



ANALYSIS OF THE SYSTEM OF ASSET DECLARATIONS OF CONSTITUTIONAL COURT JUDGES IN ALBANIA

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Responsible: Kristina Voko
Besar Likmeta

English Editor: Marcus Tanner

Graphic Design Jurgena Tahiri

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I. Introduction

In 2003, like many countries across the world, Albania introduced a system for the declaration and audit of all assets of senior officials, including judges and prosecutors. According to law no. 9049, approved on April 10, 2003, “For the declaration and audit of assets, financial obligations of elected official and some public officials”, amended, judges and prosecutors in Albania must periodically declare their wealth, the source of their assets and their financial obligations. Although this system is considered a potentially powerful tool against corruption, its actual impact on the level of corruption in Albania’s justice system remains unknown.

Different countries, institutions and interests groups, like government and civil society, do not always concur on the role that the system of asset declarations should play; they generally agree on the basic principles of how it should function, however¹ :

- To increase transparency and trust of citizens in the public administration and the justice system by making information on the assets of politicians, prosecutors, judges and other public officials.
- To help the heads of institutions prevent conflict of interests, in order to promote integrity within institutions.
- To monitor the wealth of politicians, judges and officials in order to deter corrupt behavior, by shedding light on illicit assets while at the same time defending office-holders from false accusations.

Over the last two years, Albania has also been involved in the comprehensive structural reform of its justice system, which is seen as a key step in the war against corruption and organized crime. Following the passage of constitutional amendments by parliament as part of the justice reform on August 30, 2016, the assembly also approved the law *“For the transitional re-evaluation of judges and prosecutors in the Republic of Albania”*², the so-called vetting law. This law was the first of a package of 48 laws that will determine the role and responsibilities of new institutions that will emerge from the constitutional reform. The “vetting law” imposes oversight over the integrity of judges and prosecutors under three components: wealth, professional and personal integrity.

In its evaluation of judges and prosecutors, the Independent Qualification Commission, the body tasked with carrying out the vetting process, will base its work on the data of the asset declarations

¹Asset Declarations for Public Officials, A Tool to Prevent Corruption, 2011; OECD, <https://www.oecd.org/daf/anti-bribery/assetdeclarationsforpublicofficialsatooltopreventcorruption.htm>

²Law no. 84/2016 “For the transitional re-evaluation of judges and prosecutors in the Republic of Albania”, <http://www.reformanedrejtesi.al/sites/default/files/ligj-nr-84-dt-30-8-2016.pdf>

administered by the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest (HIDAACI) and the audits carried out by this institution.

On the eve of this important reform of the justice system, which has started and is now in the phase of adopting a legal framework, the audit of officials' wealth and of its legality will gain added gravitas.

Given the expected role that the investigation of assets will have in the vetting process, during 2016, BIRN Albania conducted a study on the assets of Appeals Courts judges in the Republic of Albania, aiming to identify main trends in income and asset build-up by these judges, who usually have long careers in the justice system and represent a quarter of the whole corpus of judges in the country.

The results of this study have helped not only to increase transparency related to the wealth of appeal court judges, but have also enabled journalists and other actors of the civil society to investigate deeper into this field.

The goal of this study

Keeping in mind the role that the audits of judges' assets will have on the vetting process, BIRN Albania undertook a study of the wealth of constitutional court judges in Albania with the goal of identifying key trends towards the enrichment of these judges who are members of the most important court in Albania.

The primary data for the study come from quantitative and qualitative analysis of the asset declaration forms of the constitutional court judges obtained by HIDACCI through freedom of information requests, based on law no 119, approved in 2014, *"On Freedom of Information"*. Secondary data for the study come from previous reports published on this topic and on international best practices for the evaluation and audit of the assets of elected or appointed officials.

Under the scope of this study are those constitutional court judges who disclosed their assets to HIDAACI for the 2015 financial year. This means that their wealth and its origin can provide more data and enable comparative results.

The study sheds light not only on how constitutional court judges in Albania have accumulated wealth but also on key practices, recognized as "red flags", which obscure the origin of this wealth. These include dividends from businesses, debts owed by family members, real estate transactions and cash kept outside the banking system.

This report focuses on statistical findings on assets, expenditures, liabilities and income, and on the problems identified in the asset declarations of the constitutional court judges, as well as identification of “red flags”. It can contribute to further analysis on deficiencies and difficulties encountered by the wealth control system and on the challenges that the current system faces in accomplishing its mission.

The Constitutional Court³

The institution

Article 7 of the Albanian constitution guarantees the separation of branches of government, creating the foundation for a functioning democracy. In a democratic republic, the executive and legislative branches of government cooperate closely with each other in order to draft and enact legal acts necessary for the welfare of society. The third branch of government, the judiciary, is meanwhile charged with protection of citizens' rights from abuses, be they private or from public office. The Constitutional Court guarantees respect for the constitution in the activities of public offices and it remains the last instance of appeal and control against acts issued by the other branches of government, by determining their compatibility with constitutional principles.

Since its creation in 1992, the Constitutional Court has reviewed an array of court cases, in case after case building up a rich practice of legal writ, which aims to safeguard the constitutional principles. The Constitutional Court therefore plays an important role in the system of checks and balances of power, as a key principle of the rule of law.

Organization

The Constitutional Court has nine judges as members. The President of the Republic names three of them. Parliament and the Supreme Court select three each. The Constitutional Court's judges have a single mandate lasting nine years without the right to reappointment. The judges of the Constitutional Court should have a higher education in law, 15 years of working experience either as judges, prosecutors, lawyers, professors of law, or as members of the high echelons of the public administration, with reputable activity in constitutional law, human rights or other relevant areas of practice.

