



WHITE PAPER

A STUDY OF THE BASIC PILLARS OF THE PROPOSED LEGISLATION CONCERNING THE STATEMENTS OF WEALTH OF POLITICALLY EXPOSED PERSONS

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**THIS PAPER AIMS AT
PRESENTING AND EXPLAINING
THE BASIC PILLARS
OF THE PROPOSED LEGISLATION
CONCERNING THE STATEMENTS OF WEALTH
OF POLITICALLY EXPOSED PERSONS,
IN SUFFICIENT DETAIL
SO AS TO RENDER THE PROPOSED ARRANGEMENTS
READILY COMPREHENSIBLE,
WITHOUT USING THE LEGAL FORMAT
THAT, BY NECESSITY, A LEGISLATIVE ACT MUST TAKE.**

**THE BILL ITSELF
IS AND WILL CONTINUE TO BE IN THE DRAFTING STAGE
UNTIL SUCH TIME AS ALL THE COMPONENT PARTS
OF THE LAW, WHICH ARE REFLECTED
IN THIS WHITE PAPER, CRYSTALLISE.**

**ALSO RELEVANT TO THE DISCUSSION
IS THE PROPOSED FORM OF THE WEALTH DECLARATION
OF THE POLITICALLY EXPOSED PERSONS
AND THE EXECUTIVE SUMMARY OF THIS PROPOSAL,
WHICH IS IN THE FORM OF A POWERPOINT PRESENTATION.**

**CYPRUS:
THE STATEMENTS OF WEALTH
OF THE POLITICALLY EXPOSED PERSONS
PROPOSED LEGISLATION**

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1 Introduction

The Statements of Wealth of the Politically Exposed Persons (PEPs) are a particularly useful tool for identifying and combating corruption. Given the stated intention of the members of the House of Representatives to rectify the problems identified, which rendered the previous legislation on the subject ineffective, two highly qualified retired accountants, a distinguished lawyer and an eminent economist assumed, in consultation with the Speaker of the House, the responsibility of drawing up a new comprehensive legislative proposal, which the House will be called upon to enact, in order to enable its provisions to be implemented forthwith, the overriding goal being to secure the credibility of the system and to regain the confidence of the public in our institutions.

In this way, the House of Representatives believes that it is responding to the universal call for effective measures to combat corruption and collusion forthwith, by deeds and not by mere declarations of intent. The adoption of the proposed legislation and the rapid implementation of its provisions will allow the collection and publication of reliable and readily comprehensible data and information, which can be utilised by voters in the upcoming parliamentary elections.

2 What are the main problems that have rendered the current legislation ineffective?

The main problems that have led to the ineffectiveness of the law could be summarised as follows:

- Legislative uncertainty, ambiguity, logical inconsistency and technical imperfection.
- Conflicts of interest arising as a result of failing to segregate those judged from those judging.
- Cover-up of the possible lack on the part of a small minority of the necessary political determination to fight corruption and collusion by resorting to various excuses.
- Absence amongst politicians and society in general of an appropriate culture and of the necessary awareness on issues of governance, such as the problems arising from the conflict of interests and collusion, the lack of transparency, the issue of relatives, friends and professional connections interfering in the process of governance. These problems invariably exist in relatively small societies, such as that of Cyprus, and require increased vigilance.

The Appendix to the currently in force Law 49(I)/2004 (as amended by Laws 269(I)/2004 and 68(I)/2017) prescribes the particulars and the information to be provided in the statements of wealth submitted. Similar are the provisions of Law 50(I)/2004, concerning the local authority and certain other public service officials.

The Annex lists three (3) independent, stand-alone declarations: Those of (a) the politically exposed person, (b) his/her spouse and (c) their underage children.

Among the problems that resulted in the statements of wealth filed having no added value as a tool to combat corruption and collusion are the following:

(a) The requirement to provide data and information in the form of “free text” rendered the examination, evaluation and utilisation of the returns a particularly difficult and - in most cases – an impossible task.

(b) The requirement to provide data that were irrelevant to serving the purposes of the law (such as the current market value of real property) made the compilation of the return exceedingly and unnecessarily difficult, time-consuming and subjective. The most notable problem, however, was that the citing of these superfluous elements of information served as a smoke screen, resulting in the blurring of the picture and in the inability to draw any meaningful conclusions on the key issue of “where have the funds come from?”.

- (c) In other cases, the “value” sought was unclear and unspecified, as in the case of vessels.
- (d) In some cases the requested information was confined to the description of the property, without any obligation to quantify its value (e.g. “Description of the type of participation in business enterprises”).
- (e) The information sought under item 4 of the Appendix is typical of the confusion that prevailed at the stage of drafting that law, where “assets” were confused and treated as synonymous to “incomes”, resulting in a meaningless total sum.
- (f) The case of the information requested under item 5 is another example of the confusion of the legislature, by requiring the listing of “prior-year income earned in the current year”. This is an inherent contradiction, since the income earned in the current period cannot, by definition, be prior-period income.
- (g) A great deal of confusion has also been caused by the variable periodicity of the statements of wealth and, by extension, of the length of the intervening period in which the income and the costs (inflows and outflows) of the person obliged to file the return, his/her spouse and their underage children accumulate and must be measured and quantified. Thus, if this period starts on 28 February 2020 and ends on 14 March 2021, the revenues and expenses of that specific 12½ month period must be quantified for the purpose of “bridging” the two statements of wealth. How this could be done was a fundamental question that was left unanswered and, inevitably, led to deadlocks.
- (h) Finally, the vague, generic wording of the requirement of item 7 of the Appendix (“provide an explanation of any asset differentiation between two declarations”) indicates a legislative slackness, which was certain to lead to the failure of the law to serve its intended purpose.

