

DRAFT v0.10

THE LAW REGULATING THE STATEMENTS OF WEALTH OF POLITICALLY EXPOSED PERSONS LEGISLATIVE PROPOSAL

WHITE PAPER

Executive Summary Presentation

To the Public at Large

March 2021 (latest update)

The Problem 1

- **In Cyprus, corruption and collusion have spread through the upper strata of society, including the political world.**
- **The need to resolve the problem is immediate and pressing.**
- **However, solving the problem is a difficult task because amongst those, who are called upon to resolve the problem, are people, who have reasons to wish to perpetuate the problem.**

The Problem 2



The Problem 3

Those who wish to perpetuate the problem:

- **Often blur the problem by “declaring” their commitment to “combat” it.**
- **They argue that “it is not our fault, other people are the ones who should be blamed”.**
- **They demand that ALL those responsible should be punished (or nobody!).**
- **They focus on the past but show indifference about the future (which should be their first priority).**
- **They undermine the credibility of the system, with a view of leading society to the conclusion that “they are all thieves” and, therefore, it is unfeasible to expose and punish the perpetrators.**

The Problem 4

The solutions, which are often proposed, (either intentionally or out of ignorance), are:

- **Technically deficient (in order to secure their ineffectiveness).**
- **Inconsistent (so as to give rise to interpretation problems at the implementation stage).**
- **Incomplete (in order to render their implementation impossible).**
- **Ultra ambitious as to their goals (so as to render the full attainment of the objectives set impossible) and, thus, discredit the whole process.**

The Problem 5

- **Of course, corruption and collusion are multifaceted problems, which cannot be confronted by merely introducing a system of wealth statements for the politically exposed persons.**
- **Nevertheless, it is naive to attempt to rectify all the malfunctions, which are associated with corruption and collusion, in one go. This is the approach promoted by those who seek to perpetuate the problem.**

“Where has the money come from”

The generally admitted ineffectiveness of the system currently in force has all the negative attributes just noted, namely:

- legislative confusion, logical inconsistency, technical imperfections and ambiguity.**
- Conflicts of interest by the failure to segregate the “judges” from those who are being “judged”.**
- On the part of a minority, concealment of the lack of the necessary political commitment to combat corruption and collusion by advancing various pretexts.**

**NET RESULT = A SYSTEM WITH A ZERO ADDED
VALUE**

The Solution 1

Focus the effort on the future (and not so much on the past) and show leniency towards those who show practical remorse, resulting in:

- **Minimising the anticipated resistance to change.**
- **Extinguishing (within 2-3 months) the problem targeted at and generating a feeling that “at last something is being done”.**
- **Encouraging the voluntary withdrawal from the game (which usually follows the exposure and the practical remorse).**
- **Securing the immediate restoration of our international credibility (principally vis-a-vis the EU).**

The Solution 2

FIRST PROJECT – STATEMENTS OF WEALTH OF PEPs

- Stand-alone project.
- Project capable of generating immediate results.
- Relatively easy project, provided that the necessary expertise and honesty are readily available.
- Project requiring the involvement and support of the EC (which must be sought).
- Project which should, ideally, attract the support of all the political parties of Cyprus (the possibility of them having to sacrifice some of their key members is visible and they should be pressed to accept this as an inevitable consequence of catharsis).

**THIS WILL BE THE BEGINNING OF THE DESIRED
CATHARSIS**

The Solution 3

- A prerequisite for the success of the project is to completely replace the existing legislation dealing with the statements of wealth and the sources & applications of the funds of the politically exposed persons.
- This piece of legislation is in ruins and it cannot be restored; it is a wreck that cannot be repaired.
- The new legislation must be simple and readily comprehensible (despite the technical complexities of the process).

**The existing building is beyond repair!
It needs to be demolished**



BASIC TOOLS

- **The White Paper ***
- **The Introductory Memorandum**
- **The Legislative Bill**
- **The Computerised Declaration Form**
- **The Path for the Realisation of the Proposal**

() Will also be used as a basis for training / education purposes.*

ARTICLES OF THE LAW

- **Definitions**
- **Persons obligated to file a Return**
- **Content of the Return**
- **Procedure of filing and checking the Return**
- **Failure to file or filing an inaccurate Return**
- **The Supervisory Board**
- **Obstructing the control process**
- **Illegal enrichment**
- **Offer to exercise influence**
- **General criminal provisions**
- **Criminal procedures**
- **Freezing / prohibiting the disposal of assets**
- **Legal imputation**
- **Transitional provisions**