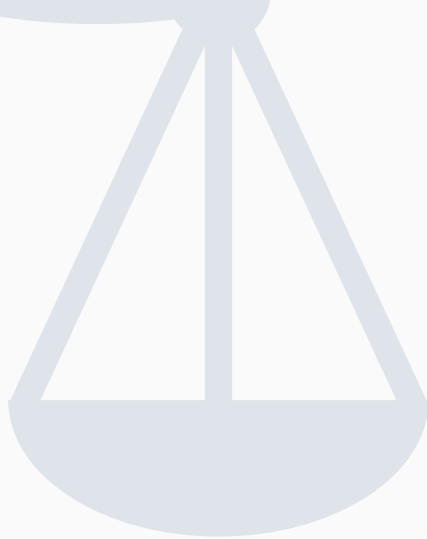
The judge should have not exercised any political functions in the public administration or held leading positions in political parties 10 years prior to their nomination.

Other criteria, as well as procedures for the nomination and selection of the Constitutional Court judges, are regulated by law. One third of the make-up of the Constitutional Court is refreshed every three years in accordance with the procedures mandated by the law (article 125 of the Constitution). The judges enjoy immunity from prosecution for any thoughts expressed and decisions taken to

³ http://www.gjk.gov.al/web/Gjykata_Kushtetuese_1_1.php

fulfill their functions, apart from cases in which they demonstrably acted for private gain or in bad faith. (Article 126 of the Constitution)

Holding the role of a Constitutional Court judge is therefore in contradiction to any other political, state and professional activity that is carried out for payment, with the exception of teaching, academic and scientific activities, in accordance with the law. (Article 130 of the Constitution.) The Chief Justice of the Constitutional Court is selected through secret ballot, by a majority of votes of the Constitutional Court Judges, for a period lasting three years. He/she has the right to re-election, once.



II. The Methodology

Sampling

The data entry and analysis for the purpose of this study include all the information available from the asset declaration forms of the nine Constitutional Court judges in Albania.

The asset declarations were obtained in electronic format from the High Inspectorate following a freedom of information request submitted to this institution, based on law no. 119, approved on September 18, 2014, *"For the Right to Information"*.

The asset declaration forms gathered contain all the data declared by the subjects apart from confidential information, such as their home addresses, bank account numbers and names of third parties.

For the purposes of this study, all the asset disclosure forms of the judges were analyzed, starting from the first declaration completed (the entry declaration form when appointed), as well as every annual/periodical declaration form until 2015.

Each time that the study cites the assets/liabilities/income or expenses of a judge, we refer to the assets/liabilities/income or expenses of the judge and his/her family members, apart from cases where ownership of family members is explicitly expressed separately from that of the judge (as the declaring subject).

For this reason, the sample for this study is based on the 106 asset declarations of the nine judges of the Constitutional Court. As Table 1 shows below, these judges differ in the number of years they have been subjects of asset declarations, as well as over the number of years they have been appointed to their current position.

Table 1: Number of years of declarations to HIDAACI and the number of years on current position as members of the constitutional court

| Subject | Years of declarations to HIDAACI | Years at the Constitutional Court |
|----------------|----------------------------------|-----------------------------------|
| Altina Xhoxhaj | 12 | 6 |
| Bashkim Dedja | 12 | 6 |
| Besnik Imeraj | 12 | 3 |
| Fatmir Hoxha | 12 | 5 |

| | | |
|-----------------|----|---|
| Fatos Lulo | 11 | 3 |
| Gani Dizdari | 9 | 3 |
| Sokol Berberi | 9 | 9 |
| Vitore Tusha | 8 | 8 |
| Vladimir Kristo | 10 | 9 |

A formal check of the asset declaration forms on the private interests of the judges of the court shows that:

- Altina Xhoxhaj has been the subject of the asset declaration system on private interests to HIDAACI since 2003, and was appointed a judge in the Constitutional Court on 25.05.2010;
- Bashkim Dedja has been the subject of the asset declaration system on private interests to HIDAACI since 2003 and was appointed a judge in the Constitutional Court on 25.05.2010;
- Besnik Imeraj has been the subject of the asset declaration system on private interests to HIDAACI since 2003 and was appointed a judge in the Constitutional Court on 08.04.2013;
- Fatmir Hoxha has been the subject of the asset declaration system on private interests to HIDAACI since 2003 and was appointed a judge in the Constitutional Court on 04.07.2011;
- Fatos Lulo has been subject of the asset declaration system on private interests to HIDAACI since 2004 and was appointed a judge in the Constitutional Court on 02.05.2013;
- Gani Dizdari has been the subject of the asset declaration system on private interests to HIDAACI since 2006 and was appointed as judge in the Constitutional Court on 02.03.2013;
- Sokol Berberi has been the subject of the asset declaration system on private interests to HIDAACI since 2007 and was appointed a judge in the Constitutional Court on 25.04.2007;
- Vitore Tusha has been the subject of the asset declaration system on private interests to HIDAACI since 2008 and was appointed as judge in the Constitutional Court on 10.03.2008;
- Vladimir Kristo has been the subject of the asset declaration system on private interests to HIDAACI since 2005 and was appointed a judge in the Constitutional Court on 01.06.2007.

Data entry

The data of the asset declaration forms have been entered into the database according to unified standards followed with accuracy by experts engaged in data entry. The categories developed and used for the entry of the data into the asset declaration forms refer to those described in the two basic laws concerning the functioning of HIDAACI, as well as to the guidelines developed

for the accurate completion of asset declaration forms approved by the Chief Inspector of HIDAACI.

The database has been developed using an Excel format, organized in rows and columns to ensure all the data entered in this table is clear, complete and easily identifiable concerning which subject it belongs to, which declaration it comes from and which year it concerns. All the information included in each asset declaration has been disaggregated, categorized and entered in a separate cell.

Apart from generalities and data on the posts of the judge, the date of his/her appointment to office, the institution in which he/she served during the years under study, etc, the bulk of the declared information relates to assets, liabilities, income and expenses. The data have been divided into four main categories: (1) assets; (2) liabilities; (3) income and (4) expenses.