All of the above legislative flaws have led to the fundamental redesign of the legislation governing the wealth statements of the politically exposed persons on the proposed basis, which is expected to bring the desired results.

3 What is the purpose of the Statements of Wealth?

Those designated by law as “obliged” to draw up and submit statements of wealth must draw up these statements at two different points in time and, then, they must “bridge” these two positions by justifying the differentiation of wealth in the intervening period, i.e. they must explain and justify the overall (net) increase or decrease in individual assets and liabilities, which make up the total net assets, by identifying and quantifying the sources of income/inflows that have resulted in an increase in net assets, and the expenses/outflows that have resulted in a decrease in net assets, in other words they must show “where the funds that have resulted in an increase of net wealth have come from”. Any gaps or inconsistencies in this “bridging” process must be subjected to an investigation. The identification of serious indications of a possible commission of financial crimes (including those of tax evasion, bribery and, in general, illegal enrichment) entails the referral of those involved to the public prosecutor's office for the documentation of the offences committed and the judicial prosecution of the suspects.

The phrase “pothen esches” (from where derived?) literally means “where have you gotten your wealth from?” The system aims at setting out and publishing the necessary data, so that society knows where the wealth of the persons that are active on the political scene of Cyprus (also known as “politically exposed persons” or “PEPs”) has come from.

4 What is the meaning of “net worth”?

Net assets or net worth are the total assets of the person compiling the statement of wealth, on a specific date, after deduction of all liabilities towards third parties.

5 On what basis are assets and liabilities accounted for (valued)?

The principal goal served by statements of wealth is not to determine how rich or poor the person responsible for drawing up these statements is. The purpose of this verification process is to justify and substantiate the increase or decrease in the filing person’s net assets during the period between two successive statements of wealth. For this purpose, all individual assets included in the asset statement must be quantified (calculated) at their acquisition cost (as opposed to their current market value). The measurement (valuation) of individual assets at their current market value is not permissible for the purposes of the proposed law, because it inevitably introduces into the equation the fluctuations in net assets caused by fluctuations in their market value. The inclusion of these fluctuations in the calculations for explaining and justifying the fluctuations in the total net assets of the person filing the return serves no purpose, whatsoever, other than to complicate - unnecessarily - the process. It follows that gifted or inherited assets (such as real estate) must be valued at a nominal (symbolic) value (e.g. €1), thus avoiding the difficulty that would arise, if each time the statement of wealth is drawn up, valuers have to be involved to determine the current market value of all the individual assets reported. Accounting for the not liquidated capital gains or losses arising from the fluctuations in the current market value of these items would not serve any of the objectives of this legislative proposal.

The monetary amounts listed in the statements of wealth (in €) are rounded up or down to the nearest euro in order to avoid the blurring of the picture, as a result of reporting insignificant figures (cents).

6 On what basis are properties located in the occupied areas accounted for (valued)?

The properties listed in the statements of wealth, located in the occupied areas of Cyprus or on the "green line", are shown at the nominal (symbolic) value of one euro (€1). It is understood that the additions to and the disposals from this category of assets (in the current reporting period) must be reflected in the statements of wealth on the same basis as any other addition or disposal applicable to this class of assets.

7 What are the standard wealth classifications?

The individual assets and the related income and expenses are listed under the following categories. The consolidated publicly disclosed data is marked with an asterisk (*) while the analytical, not-publicly-disclosed data is marked with the symbol (#).

Table 01:	Summary [*]
Table 01A:	Personal information [#]
Table 01B:	Trusts - Analysis [#]
Table 02:	Bank deposits, including cash balances [#]
Table 03:	Investments in negotiable instruments (such as shares, debentures, etc.) [#]
Table 04:	Investments in related legal entities [*]
Table 05:	Current accounts maintained with related legal persons [*]
Table 06:	Receivables from / granted loans to third parties [*]

Table 07:	Liabilities to / loans received from third parties (“negative elements”) [*]
Table 08:	Real properties (at their acquisition cost) [*]
Table 08a:	Additions to real properties in the period – Analysis [#]
Table 09:	Vehicles, vessels, aircraft (at their acquisition cost) [#]
Table 10:	Works of art & Valuables (at their acquisition cost) [*]
Table 10a:	Works of art & Valuables - Additions in the period - Analysis [#]
Table 11:	Furniture, installations and various other assets [#]
Table 12:	Donations & gifts (Given & Received) [*]
Table 13:	Capital Gains & Losses [*]
Table 14:	Consolidated Statement of Income & Expenses [*]
Table 15-1:	Politically exposed person’s Statement of Income & Expenses [#]
Table 15-2:	Spouse’s Statement of Income & Expenses [#]
Table 16:	Exchange rates of major currencies [#]

It is understood that the life assurance policies, which have an investment of a savings element, must be reflected on Table 3, at their net realisable value on the reporting date.

8 Who are the “related” legal persons?’

Related legal persons to the persons who have an obligation to submit a declaration of wealth under this Law shall be all domestic and foreign legal persons, their subsidiaries, co-subsidiaries and joint ventures, which are controlled by or on which a significant influence is exercised or in whose administration the politically exposed person or his/her spouse or person with whom the politically exposed person has entered into a cohabitation agreement participates as an executive.