Persons obligated to file a statement of wealth

(in phase 1, lasting 2-3 years)

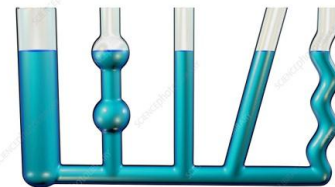
- **01. The President of the Republic .**
- **02. The Ministers, Deputy Ministers and Secretaries of State.**
- **03. The Leaders of the political parties, which have a presence in the House of Representatives or the European Parliament, as well as those which are in receipt of state aid.**
- **04. The Members of Parliament and the Members of the European Parliament .**
- **05. The General Directors of Ministries and Sub-ministries.**
- **06. The Chairmen/chairwomen and the Chief Executive Officers of Legal Persons in the public domain, of Public Enterprises, of Public Organisations and of the Legal Persons in the private domain, which are owned by the State to an extent of over 50%.**
- **07. The Members of the Supreme Court.**
- **08. The Attorney-General and the Assistant Attorney-General of the Republic.**
- **09. The Accountant-General and the Assistant Accountant-General of the Republic.**
- **10. The Auditor-General and the Assistant Auditor-General of the Republic.**
- **11. The Governor and the Deputy Governor of the Central Bank of Cyprus.**
- **12. The Chief and the Deputy Chief of the Police.**
- **13. The Chief and the Deputy Chief of the National Guard.**
- **14. The Heads of the Independent Authorities of the Republic.**
- **15. The Mayors of cities having more than 10.000 registered voters (“the large cities”).**
- **91. The Candidates for election to the position of the President of the Republic.**
- **92. The Candidates for election to the position of a Member of Parliament or the European Parliament.**
- **93. The Candidates for election to the position of a Mayor of a large city.**
- **94. The Candidates for an appointment that will render them obliged to file a statement of wealth.**

Periodicity of the Return

- **Annually** - covering the calendar year immediately preceding the year to which the return refers (on the same basis as a tax return), in order to facilitate the “bridging” of the two documents, for avoiding unnecessary duplication and for easing the compilation of the returns (most data as at 31st of December are easily accessible), for rendering the checking of these returns smoother, for rendering the process an “annual habit”, for facilitating the coordination of the process and, most importantly, for securing the comparability of the information provided. **Any other approach would be the equivalent of condemning the system to failure.**

Whose wealth?

- of the Politically Exposed Person (PEP),
- of his/her spouse (or the person with which he/she has a cohabitation agreement),
- of their underage children.



Any other arrangement would be the equivalent of condemning the system to failure.

Reconciliation of this Proposal with the Opinion of the Supreme Court, concerning Art. 15 of the Constitution

In 2017, the Supreme Court, in an Opinion issued, concluded that the separate publication of particulars relating to the spouse of the politically exposed person would be unconstitutional, because such publication was not deemed necessary for securing the desired transparency in the public domain nor was it considered to be a necessary measure against corruption in public life.

The proposed legislation by-passes the aforesaid obstacle, by requiring the publication of the data on a consolidated basis and by totally avoiding the publication of specific personal data (such as bank account numbers, vehicle registration numbers, communication particulars etc.), which are not necessary for the purposes of bridging wealth with income and expense streams.

**...and the PEP shall be united with his/her spouse;
and the two shall be one flesh
(otherwise, it's a waste of time)**



The Content of the Return

- Bank balances (including cash balances).
- Investments in negotiable instruments (such as shares, bonds, debentures etc.).
- Investments in related legal persons.
- Current account balances with related legal persons.
- Receivables / Loans advanced to third parties.
- Payables / Loans obtained from third parties (negative elements).
- Immovable properties (at acquisition cost).
- Vehicles, crafts and aircrafts (at acquisition cost).
- Valuables and works of art (at acquisition cost).
- Furniture, equipment and miscellaneous other assets.

NET VALUE AT THE END OF PERIOD

LESS NET VALUE AT THE BEGINNING OF THE PERIOD

EQUALS THE DIFFERENTIATION (CHANGE) IN NET ASSETS.

CHANGE EQUALS DECLARED INCOME LESS EXPENSES.