Each category has been detailed in subcategories, by referring to definitions from Article 4 of law no. 9049, approved on April 10, 2003, *"For the declaration and control of assets, liabilities of elected officials and some public officials"* for the subject of the declaration, as well as other typical trends found in the disclosure form, such as: liabilities to construction companies; income from the sale of immovable property (expressed as earnings based on the difference between the acquisition and sale price), etc. All the subcategories used in the codification of the data declared by judges and their family members are reflected in Annex I of this report, *"The Codification of Categories and Subcategories."*

Some of the elements taken into account during the data entry process and its control are as follow:

- The colon of categories and subcategories has been completed with codes and sub-codes according to the table shown in Annex I, aiming to unify the data entered and the possibility of processing all the available information.
- When the declaration has been made by a relative, this fact is made evident in the column "related person", specifying one of the following options: husband/wife, child, or someone else (parents, brother, sister, etc). The last option includes persons that have no legal obligation to declare their assets but who have been included in the asset declaration form of the official.
- The other data that belong to the categories: (1) assets (2) liabilities (3) income and (4) expenses have been registered initially in narrative version, mirroring what the subject has declared, and afterwards in the column "amount in lek", in which the value in lek has been calculated.

- In cases where a value has been declared in a foreign currency, in the column “amount in lek”, the exchange rate has been made following the exchange rate of the Bank of Albania on December 31 of the year to which the declaration belongs. All exchange rates used during the years for the currencies of the euro, the US dollar, the British pound, the Swiss franc, CHF, and the Canadian dollar, CAD, are reflected in Annex II of this report.
- In cases of periodical/annual declarations when a judge and family members have declared a decrease in assets or a sale of assets (declared in previous declarations), registration of the sale value of this asset has been entered with a minus (-). Two cases should be highlighted in this regard:
 - In cases of sales of immovable or movable property, the amount is deducted from the initial value of the asset as declared in the period of its creation. As a result, the deduction of the asset in the category is reflected. In cases where there is a difference between the sale and acquisition price, this difference is reflected in the category of income as a source of liquidity for the specific declaration period.
 - In cases of a reduction in liquidity (in cash or in the bank), declared as such by the subject, or declared as a cash withdrawal, this transaction has been registered in the category of assets in the column “amount in lek”, by entering the negative value with the minus (-) sign.
- The registration of the value of immovable and movable property declared as gifts has been entered as zero lek (0) in those cases where its value has not been declared.
- The same logic has been applied for cases where immovable property has been awarded through law no. 7501, setting the value to zero lek (0), where its value has not been declared.
- Any gift that has been declared as an asset or expenditure on the database has been registered twice, reflecting the value of the gift as asset or expenditure, and also the source of the revenue from the gift (registered as a separate subcategory at revenues).
- Regarding the payment of instalments on loans and of other liabilities that are declared in the section of liabilities in the declaration form, it has proven impossible to divide the amount of principal from the amount of interest on each instalment. For this reason, the amount has been considered in its entirety as a decrease in the amount of liabilities, by being reflected in a detailed way in one of the subcategories of liabilities.
- In cases when a liability created (such as a loan or debt, etc) has been returned during the same declaration period, this transaction has been entered twice in the category of liabilities, once with a positive value and once with a negative value (-).

- In many cases, the forms analysed contained repetitions in the categories of assets and liabilities and the same data were declared over two or more years. This information has been reflected in the column “Description” in the database, while in the column “amount in lek” the value added has been zero lek (0), by avoiding artificial additions to assets or liabilities in the name of the official subject of the study.
- Concerning liquidities (cash or money held in the bank), the declaring subjects have not always respected the legal obligation to declare changes compared to the previous year, increases or reductions, but have declared the balance at the end of the declaring period. Where it has been possible to identify the current balance based on previously declared data, the experts have calculated the change in monetary value. In the cases where identification of the specific bank account has proven impossible, the declared sum has been registered as an addition for the period in question.
- In cases when the subject has declared that immovable property has been re-evaluated, under the laws, it has been recorded with its later value, in order to obtain a real value for the properties currently owned by the subject; the increased value had been compensated for by adding a new subcategory under Income, as “Reevaluation of the immovable properties.”

Data Analysis

After entering into the Excel database all the data from the asset declarations of the nine judges from the start of their official duties until December 31, 2015, the process of analysing the data started, through the development of several Pivot Tables in Power BI Desktop programme. The use of Pivot Tables offers flexibility in the administration of the information, by generating tables and specific reports in an efficient and accurate manner; the use of Power BI Desktop offers high quality and user-friendly data visualisations.

Limitations to the methodology

Irregularities have been noticed in some sections of the asset declaration forms. Some of the elements considered during the data entry and evaluation that signal mistakes in the completion of the asset declarations are:

1. Periodical/annual declarations have declared the balance of liquidity, rather than the change

(increase/decrease) compared to the previous year;

2. The same asset and/or liability has been declared in two or more declaration periods;
3. The subject has declared the wealth of related persons (spouses, adult children), when they should have declared it themselves within the specific form on pages 7-12;
4. The subject has declared the sale of a property which has not been declared in the previous years.
5. Non-complete data on joint venture contracts in cases when land is offered for construction but it is not clarified what the benefits to the subject are;
6. Lack of information from the subjects that declare their assets regarding the destination of income received by the sale of immovable property (if it has been reinvested, held as cash or has been spent);
7. In the section of income and liabilities, a note "no changes" has been written, although the declaring subject had a legal obligation to declare the exact net income for the period and the annual instalments/payments (based on liabilities declared during the previous period.)
8. There is a lack of signatures in the pages of the form filed by the judges, where the date it was filed and the signature are obligatory.
9. The amounts and prices have not been written in words but in numbers alone; or, the amount written in words and the numbers differ, or are written in old denomination lek instead of new denomination lek, which has an extra O.
10. An important limitation is related to the classification of the information on expenditures which are classified by HIDAACI as confidential.