9 What is the appropriate degree of analysis of the data listed?

This is a matter specified in the legislation itself. The detailed information, which is of no interest to the public or is of a purely personal nature, is set out in detailed statements that are simultaneously submitted (for verification purposes) but are not made public. The approach adopted adequately addresses the need to avoid the disclosure of bank account numbers, home addresses, vehicle registration numbers and similar data, for security purposes.

10 Whose assets are being depicted?

The disclosure (in a consolidated form) of a summary of the assets of the spouses or persons with whom the politically exposed person has entered into a cohabitation agreement and of their underage children in the statements of wealth is mandatory. Given the ease with which assets are inexpensively transferred (without the imposition of any gift or other tax) to spouses and their underage children, the failure to include these assets in the statements of wealth of politically exposed persons would lead to the short-circuiting of the system.

11 What happens in the case of non-cohabiting, separated spouses?

In the case of non-cohabiting separated spouses, the politically exposed person’s declaration shall include only his/her own assets, income and expenses and those of the underage children in his/her custody. In the case of the co-ownership of certain assets, the politically exposed person’s statement of wealth shall reflect the co-owned assets at the value attributable to him/her.

Where the separation occurs in the reporting period, the wealth of the separated spouse shall be deducted from the consolidated wealth of the politically exposed person (at the value at which such wealth was previously reported at the beginning of the period), in a manner similar to that of the removal of the wealth of the children ceasing to be minors (see chapter 15). The case of a divorce is treated in a similar way.

12 How is this legislative proposal reconciled with the Supreme Court Opinion of 29 May 2017 (Report No. 10/2016)?

The unanimous Opinion of the Supreme Court of 29 May 2017, issued at the request of the President of the Republic, concluded that the obligation to disclose the particulars specified in the law that was passed at the time, as they related to spouses and underage children, was not permissible under Article 15 of the Constitution (which provides for the right to respect private and family life, except in the cases where the disclosure is mandated by law and is necessary in the interests of transparency in public life or for the purpose of combating corruption in public life).

Although it could be argued that the developments, which have since then taken place, demonstrate that the interpretation of the Constitution given by the Supreme Court, at the time, needs to be revisited, in order to ensure that further potential constitutional complications are avoided, this legislative proposal distinguishes between the data and information, which must be made public, and those, which are declared but should not be made public, other than at a consolidated level. This revised approach (of drawing valid conclusions in respect of the key question of “where have the funds come from?”) is logical, given that the funds in question are sitting in interconnected containers.

Thus, the declared income and expenses of the politically exposed person and his/her spouse are declared separately but consolidated at an aggregated level, for publication purposes, while other individual data (such as bank account numbers, car registration numbers, etc.) are declared for audit purposes but are not made public, either in relation to the politically exposed person or in relation to his/her spouse.

13 What is the appropriate time interval between two wealth statements?

Clearly, it is desirable to identify illegal and questionable acts at an as early as possible stage. The compilation of statements of wealth on an annual basis facilitates the prompt identification of these transactions but it also imposes the desired self-discipline, which leads to the discharging of this obligation with relative ease. There is no doubt that it is much easier to collect the necessary data for the compilation of the statements of wealth, if the point of reference of the statements is the last day of each calendar year. For example, all the banks (in Cyprus and elsewhere) are now providing the facility of easily extracting through the internet of certificates of balances for all the accounts kept, as at 31 December, and of the related interest accumulated on these accounts in the course of the year.

In the case of the persons, who become obligated to compile and file statements of wealth for the first time, the reference point of the first statement of wealth is the first day of the calendar year in which the obligation arose (i.e. the value of the individual assets and liabilities is quantified at both the 31 December of the preceding year and of the current year) whereas, for those whose obligation expires, the reference point of the last statement of wealth is the last day of the calendar year in which the obligation in question has expired.

14 How are two wealth statements bridged?

The inflows, which generate an increase in the previously (in the previous year) reported net assets, and the outflows, which cause a decrease in the previously reported net assets, must be distinguished on the basis of the classification used in the compilation of the tax returns filed by the politically exposed person and his/her spouse. This avoids the unnecessary work of bridging the capital statements with the tax returns filed but it also facilitates the examination by the tax authorities of the tax returns filed.

If, at the stage of the compilation of the statements of wealth, it becomes apparent that the income tax returns already filed failed to reflect income items or that the amounts reported were incorrectly stated, such misstatements should be eliminated through the filing (by the taxpayer) of a corrective (supplementary) tax return. Such supplementary tax returns will, of course, attract the fines and penalties stipulated under tax legislation for such filings.

With the completion of the computerised system of the Department of Taxation, the electronic extraction of the declared income and the taxes levied/paid in any one year has become a particularly easy task. However, for the purposes of compiling the required statements of wealth, it is necessary to quantify, in addition to taxable income, the donations and gifts received and given in the period under examination, the capital gains and losses realised and the corresponding living expenses (including rents, tuition fees, travel, entertainment, clothing and footwear, maintenance of houses and vehicles, etc.) of the politically exposed person, his/her spouse and their underage children.

15 What happens when underage children come of age?

At the end of the period in which one or more underage children come of age and acquire the obligation to submit their own separate tax returns, any wealth owned by them must be deducted from the wealth of their parents (at the value with which that wealth was previously reported at the beginning of the period in their parents' statements of wealth).