Publicly accessible and Publicly Non-accessible Data

- **The summary of the statement of wealth, the reported income and expenses and certain other information are made public on a consolidated basis, in a manner that renders them readily accessible by the public-at-large (via the internet).**
- **Certain other particulars are not made public; they are filed for the purposes of checking the accuracy and the completeness of the declared particulars and they are protected as “personal data” (for example, bank account numbers, vehicle registration numbers, certificates, statements etc.)**

Supervisory Board

(Possibly comprising 4 part-time members with 4 administrative staff - 2 accountants plus 2 clerks).

Particularly in the first phase of the operation of the system, it is of the utmost importance to ensure that the system has the required:

- honesty and objectivity;**
- technical knowledge and competence; and**
- the necessary authority,**

in order to be in a position to resolve the various practical problems that will inevitably arise during the first implementation of the system,

but, more importantly, to take the necessary action steps that will secure the respect and general acceptance of the system, particularly in view of the anticipated negative reactions and having regard to the fact that the persons regulated by the law will be holding senior state positions.

EXAMINATION OF THE RETURNS

Due to the influence exercised by PEPs, the returns will need to be examined and “validated” on a multi-level basis that will include:

- **A “certification” by a CPA appointed by the PEP.**
- **A “machine-based” check for accuracy & consistency.**
- **A preliminary review by the staff of the Supervisory Board.**
- **An in-depth examination by the tax authorities.**
- **An in-depth examination by the Office of the Auditor General.**
- **An examination by professionals appointed by Parliament on an ad hoc basis.**

PENALTIES

- **The penalties for the failure to file a return, the filing of an inaccurate return etc. must be “balanced”, i.e. they must be neither excessively strict, nor too lenient.**
- **The emphasis must be on:**
 - **the confiscation of the product of the illegal enrichment;**
 - **the imposition of ad valorem fines (e.g. 20%-25% of the product of the illegal enrichment);**
 - **the imposition of fixed fines;**
 - **the loss of the public position held, the relinquishing of any retirement benefits and the barring from any reappointment;**
 - **the deprivation of civil rights (for a period of time – say, 10 years), which, in terms of substance, would signify the end of the political career of the convicted person.**

Anticipated Difficulties

- **A merciless war on the part of those who estimate that the effective application of the proposed legislation will generate serious personal problems for them and will possibly lead to the termination of their political career. Problems should also be anticipated from those who systematically indulge in tax evasion.**
- Lesser problems should be expected from an oppositional predisposition, because of ignorance and for “show-off” purposes.

Road map of Implementation / 1

- **Avoiding the “partynisation” of the project.**
- **Avoiding any publicity / “drum beating” prior to the substantial completion of the project.**
- **Zero tolerance to outside interference and illegitimate lobbying.**
- **Undertaking on the part of the politicians to promote the bill (application prior to enactment on an experimental / voluntary basis).**
- **Securing the “blessing” of the European Commission.**
- **Realisation of the project prior to the parliamentary elections of 2021. As a minimum, securing an undertaking to enact the legislation as soon as the new parliament is constituted.**
- **Prior years: Amnesty for non-declaration but assessment of the taxes due on retroactively declared income plus the applicable interest for the late payment of the tax.**

Road map of Implementation / 2

- During the design stage, informal cooperation / coordination with the Tax Department of the Ministry of Finance, the Department of Informatics, the State Internal Audit Service.
- During the design stage, consultation with a restricted number of 3-5 persons, (including the Speaker of Parliament), particularly as regards the issue of penalties and the project implementation obstacles that must be attended to.
- Speeding up / facilitation of the detailed design of the project.

Planning and Implementation Committee

(gratis participation)

- **Christos P. Panayiotides** (chairman / rapporteur) retired CPA with 40 years of experience in senior professional positions. Has served as President of the Association of Certified Accountants and Auditors of Greece and as a Member of the Supervisory Council of the Institute of Certified Public Accountants of Greece.
- **Nicos G. Syrimis** (moderator of accounting / taxation matters) retired CPA with 40 years of experience in senior professional positions. Has served as President of the Institute of Certified Public Accountants of Cyprus and as a Member of the Council of the Institute of Chartered Accountants in England & Wales.
- **A Distinguished Lawyer*** (moderator of legal issues),
- **Sir Christoforos A. Pissarides**, Nobel Prize Winner in Economics, Regius Professor of Economics at the London School of Economics and Professor of European Studies at the University of Cyprus.

() Because of the political sensitivity of the subject-matter of this proposal, the identity of this person is withheld.*