Based on the above-mentioned limitations, this statistical analysis includes a margin of error proportional to the mistakes made in the asset disclosure forms by the declaring subjects.

III. The findings of the study

Over the last two decades, many countries have created systems for the control and audit of assets of public officials. This has created an accumulated body of international expertise on best practices and on methodologies to review the financial data that these officials disclose. In similar fashion to other countries, the management of the declaration and audit of assets in Albania is divided by HIDAACI into three phases: registration of the declaration forms and their formal check; a plausibility check; and, in certain cases, a full administrative audit.

To identify those trends used by officials to legalize illicit assets, which international best practices identify as “red flags”, BIRN Albania undertook a detailed analysis of the structure of assets, liabilities, income and expenses of the constitutional court judges for the period 2003 to 2015.

According to international best practices in the field of asset declaration and audit, all “red flags” identified through the management of asset declarations should serve as an impetus for institutions like HIDAACI to conduct a full administrative audit for the official in whose declaration “the red flags” have been identified.

The aim of a full audit is the use of every means, beyond the data in the asset declaration, to identify suspected financial irregularities in the subject. The object of the full audit is not the declaration per se, but rather the declaring subject and the people related to him/her, with whom the official has carried out financial transactions.

The goal of the full administrative audit is for the institution/inspectorate to ensure that the wealth of the official and of his/her family members has a legal origin, as well as to investigate any hidden assets that might have been created through illegal means.

In the absence of data on the full administrative audits carried out by HIDAACI, and in order to evaluate the work of this institution, BIRN analysed the data collected from 106 asset declaration forms of the Constitutional Court judges. The two key goals of this analysis are:

- Identification of “red flags”; cases in which the declaration contains data that give rise to suspicions of illegal sources of wealth based on international best practices, which should serve as clues to start an in-depth full audit of the subjects;
- Plausibility checks of the declarations of the appeal court judges. The High Inspectorate carries out a plausibility check every calendar year, on every declaration, to verify the accuracy of the

declared wealth, the accuracy of the sources of wealth and the sufficiency of the declared wealth, based on declared sources. As this form of control is based only on the asset declarations of the subjects and of their family members, BIRN chose it in order to independently analyse the wealth of the Constitutional Court judges as well as the work of the High Inspectorate in identifying statistical data on wealth and assets created through illegal means; and

- The calculation of declared expenditures and expenditures for consumption, referred to the data received by the asset declaration forms, as difference between net income and net asset for any given year.

Based on these objectives, the sections below include findings regarding: *Gross Wealth and Assets* of the appeal court judges; *Liabilities* declared by them; *Net Wealth* calculated based on the data of Assets and Liabilities; *Income and Expenditures* declared; the calculation of *Net Income*; the results of the *Plausibility Check* of all the asset declarations; as well as the calculation of *Unjustified Wealth* for each declaration of the Constitutional Court judges.

The object of this study are in total 106 asset declaration forms on private interests, administered by the High Inspectorate of Declaration and Audit of the Assets and Conflict of Interests.

1. ASSETS - GROSS WEALTH

The concept of gross wealth includes data from the assets declared from officials and family members in the asset declaration forms, which have been categorized by referring to Article 4 of law no. 9049, approved on April 10, 2003, *"For the Declaration and Audit of Assets, and Financial Obligations of Elected Officials and Some Public Officials,"* amended.

In the category of assets, or Gross Wealth, are included these subcategories:

- Immovable assets;
- Movable assets;
- Liquidity in cash;
- Liquidity in the bank;
- Shares or stocks;
- Small businesses;

- Valuable items;
- Loans to third parties;
- Other assets (assets that do not belong to the above-mentioned categories).

When calculating the Assets category - at a specific moment in time or during a calendar year when an asset declaration is made - it is important to underline that the analysis should include all the declarations of the previous years, starting with the entry declaration. This practice is necessary because every official is obliged to declare all his/her assets during the entry declaration, when he/she is first appointed to office or when the declaration system was set in place (year 0). In subsequent years, officials are obliged to declare only increases or decreases in their assets, making it impossible to calculate the gross assets of the official from only a single declaration.

The following analysis takes into account:

- *Assets/initial gross wealth* - The total value of the assets that the declaring subject and his/her family members have at the beginning of the declaration process;
- *Annual Increase/decrease* – The added value of the assets for every year of declaration; and
- *Accumulative value of assets* – The gross change in assets/wealth over the years, including the initial value and the annual increase/decrease

1.a. Changes in gross assets

HOW HAS THE WEALTH CHANGED, FROM THE BEGINNING OF DUTY UNTIL 2015?

Based on the analysis made possible through the database created for the purposes of this study, the initial amount of wealth (based on the entry declarations or year 0) of the judges that are the subject of this analysis is 160,616,690 lek.

After accounting for all the changes in their declared wealth between the initial/entry declaration and 2015 (with increases and decreases calculated in accordance with the principles of the asset disclosure form), the total sum of the gross assets of the same judges in 2015 was 364,263,786 lek, so the total assets increased by 203,647,096 lek.

Table 2: Changes in gross assets during the declaration period.

| Subject | Assets in entry declaration | Assets on 31/12/2015 | Changes in assets (Lek) |
|-----------------|-----------------------------|----------------------|-------------------------|
| Altina Xhoxhaj | 15.473.410 | 35.535.340 | 20.061.930 |
| Bashkim Dedja | 2.490.000 | 47.868.967 | 45.378.967 |
| Besnik Imeraj | 12.543.450 | 27.050.737 | 14.507.287 |
| Fatmir Hoxha | 1.700.000 | 23.383.913 | 21.683.913 |
| Fatos Lulo | 74.568.000 | 92.037.826 | 17.469.826 |
| Gani Dizdari | 7.897.216 | 37.153.671 | 29.256.455 |
| Sokol Berberi | 17.798.025 | 32.127.435 | 14.329.410 |
| Vitore Tusha | 4.310.114 | 13.428.520 | 9.118.406 |
| Vladimir Kristo | 23.836.475 | 55.677.377 | 31.840.903 |
| Totali | 160.616.690 | 364.263.786 | 203.647.096 |

An important factor for the analysis is also the number of years in which the judges have had the obligation to disclose their wealth. Table 3, below, shows the increase in the overall value of assets for the period from the first declaration up to 31,12,2015, the total number of years for which the judge has been a subject of the law on asset declaration, while in the last column is calculated the Average Yearly Growth of the assets.