It should be understood that from the time of the tax separation of the children from their parents, any donations / gifts given by the parents to their adult children should be reported as donations / gifts given in the returns of the parents and as donations / gifts received in the declarations of the adult children.

However, irrespective of their tax separation, adult children, to the extent that for whatever reason they continue to be financially dependent on their parents (as in the case of students) the costs incurred in providing financial support to such adult children should be included in their parents' reported outflows.

16 Why is it necessary to quantify foreign exchange gains and losses, even if they have not been liquidated?

In contrast to the general rule of recognising individual assets and liabilities on the basis of their acquisition cost, for the purposes of compiling wealth statements, the not-yet-liquidated exchange gains and losses, which relate to bank deposits and other equivalent assets, the short-term investments, and the monetary receivables and payables that are denominated in foreign currencies, are, in fact, recognised because it is practically unfeasible (and meaningless) to monitor and measure (in €) these assets at their historic cost. For the sake of convenience the quantification of exchange differences can be quantified on the basis of a simplified calculation formula (which reflects a simplifying assumption, namely that the increase or the decrease of the

denominated in a foreign currency balances, has been uniformly attained in the course of the year under examination.

If individual assets or liabilities denominated in foreign currencies are included in the statement of wealth, it is very likely that changes in the reported net asset position have been caused by fluctuations in the exchange rates between the reference currency (i.e. the euro) and the currency in which the individual assets or liabilities are denominated.

These fluctuations in the reported value of the assets, resulting from the exchange rate fluctuations during the year under examination, should be quantified and, in the case of foreign exchange gains, reduce the net inflows (revenues) necessary to “bridge” the “gap”; in the case of exchange losses, they should increase the “anticipated” net inflows.

The effect of the exchange rate differentiations are easier to understand by means of an example. Suppose that the sole asset of a PEP is a deposit in US\$ of \$300,000. The euro exchange rate at the beginning and at the end of the year under examination was €1 = US\$1.5 and €1 = US\$1.0, at the beginning and the end of the year, respectively. The reported assets, measured in euro, were €200,000 at the beginning of the year and €300,000 at the end of the year, so the reported assets, measured in euro, appeared as having increased by €100,000 (€300,000 – €200,000). This amount does not represent undeclared (hidden) income and, therefore, - for the purpose of “bridging” the declared revenue with the fluctuations in the reported net assets – it must be deducted from the amount that needs to be justified as a legitimate increase in the reported net assets.

Exceptionally, in those cases where the individual transactions entered into in foreign currencies are of an exceptionally high value, resulting in large exchange rate differences, the not-yet-liquidated foreign exchange gains and losses arising on these transactions should be calculated and reported separately. The bank documentation supporting these transactions should be submitted with the relevant statements of wealth but should not be publicly disclosed. Obviously, these not-yet-liquidated foreign exchange gains and losses must be taken into consideration for the purposes of “bridging” the net assets at the beginning of the period with the net assets at the end of the period.

As mentioned above, unlike bank deposits and other current assets (such as receivables and payables), fixed assets (such as real estate, means of transport, furniture, equipment, valuables and works of art) must be valued (their value must be quantified) at their acquisition cost. It follows that the value at which they are reported does not change as a result of fluctuations in their market value.

17 What is the treatment that should be afforded to trusts?

A trust is a legal arrangement whereby the legally registered owner of an asset ("the trustee") is a different person from the beneficial owner of the asset. The listing of the trust arrangements entered into by politically exposed persons, their spouses (or persons with whom they have entered into a cohabitation agreement) and their underage children is mandatory, irrespective of the jurisdiction under which they come under.

18 How should the non-performing loans and, in general, the obligations of the reporting person, his/her spouse and their underage children be treated?

Non-performing loans and, in general, the obligations of the politically exposed person, his/her spouse and their underage children must be reported in the specially provided area of Table 07 of the return, at the nominal value of the debt, until the time of any waving of any part of the principal due and/or of the accrued interest included in the reported liability. In such a case, the amount of capital and/or interest forgiven must be reflected in Table 12, as a “donation/gift received”.

19 Who should accept responsibility (by signing) the statements of wealth filed?

The politically exposed person and his/her spouse (or the person with whom he/she has entered into a cohabitation agreement) and the independent certified public accountant, who has diligently reviewed the return must sign it prior to its filing.

20 Who should “certify” the statements of wealth?

Prior to filing, the statements of wealth must be reviewed and must be “certified” by a certified public accountant, who has carried out a thorough review of the annual statement of wealth drawn up by the person obliged to file such a return jointly with his/her spouse (if any). The certified public accountant is appointed, from amongst those who are authorised by law to perform statutory audits, by the person obliged to file the return, who is responsible for the payment of the reviewer’s fees but can claim an allowance of €250 for wholly or partially covering this cost.

The work of the certified public accountant carrying out the diligent review should be directed at confirming the completeness, the consistency, the reasonableness and the adequacy of the substantiation (with related documents, such as financial statements (balance sheets), tax returns, bank certificates etc.) of the data and other information set out in the return.

The involvement of professional accountants in the process of drawing up and submitting the declarations of wealth is also deemed necessary for protecting the persons obliged to file such returns against the risk of making mistakes as a result of their ignorance or technical inadequacy, particularly in view of the serious consequences of filing inaccurate declarations as a result of negligence.

