must, on the contrary, declare all outside activities, including within companies.

⁶ It should be noted that under Croatian law, the limitations apply to declarations by judges other than constitutional judges.

⁷ Subject, however, to the requirement to use digital identification.

namely income, certain assets and/or financial interests (Danish, Finnish, Lithuanian and Netherlands law) or supplementary information considered to be in the private sphere of the person concerned (Latvian law).

7. It is important to note that, as is the case with respect to the existence or scope of the declaration requirement, there has also been an observable trend since 2016 in relation to public disclosure and access. Indeed, in certain legal systems which made provision for no, or for only very restricted, public disclosure, there has now been introduced extensive public disclosure (Polish law) or limited public disclosure (German law),⁸ while in other legal systems access to information has been regulated, facilitated or extended (Finnish, Italian and Portuguese law).
8. A table summarising the situation under the laws of the Member States and under UK law is annexed to this summary.

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⁸ Applicable to declarations by federal constitutional judges.