Table 3: Average yearly growth of the assets

| Subject | Increase in Value of Assets (Lek) | Years of declarations | Average Yearly Growth of Assets |
|-----------------|-----------------------------------|-----------------------|---------------------------------|
| Bashkim Dedja | 45.378.967 | 12 | 3.781.581 |
| Gani Dizdari | 29.256.455 | 9 | 3.250.717 |
| Vladimir Kristo | 31.840.903 | 10 | 3.184.090 |
| Fatmir Hoxha | 21.683.913 | 12 | 1.806.993 |
| Altina Xhoxhaj | 20.061.930 | 12 | 1.671.827 |
| Sokol Berberi | 14.329.410 | 9 | 1.592.157 |
| Fatos Lulo | 17.469.826 | 11 | 1.588.166 |
| Besnik Imeraj | 14.507.287 | 12 | 1.208.941 |
| Vitore Tusha | 9.118.406 | 8 | 1.139.801 |

The judges are ranked above from the highest value to the lowest and we see that:

Judges Bashkim Dedja, Gani Dizdari and Vladimir Kristo show the highest yearly average growth of wealth and Judge Besnik Ymeraj shows the lowest average yearly growth of wealth.

1.b. Asset Subcategories

WHAT ARE THE TYPES OF ASSETS AND THEIR RATIO?

Taking into account that the increase in the assets of the Constitutional Court judges in Albania cannot be justified by the income they receive as salary and bonuses, BIRN analyzed the data of the declared assets to better identify their composition.

The total assets declared by the judges are composed of the following subcategories: immovable property, movable property, cash liquidity, bank liquidity and valuable items.

The ratio distribution between the subcategories in lek and percentage terms for all the declaring judges that are subjects of this study is presented in Table 4, below.

Table 4: The progressive value in lek for each subcategory and their ratio

| Subcategories of assets | Value in Lek | Correlation in % |
|-------------------------|--------------------|------------------|
| Immovable property | 199.917.217 | 55% |
| Liquidity in the bank | 94.683.122 | 26% |
| Liquidity in cash | 54.290.936 | 15% |
| Movable property | 10.372.511 | 3% |
| Valuable items | 5.000.000 | 1% |
| Total | 364.263.786 | 100% |

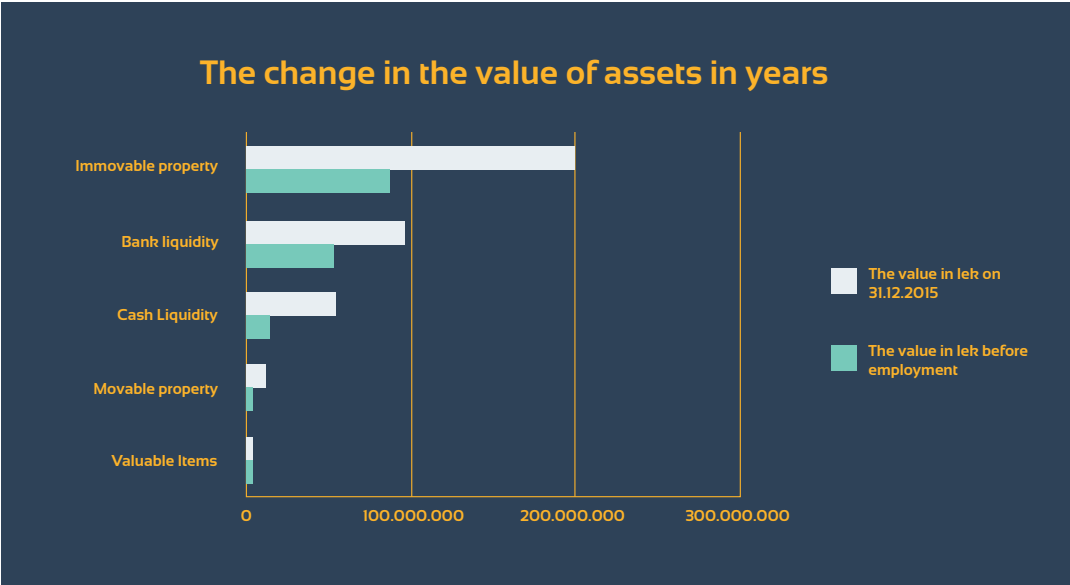
As the data in Table 4 show, the value of the gross assets of the judges in this study is made up of the five following key subcategories of assets: immovable property, 55 per cent; liquidity in bank, 26 per cent; liquidity in cash, 15 per cent; movable property, 3 per cent; and valuable items, 1 per cent.

Based on the subcategories presented above, it is important to notice that no one of the judges or their relatives has declared assets from shares or stocks, small businesses or loans extended to third parties.

Graphic 1 shows how the net value of the declared subcategories has changed during the declared

period. It reveals that the subcategory that has increased most rapidly is “immovable properties” - the sector in which the Constitutional Court judges have invested more over the years.

Graphic 1: Changes in the amount of asset subcategories during the declaring period



Immovable property: By the end of 2015, the nine Constitutional Court judges owned immovable properties amounting roughly to 200 million lek, which accounts for 55 per cent of the total value of the assets declared.