21 What are the consequences of intentionally or negligently submitting false or inaccurate statements of wealth?

The filing of a false or materially inaccurate statement of wealth, either intentionally or as a result of negligence, results in a criminal offence, which entails the confiscation of the product of the illegal enrichment that was attempted to conceal and the imposition of an ad valorem fine equal to 20% to 25% of the value of the illegal benefit obtained, plus a fixed penalty ranging from €50,000 to €500,000. In addition, both in the case of those appointed and in the case of those elected to a public position, the offence is punishable by the loss of the position held, the loss of the retirement benefits associated with the lost position (save the pension payable to the family of a deceased person) and the lifelong barring of the offender from any appointment to a position in the public sector or the extended public sector. Depending on the seriousness of the offence, the punishment can include the deprivation of the offender from his/her civil rights (to vote and to stand as a candidate for election to a public post) for a period of 10 to 25 years.

It is understood that if, as a result of the prosecution for the offences referred to in the preceding paragraph, the existence of untaxed (undeclared) taxable income is disclosed, the taxes due on such income plus the related fines, surcharges and interest prescribed by tax legislation, shall immediately become due and payable.

In the case of the (unintentional) negligent submission of an inaccurate declaration, the distinction between the “materially” and the “immaterially” inaccurate declaration is based on the cumulative total of all the errors committed. If the aforesaid total does not exceed the amount of €5,000, such

errors are not deemed to be material errors and are ignored (save the related tax obligations, which, in any event, must be paid).

The failure to file the statement of wealth declaration by the due deadline is punishable by the automatic imposition of a fine of €1,000 and, if the omission continues for a period of more than one calendar month, the failure to rectify the problem is punishable by an additional fine of €3,000. If, after two additional calendar months, the non-submission of the declaration continues, then non-compliance shall be deemed to amount to the submission of a substantially inaccurate statement of wealth, either intentionally or negligently, and shall precipitate the consequences of the commitment of such an offence.

Exceptionally, the deadline for the submission of the wealth statement is extended, at the request of the person obliged to file the return or by a person authorized to represent him/her, if there is a serious obstacle preventing the prompt submission of the declaration, resulting from a force majeure or a serious illness. The deferral of the filing deadline date shall be reviewed every two months.

In the case of an appeal being made against a conviction by a court of first instance, the financial penalties imposed shall be suspended for a period of six (6) months, provided that assets of the convicted person of an equivalent value are frozen and the convicted person is suspended from his/her post. The Court of Appeal shall hear such appeals as a matter of priority and may extend the period of suspension for three-month periods, provided that the failure to conclude the proceedings is not a consequence of actions or omissions on the part of the appellant.

22 What are the consequences of the intentional or negligent certification of false or inaccurate statements of wealth by the certified public accountant, who has reviewed the documents?

The consequences of a certified public accountant of the intentional or negligent certification of a false or inaccurate declaration of wealth are serious and go as far as depriving him/her of the right to carry out statutory audits for periods extending from 6 months to 20 years, depending on the seriousness of the offence.

23 How is the depletion of the available space (lines) for reporting individual assets or liabilities in the standardised return dealt with?

If the lines available for the posting of individual assets or liabilities are not sufficient, further entries shall be accommodated on a separate sheet having the same title, the same numbering (but with the addition to the table number of the letter 'A') and the same format. The total value of the items posted on these auxiliary tables 'A' shall be transferred to the last row of the corresponding main table, in order to be included in the total value of the assets or liabilities reported under that category.

24 The reporting format of the statement of wealth is standardised.

The standardisation of wealth declarations, in addition to helping the processing of the reported data and the checking of the mechanical accuracy and completeness of the returns filed, promotes the comparability of the reported data, facilitates the collection and the reporting of the information and eases the filing of the returns, as well as the presentation of these statements in other languages, in order to render the information reported internationally accessible thus promoting the international credibility of Cyprus.

25 The nomenclature of the electronic files generated.

All the declarations prescribed under this Law and the associated supporting documentation shall be submitted in electronic form and shall bear the digital signature of the persons stipulated under this law as being obliged to file such statements. The nomenclature of these returns must comply to the following format: XX.AAAA.EE, where: XX = 2 digit number standing for the classification of the person filing the return, AAAA = registration number of the reporting person, EE = year to which the return relates.

26 The filing sequence of the certificates, confirmation letters and other documents attached to the statements of wealth.

The classification of the certificates, confirmations and other documents attached to the wealth declarations, which, like the returns themselves, are submitted only in an electronic format, shall be the number assigned to the related declaration itself, followed by the table number of the declaration and the serial number of the individual asset concerned, as shown on the wealth declaration. For example, a certificate registered in the first row of Table 02 reflecting a bank account balance (attached to the wealth declaration of the person bearing the Register Number of a Politically Exposed Person (AM MEP) 01.0001.20) should bear the reference number **01.0001.20/02.01** and should be classified immediately before document **01.0001.20/02.02**.

27 The archiving of the statements of wealth and of the related documents filed.

The archiving of wealth declarations and of the related documents, filed exclusively in a digitised format, in a secure, adequately protected environment is the responsibility of the Supervisory Board, which must protect the confidentiality of the information. The filed wealth statements of politically exposed persons and the related documents constitute part of the public historical record of the Republic of Cyprus and must be kept ad infinitum.

The filed wealth statements and the related documents are transmitted, in a secure manner, to the Department of Taxation of the Ministry of Finance of the Republic of Cyprus for tax examination purposes. The findings of the tax examination shall be communicated, in a secure manner, to the Supervisory Board of the Declarations of Wealth of PEPs, in order to assess whether they constitute infringements of this Law, entailing the imposition of penalties beyond those imposed by tax legislation.

28 The public disclosure of the content of the statements of wealth filed.

The publication of the wealth declarations filed aims at creating a climate of transparency that facilitates the combating of corruption and collusion in public life and, in particular, amongst those persons, who hold high positions in the sphere of public administration, be they elected or appointed positions. However, in addition to fostering the desired climate of transparency, the disclosures aim at "negatively confirming" the accuracy and the completeness of the information made publicly available, by enabling the public to identify disclosed elements that need to be investigated.

The public disclosure of the submitted declarations of wealth is attained by posting the “public” section of the declarations on the internet, through the Government Portal (Ariadne), as a separate service titled "Capital Statements of Politically Exposed Persons". Also reflected in this section is the Register of the Politically Exposed Persons, who come under the provisions of this Law, disclosing:

- A. The registration number of the politically exposed person.
- B. His/her full name.
- C. The capacity or position that renders him/her subject to the law.
- D. The date of acquisition of that capacity or position.
- E. The date of loss of that capacity or position.

The wealth statements of each particular person are grouped under the name of that person and then in chronological order (the most recent at the top followed, in sequence, by the statements of prior years).

The system should provide the facility of researching the database either alphabetically (by surname) or on the basis of PEP’s registration number.

In terms of securing the confidentiality of the non-disclosurable elements of the information and of protecting the integrity and safekeeping of the data, the system should conform to the standards prescribed for the records of the Department of Taxation of the Ministry of Finance.

The uploading of the information prescribed shall be supervised by the Supervisory Board.

29 The Supervisory Board of the Statements of Wealth of the Politically Exposed Persons.

The Supervisory Board of the Declarations of Wealth of the Politically Exposed Persons is an independent state body, responsible for supervising the proper and effective functioning of the system of annually explaining and substantiating the fluctuations in the net assets of those identified by law as being subject to this Law, their spouse (or the person with whom the PEP has entered into a cohabitation agreement) and their underage children.

The four (4) members of the Supervisory Board shall be persons of generally acknowledged good standing. Two (2) members must be retired certified public accountants, one (1) member must be a retired judge or lawyer and one (1) member must be a retired economist. All the members of the Board must enjoy a high level of respect for their competence and integrity. The members of the Supervisory Board shall be appointed by a decision of the Council of Ministers that is ratified by a decision of the House of Representatives and the Supreme Court (passed by simple majority), for a three-year term, beginning on 1 July of the year of their appointment and ending on 31 July, 3 years and 1 month later.

30 The conditions, which must be satisfied for appointing a person as a member of the Supervisory Board.

The specific conditions, which must be satisfied for appointing a person as a member of the Supervisory Board, are the following:

- Non-involvement in the activities of any political party (even in the capacity of a simple member) for a period of at least 5 years prior to the appointment.

- A commitment not to exercise, throughout his/her term of office, any economic activity entailing the generation of an annual gross income from the sale of goods or the provision of services, in excess of €36,000 per year. It is clarified that pensions, any other similar income, rents, passive interest income and dividends from investments effected in family companies (prior to the appointment) and in undertakings in which the Board member's equity holding does not exceed 5% of the invested capital of the investee shall not be taken into account for the purposes of determining compliance with the aforementioned undertaking.
- An undertaking not to accept, while serving on the Board, any other position, elected or not, in the public and private sectors, with the sole exception of participating, on a gratis basis, in the management bodies of non-for-profit organisations and the participation in the administrative bodies of pre-existing family asset management companies (such as real estate or investment companies), provided that such interests and positions are disclosed by a declaration before the appointment.
- The composition of the first Supervisory Board is defined in this law and its term of office begins with the publication of the law in the Government Gazette.

31 The duties and the responsibilities of the Supervisory Board.

The duties and the responsibilities of the Supervisory Board are the following:

- The overall supervision of the system of compiling, filing, safekeeping and publication of wealth statements of politically exposed persons and the submission of proposals to the Council of Ministers and the House of Representatives for improving the system.
- The assessment of the qualifications of the candidates for recruitment and the evaluation of the performance of the employees serving in the Office for the Supervision of Wealth Declarations of Politically Exposed Persons.
- The outsourcing of individual one-off tasks to third parties, within the limits of the Board's approved budget.
- The interpretation of the provisions of this Law and, in particular, the identification of the persons that are regulated by the provisions of this Law. It is clarified that the interpretative rulings of the Supervisory Board may be challenged before the administrative courts.
- The imposition of the financial penalties stipulated in this Law, up to the amount of €15,000 per offence. The financial penalties imposed by the Supervisory Board constitute public revenue and are collected by the District Tax Collection Offices of the Department of Taxation, through the analogous application of the provisions of the Tax Assessment and Collection Laws. The Supervisory Board must promptly furnish the Director of the Department of Taxation with a copy of all the assessments raised and it shall be his/her responsibility to pursue the collection of the amounts assessed. The financial penalties imposed by the Supervisory Board shall be appealed against before the courts, in accordance with the procedures generally in-force, provided an advance of 50% of the amount due is paid.
- The referral of all the violations of this law, which constitute criminal offences or attract economic penalties in excess of the amounts that the Supervisory Board has authority to levy, to the Attorney General for initiating legal proceedings.
- The compilation and submission to the Council of Ministers and the House of Representatives, by 30 June of every year, of the Annual Report of the Supervisory Board in relation to the activities of the Board in the immediately preceding year, which should include the economic

aspects of this activity. The Annual Report is published by uploading it on the internet site of the Supervisory Board.