The Constitutional Court judges have invested roughly \$1.6 million US (199,917,217 lek) in immovable properties.

This sum does not include immovable properties obtained/earned through the “privatization process” (law no. 7501) or through joint venture contracts in cases when land is offered for construction, as in every case the amount is declared “0” from the declaring subject.

Liquidity in the bank and in cash: Considering the initial values declared by the nine judges in their asset declaration forms from the entry year onwards, and following up on all the subsequent yearly declarations with regard to increases and decreases in liquidity, the accumulative value of liquidities held in banks at the end of 2015 was 94,683,122 lek while the value of liquidities held in cash was 54,290,936 lek. This accounts for 26 and 15 per cent of the value of their declared assets respectively.

The amounts of cash liquidity remain high, despite the recent amendments to law nr. 9049, passed on April 10, 2003, where article 4/1 sets the permissible limit of cash liquidity at home at only 1.5 million lek while anything above this limit must be deposited in a bank.

However, in practice, the application of this limit has faced hurdles because it is not clear whether the limit concerns the first declaration of the subject or all his/her periodical/yearly declarations.

The value of liquidities in cash on December 31, 2015 for each member of the Constitutional Court, based on their periodic assets declarations, is shown in Table 5, below.

Table 5: The value of liquidities in cash over the years

| Subject | Liquidities in Cash |
|-----------------|-----------------------------------|
| Altina Xhoxhaj | <div><div></div></div> 14,560,240 |
| Bashkim Dedja | <div><div></div></div> 4,654,295 |
| Besnik Imeraj | <div><div></div></div> 3,501,580 |
| Fatmir Hoxha | <div><div></div></div> 1,597,804 |
| Fatos Lulo | <div><div></div></div> 18,080,000 |
| Gani Dizdari | <div><div></div></div> 9,487,617 |
| Vitore Tusha | <div><div></div></div> 1,308,800 |
| Vladimir Kristo | <div><div></div></div> 1,100,600 |
| Total | 54,290,936 |



Roughly 15 per cent of the total value of the judges’ assets is held in the form of cash outside the banking system.

2. LIABILITIES

Apart from the assets created during the declaring period, the judges incurred financial obligations to financial institutions, to linked individuals, as well as to different entities, mainly construction companies.

The category of liabilities includes these subcategories:

- Bank loans;
- Debts to third parties;
- Obligations to construction companies;
- Others.

Analysis of the asset declaration forms shows that liabilities are one of the main transactions used for investments on immovable and movable assets acquired by the judges and their relatives. In very few cases, liabilities are reported to be used for educational or other types of expenses.

2.a. The total value of liabilities

WHAT IS THE TOTAL VALUE OF LIABILITIES FROM THE STARTING YEAR UNTIL 2015?

Table 6, below, shows the total value in lek of the declared liabilities of the Constitutional Court judges during all the declaration years, as well as the total value of each subcategory declared.

Table 6: The value in lek and the ratio in percentage of subcategories of the liabilities

| Liabilities | The value in lek until 31.12.2015 | Relation in % |
|---------------------------------|--------------------------------------|---------------|
| Bank Loans | 47.412.096 | 53% |
| Debts to construction companies | 32.885.937 | 37% |
| Debts to third parties | 8.444.905 | 10% |
| Total | 88.742.938 | 100% |

According to the data presented in Table 6, the total value of liabilities declared by the judges (88,742,938 lek) comprises: bank loans, mostly as mortgage loans; overdrafts and consumer loans, accounting for 53 per cent of the total; obligations to construction companies, accounting for another 37 per cent; loans to relatives, mostly without deadlines and interests, accounting for 10 per cent of liabilities.

Based on international best practices of asset monitoring and processing, the high values of liabilities outside the banking system, such as debts taken from third parties and unpaid financial obligations to construction companies, are generally considered indicators of suspicious transactions in incoming cash flow.

Manuals on processing and analysing asset declarations identify these as “red flags”. The large amount of financial obligations toward construction companies (37 per cent) and loans taken outside the banking system (10 per cent) indicate a need for a more detailed investigation of the declarations by institutions that monitor the asset declaration system and the illicit wealth of public officials.



Roughly 47 per cent of the liabilities of judges are due to obligations to construction companies and debts to linked persons.

2.b. The relation between assets and liabilities

WHAT IS THE RELATION BETWEEN THE VALUE OF ASSETS AND LIABILITIES AT THE END OF 2015?

Comparative analysis between the total assets and liabilities of every declaring subject during the years under study is tabled below. Although the value of declared liabilities has not necessarily been the source of the increase in wealth, it is of interest to explore the percentage liabilities represented in relation to the value of the assets. These data are available in the last column of Table 7.

Table 7: The relation in percentage between total liabilities and total assets at the end of 2015

| Subjects | Assets on 31/12/2015 | Total liabilities until: 31/12/2015 | Relation asset/liabilities |
|----------------|----------------------|--|----------------------------|
| Altina Xhoxhaj | 35.535.340 | 5.947.600 | 17% |
| Bashkim Dedja | 47.868.967 | 17.069.308 | 36% |
| Besnik Imeraj | 27.050.737 | 7.600.000 | 28% |

| | | | |
|-----------------|------------|------------|-----|
| Fatmir Hoxha | 23.383.913 | 23.062.970 | 99% |
| Fatos Lulo | 92.037.826 | - | 0% |
| Gani Dizdari | 37.153.671 | 12.525.240 | 34% |
| Sokol Berberi | 32.127.435 | 11.797.952 | 37% |
| Vitore Tusha | 13.428.520 | 8.534.148 | 64% |
| Vladimir Kristo | 55.677.377 | 2.205.720 | 4% |

The relationship between liabilities and cash liquidity

By taking a closer look at the values of the asset category, cash liquidity stands out. It has a total value of 54,290,936 lek for all the Constitutional Court judges. Table 8, below, expresses the relationship of the cash liquidity of each judge compared to the total amount of their liabilities declared over the years.