32 How is the completeness and the accuracy of the wealth statements secured?

The reliability and, by extension, the usefulness of the system is obviously a function of the ability of the system to secure the accuracy and the completeness of the statements of wealth that are being filed. This objective is attained by the proposed legislation through a multi-dimensional scheme of checks and controls that is outlined below:

- By publishing the declared data in a readily comprehensible and easily accessible manner that can be understood by the public at large and by facilitating the submission of eponymous confidential remarks, in those cases where errors of commission or omission are believed to have been committed.
- By having the returns “certified” by a certified public accountant, appointed by the politically exposed person, who is a co-signatory of the return, having been satisfied in respect of (a) the consistency of the declared particulars (i) as they relate to each other, (ii) as they relate to the particulars reported in the preceding year and (iii) as they relate to any other particulars that may have come to his/her attention in any other way, (b) the compliance of the return with the provisions of the law, (c) the agreement of the declared particulars with those reflected in the supporting documentation, which is filed with the return or may have come to his/her attention in any other way, and (d) the reasonableness of the declared information.
- By subjecting the declared information to a mechanistic, electronic check as to its consistency and reasonableness.
- By a preliminary summary review of the returns, prior to their publication, by the staff of the Supervisory Board, aiming at identifying readily apparent errors.
- By a detailed examination of the returns by the Department of Taxation that should be carried out within 6 months of the filing of the returns, on a priority basis.
- By a detailed examination of the returns by the Office of the Auditor General of the Republic of Cyprus, within 6 months of the filing of the returns.
- By the detailed examination of specified returns by independent qualified accountants, on the basis of a mandate given in the form of a Decision of the House of Representatives, as a result of reasonably suspecting the commitment of material errors of commission or omission in relation to the returns referred for such an examination. Such a decision should be taken by simple majority of the members of the House, while the politically exposed person, whose return is the subject-matter of the examination, may himself nominate, at his/her expense, another independent qualified accountant to participate in the examination.

It is noted that all the documents provided under the provisions of this law to any third party, for any purpose, must be provided in a digitised electronic format, not permitting their modification, copying, printing or in any other way the reproduction of these documents, which must carry an electronic stamp reflecting the code number of each document supplied, the recipient of the document, the purpose for which it is made available and the date of delivery of the document.

33 Which are the mandatory reports generated under the Law, to whom are these reports addressed and when are they published?

Unless specifically stipulated under this law, the reports issued must name the politically exposed persons to which they refer and they must be focused, laconic and substantiated, they must be compiled in a readily comprehensible language, not capable of being interpreted in a number of different ways. The setting out of conditional conclusions, conjectures, guesses or speculation and the drawing of generalised conclusions are not permissible. Also not permissible is the reference to not explicitly defined sources of information or to sources of information the validity of which has not been verified or to reporting rules that are not recognised as authoritative by the Acquis Communautaire.

In general, it is strictly forbidden to publish any information, document or examination report, other than those stipulated under this law, in other than the prescribed manner and time. The infringement of this prohibition attracts the imposition of an administrative fine of €2,000, imposed by the Supervisory Board on the natural person in whose custody the illegally published information, document or examination report was placed. This is the person, which bears the burden of proof that the leaking of the information, document or examination report was not the result of his/her negligence. To this end, it would be sufficient to prove that the safe custody measures taken were reasonable and sufficient, under the circumstances.

Also strictly forbidden is the publication of any preliminary or draft examination report. The infringement of this prohibition attracts the imposition of an administrative fine of €5,000, imposed by the Supervisory Board on the natural or legal person, which has published the report. In the case where the document has been illegally intercepted, it is sufficient to prove that the safe custody measures taken were reasonable and sufficient, under the circumstances.

Furthermore, it is explicitly forbidden to quote, in any way, primary or supplementary information concerning the examination performed (for example through public statements, interviews, piecemeal communications etc.), beyond the definitive report required to be issued under this law. The infringement of this prohibition attracts an administrative fine of €5,000, imposed by the Supervisory Board on the natural or legal person, which has taken such action, irrespective of whether he/she was acting under orders from higher authority.

It is clarified that in the case of imposing administrative fines on natural persons, which are employed in the Public Sector or the Extended Public Sector, the financial burden is carried by the natural person and not by the organisation, which employs him/her.

The reports issued, the recipients of these reports and the time and mode of their publication are set out in the following table:

<u>Type of Examination</u>	<u>Examiner</u>	<u>Report</u>	<u>Recipient</u>	<u>Publication</u>	<u>Filing Deadline</u>
Review of return	Certified Public Accountant	Co-signing of the Return	Supervisory Board	Published with the Return	Prior to filing the return
Automatic mechanistic check	Electronic computer	Internal Exceptions Report	Supervisory Board	PEP notified	On receipt of the return
Preliminary review	Employees of the Supervisory Board	Internal Exceptions Report	Supervisory Board	PEP notified	Prior to publishing the return
Tax inspection	Department of Taxation	Internal - Confidential	Supervisory Board	PEP notified	Within 6 months of filing
Auditor General examination	Office of the Auditor General	Final Individual Exceptions Report	Supervisory Board	Published on the internet	Within 9 months of filing

Specifically, in the case of the examinations conducted by the Office of the Auditor General, the reports dealing with specific politically exposed persons and they refer to qualifications (material exceptions) shall be adequately documented and, in case of doubt, the presumption of innocence should prevail. Prior to their issuance, the individual reports which contain qualifications (material exceptions), must be placed in draft form before the attention of the PEP, whose statement of

wealth is the subject-matter of the examination, and he/she and/or his/her spouse or the person cohabitating with him/her, as appropriate, should be called upon to voice his/her objections or disagreements to the documented conclusions of the examiner and to request the necessary corrections. The aforesaid draft report is not published but it is retained in the archives of the Office of the Auditor General for a period of three years.

34 The penalties imposed under this Law.

The penalties imposed by the provisions of this Legislative Bill shall be distinguished between financial penalties (including the confiscation of the product of the illegal enrichment) and the penalties resulting in the deprivation of civil rights for a period of 5 to 10 years; the termination of any existing employment relationships in the public and extended public sectors, the lifelong barring from the reappointment to any position in the public and extended public sectors, the withdrawal of the benefits associated with the lost position and the loss of any pension entitlement of the irrevocably convicted person.

In addition to the confiscation of the product of the illegal enrichment, the financial penalties include the imposition of ad valorem fines of 20% to 25% of the value of the product of the illegal enrichment and the imposition of fixed fines per infringement.

TRANSITIONAL PROVISIONS

35 Entry into force of this Law.

This Law shall enter into force on the date of its publication in the Official Government Gazette.

36 Repealing of the previously applicable Legislation.

On the entry into force of this Law, the provisions of Law 49(I)/2004, as amended by Laws 269(I)/2004 and 68(I)/2017, Law50(I)/2004, as well as any other legislative provision, the contents of which are contrary to or in conflict with the provisions of this Law, shall be repealed.

37 Granting of a conditional amnesty in respect of pre-2020 years.

Given the ambiguity, the logical inconsistencies and the technical deficiencies of the laws previously governing the statements of wealth of the politically exposed persons and the imperfect application of the law in practice, it has been deemed necessary to grant a legislative amnesty from the consequences of those laws to the persons who have not conformed with their provisions, save the obligation to pay the taxes due and the relevant fines; penalties and interest arising from the detection of undeclared income. To the extent that, under this law, the position held entails the filing of a statement of wealth, as of 1 January 2020, the granting of the aforementioned amnesty is conditional on the prompt filing of a declaration of wealth, as of 31 December 2019 and 2020, in accordance with the provisions of this Law. The submission of the two (2) statements of wealth, as of 31 December 2019 and 2020, shall be attained at the same time, in one declaration, regardless of whether the position held was lost or terminated in the course of 2020.

Chapters of the Law

Definitions

1. Persons obliged to file a statement of wealth
2. Content of the statement of wealth
3. Procedure of filing and inspecting the statement of wealth
4. Failure to file or filing an inaccurate statement of wealth
5. Supervisory Board
6. Obstructing the inspection of a statement of wealth
7. Illegal enrichment
8. Offer to exercise influence
9. General criminal provisions
10. Criminal proceedings
11. Seizure and prohibition of the disposal of assets
12. Legal imputation
13. Transitional provisions
 - (a) Entry into force
 - (b) Repealing of previously enacted legislation
 - (c) Granting of provisional amnesty in respect of pre-2020 years

ANNEX I

PEP Annual Wealth Declaration Form

ANNEX II

Online disclosure of Wealth Statements of PEPs

ANNEX III

Politically Exposed Persons (PEPs) obliged to file a Statement of Wealth under this law.

01. **The President of the Republic.**
02. **The Ministers, Deputy Ministers and Secretaries of State.**
03. **The Leaders of the political parties, which represented in the House of the Representatives or in 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.**

***The conceptual and the detailed design of this project,
including the drafting of the Legislative Bill,
the Introductory Memorandum,
and the form of the Annual Return
regulating the Statements of Wealth
of the Politically Exposed Persons
has been accomplished, on a gratuitous basis,
by a four-member team
of experienced professionals
comprising:
Christos P. Panayiotides, chairman/rapporteur,
Nicos G. Syrimis, moderator on accounting and tax issues,
A distinguished lawyer*, moderator on legal issues,
Sir Christoforos Pissarides, moderator on economic issues.***

Christos P. Panayiotides is a retired certified public accountant, with a service record of 40 years in senior professional positions. He has served as president of the Association of Certified Accountants & Auditors of Greece and as a member of the Supervisory Board of the Institute of Certified Public Accountants of Greece.

Nicos G. Syrimis is a retired certified public accountant, with a service record of 40 years in senior professional positions. He 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.

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, per his wish.

ΣΧΟΛΙΑ / ΠΑΡΑΤΗΡΗΣΕΙΣ / ΕΙΣΗΓΗΣΕΙΣ // COMMENTS / OBSERVATIONS / SUGGESTIONS

Προς / To: pothen.esches.cyprus@gmail.com [διεύθυνση χωρίς ανταπόκριση / no response address]

ΟΝΟΜΑΤΕΠΩΝΥΜΟ // FULL NAME:	
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ΔΙΕΥΘΥΝΣΗ // ADDRESS:	
Η-ΔΙΕΥΘΥΝΣΗ / E-MAIL:	
ΤΗΛΕΦΩΝΟ // TELEPHONE:	

*Παρακαλείσθε να προσδιορίζετε τον αριθμό της παραγράφου στην οποία αναφέρεσθε
Please specify the number of the paragraph to which your comment refers*

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