Comparison of these two categories reflects a logical query: what reason does a declaring subject with a lot of cash at home have to go to a bank and take out a loan?

The table below gives information on specific cases on this relationship:

- The subject takes a loan (or other forms of liability) because of a lack of liquidity in cash;
- The subject has considerable cash at his/her disposal and no liabilities toward financial institutions or third parties;
- The subject has cash liquidity at disposal higher than the value of his/her liabilities;
- The subject has higher liabilities than the cash liquidity at their disposal.

All of these relations between the cash liquidity and liabilities of the Constitutional Court judges are expressed in the table below.

Table 8: The accumulative value of cash liquidities and liabilities of the subjects at the end of 2015.

| Subjects | Liquidity in cash on.31/12/2015 | Total liabilities until 31/12/2015 |
|----------------|---------------------------------|------------------------------------|
| Altina Xhoxhaj | 14.560.240 | 5.947.600 |
| Bashkim Dedja | 4.654.295 | 17.069.308 |
| Besnik Imeraj | 3.501.580 | 7.600.000 |
| Fatmir Hoxha | 1.597.804 | 23.062.970 |

| | | |
|-----------------|------------|------------|
| Fatos Lulo | 18.080.000 | - |
| Gani Dizdari | 9.487.617 | 12.525.240 |
| Sokol Berberi | - | 11.797.952 |
| Vitore Tusha | 1.308.800 | 8.534.148 |
| Vladimir Kristo | 1.100.600 | 2.205.720 |

2.c. Unpaid financial obligations

HOW BIG WAS THE AMOUNT OF UNPAID OBLIGATIONS IN THE END OF 2015?

The total amount of liabilities declared by the judges and their family members over the years has been identified above. The total sum, 88,742,938 lek, includes all the liabilities declared under different subcategories. For this reason, it is important to identify the value of payments of liabilities made over years in the form of instalments. As the section on the methodology of this study explained, all payments for liabilities have been registered as a special subcategory of expenses in the database (see Annex I of this report, "The codification of categories and subcategories").

The value of outstanding liabilities at the end of 2015 is calculated by taking the total sum of liabilities through the declaration period and subtracting the total payments made during the same period, according to the formula illustrated below:



Based on this formula, if, from the sum of liabilities accumulated over the years, 88,742,938 lek, we subtract the total sum of payments in instalments (bank loans or debt repayments), with a value of 47,899,299 lek, the unpaid liabilities for the nine Constitutional Court judges in Albania total 40,843,639 lek at the end of 2015 (Table 9).

Table 9: Value of outstanding liabilities at the end of 2015, in lek

| The total value of liabilities declared during the declaration period (a)) | The total value of payments toward liabilities during the declaration period (b) | The value of unpaid liabilities at the end of 2015(a-b) |
|--|--|---|
| 88,742,938 lek | 47,899,299 lek | 40,843,639 lek |

Although unpaid liabilities account for 46 per cent of the original value of the debt, if analyzed the unpaid debt in the main declared liability subcategories, we notice that the value of different subcategories varies at the end of the reporting period (Table 10).

Table 10: The value of unpaid liabilities at the end of 2015, divided by subcategories

| Liabilities | Value of liabilities until 31.12.2015 | Paid | Unpaid liabilities |
|---------------------------------|---------------------------------------|------------|--------------------|
| Bank Loans | 47,412,096 | 19,054,133 | 28,357,963 |
| Debts to construction companies | 32,885,937 | 24,731,100 | 8,154,837 |
| Debts to third parties | 8,444,905 | 4,114,066 | 4,330,839 |

So, the unpaid debt linked with bank loans amounts to 60 per cent of the original debt, while the unpaid debt to third parties is 51 per cent, and unpaid liabilities towards construction companies stand at 25 per cent of the original.

3. NET WEALTH

HOW DID THE NET WEALTH CHANGE UP TO 2015?

The net wealth represents the difference between assets - the gross wealth presented in section 1 of this chapter - and the value of unpaid outstanding liabilities at the end of the declaration period, in accordance with Table 11, below.

This formula allows the calculation of the accumulative value of net wealth that the judges had at the end of 2015 (Table 11), but also the increase in their net wealth over the period under analysis.

Table 11: The net wealth of the judges at the end of 2015, in lek

| Subject | (a) Gross wealth | (b) Outstanding liabilities | (a)-(b) Net wealth |
|-----------------|---------------------|--------------------------------|-----------------------|
| Altina Xhoxhaj | 35.535.340 | 305.723 | 35.229.616 |
| Bashkim Dedja | 47.868.967 | 14.416.874 | 33.452.093 |
| Besnik Imeraj | 27.050.737 | 4.865.536 | 22.185.201 |
| Fatmir Hoxha | 23.383.913 | 10.427.376 | 12.956.536 |
| Fatos Lulo | 92.037.826 | - | 92.037.826 |
| Gani Dizdari | 37.153.671 | 2.731.660 | 34.422.011 |
| Sokol Berberi | 32.127.435 | 5.084.567 | 27.042.868 |
| Vitore Tusha | 13.428.520 | 2.998.222 | 10.430.298 |
| Vladimir Kristo | 55.677.377 | 13.680 | 55.663.697 |
| Total | 364.263.786 | 40.843.639 | 323.420.147 |

As Table 11 shows, the value of the net wealth of the Constitutional Court judges on December 31, 2015, was 323,420,147 lek.

If we also take into account the increase in gross wealth during the declaring period analysed in Table 3, which amounts to 203,647,096 lek, and we subtract from this amount the value of unpaid outstanding liabilities, amounting to 40,843,639 lek, **the increase in net wealth over the declaring period of all the Constitutional Court judges is 162,803,457 lek.**

The significant increase in the net wealth of the Constitutional Court judges over the declaring period cannot be justified by the income emanating from their function, particularly if we exclude all the payments of liabilities made to banks, companies or third parties, which are also high. This result mandates a thorough analysis of the structure of the income of the judges and their family members in order to identify the source of the increase in their wealth.

4. INCOME

The category of income for the subject of the asset declaration obligation is made up of the following subcategories:

- Salary due to function;
- Salary of family members;
- Net bonuses;
- Income from businesses;
- Income from rent;
- Income from teaching (only for judges);
- Gifts in cash from people outside the family;
- Income from the sale of immovable property;
- Income from the sale of movable property;
- Other income (income not included in the above-mentioned categories).

4.a. Total Income

WHAT IS THE TOTAL INCOME OF CONSTITUTIONAL COURT JUDGES UP TO 2015?

The total income of the judges and their family members over the declaring period from 2003 to 2015, based on what they declared in all their asset disclosures, was 329,904,731 lek.

However, differently from the calculation of declared assets, whose value is accumulative from the first year (year 0) of declaration until their last declaration, in the calculation of income, income declared in the entry declaration form at the start of a judge's duty should be considered in accordance with Article 5/1 of law no. 9049, which includes *"involvement in private for-profit enterprise or an activity that generates revenue, which exists at the start of the official's job; including any activity that generates revenue from the period January 1st until the day of appointment in the calendar year of the declaration"*.

For this reason, in calculating income as a financial source for the accumulation of the declared wealth, we will use only the income generated by the declaring subject and his/her family members after the date of their appointment (or after the system of asset declarations was installed). In such a context, the calculation of income generated by the declaring subjects in the period 2004 to 2015, which corresponds to their annual asset declaration forms, is based on the data presented in Table 12.

Table 12: The total value and the annual average of income during the declaring period

| Subject | Total value of income | Years of declaration | Annual average of income |
|-----------------|-----------------------|----------------------|--------------------------|
| Altina Xhoxhaj | 37.489.149 | 12 | 3.124.096 |
| Bashkim Dedja | 40.705.523 | 12 | 3.392.127 |
| Besnik Imeraj | 35.167.115 | 12 | 2.930.593 |
| Fatmir Hoxha | 24.188.582 | 12 | 2.015.715 |
| Fatos Lulo | 51.944.805 | 11 | 4.722.255 |
| Gani Dizdari | 26.245.738 | 9 | 2.916.193 |
| Sokol Berberi | 37.540.283 | 9 | 4.171.143 |
| Vitore Tusha | 36.472.435 | 8 | 4.559.054 |
| Vladimir Kristo | 40.151.101 | 10 | 4.015.110 |
| Total | 329.904.731 | N/A | N/A |

4.b. Sources of income

HOW IS THE INCOME DIVIDED IN SUBCATEGORIES?

Because the total increase in the wealth of the Constitutional Court judges in Albania cannot be explained by the salaries and bonuses they receive from their positions, BIRN Albania analysed the sources of income declared by the judges in greater detail, to better identify the structure of their wealth.

The subcategories calculated in the total value of declared income of the Constitutional Court judges are classified as following: gifts in cash; teaching; family members' salaries; salary due to function; net bonuses; proceeds from businesses; income from rent; revenue from the sale of immovable property; revenue from the sale of movable property; other income. To differentiate the source of income, each of these subcategories has been given a different code in the database (see Annex I of this report).

The ratio distribution among these subcategories in lek and percentage terms for all judges that formed part of this study is presented in Table 13, below.

Table 13: The value in lek for each income subcategory and their ratio distribution

| Revenue | Value in Lek | Value in % |
|----------------------------------|--------------------|-------------|
| Salary due to function | 171,746,185 | 52.1% |
| Salary of family members | 69,047,439 | 20.9% |
| Other income | 26,258,992 | 8.0% |
| Income from the sale of property | 23,935,941 | 7.3% |
| Gifts in cash | 21,612,365 | 6.6% |
| Teaching | 7,868,293 | 2.4% |
| Income from rent | 6,378,443 | 1.9% |
| Income from businesses | 2,400,000 | 0.7% |
| Net bonuses | 657,072 | 0.2% |
| Total | 329,904,731 | 100% |

As the data in Table 13 show, more than two-thirds of the declared income of the judges comes from their salary and from the salaries of family members, accounting respectively for 52.1 and 20.9 per cent of the total sum of income.

The five other subcategories responsible for almost one-third of the total sum of the income of judges are: other revenues (8 per cent); revenues from the sale of immovable property (7.3 per cent); gifts in cash (6.6 per cent); revenues from teaching (2.4 per cent); and revenues from rent (1.9 per cent). Other income subcategories account only for a small percentage of the total.

From the above-mentioned analysis, it is clear that although a good part of the income of the Constitutional Court judges comes from salaries, it is important to emphasise the high value of declared gifts in cash, which account for 6.6 per cent of total revenue, about 22 million lek. The high value of income from gifts in cash is considered a “red flag” in the international practices of auditing officials’ wealth and should indicate a need for the institutions that monitor such assets (HIDAACI) to conduct a full audit of the declaring subjects and their family members.



About 22 million lek of the income of the judges comes from gifts in cash.

5. EXPENSES

After taking into consideration the income of the Constitutional Court judges, which is included in the incoming cash flow category of transactions, it is important to look at the structure of their expenses, which is categorized as outgoing cash flow.

In the category of expenses the following subcategories are included:

- Payments of loan instalments;
- Payments of debt;
- Payments of debts/obligations to construction companies;
- Tuition fees;
- Other expenses (those not included in the above-mentioned subcategories).

The category of expenses has a specific place in the declaration form. The legal obligation to declare “declarable expenses” entered into force only in 2014⁴. However, even after this legal change, the “annual declaration form” considers declarable expenses confidential data and they are not made public.

By evaluating carefully the way the the declaring subjects filled the section of liabilities and payments of instalments, it was noticed that the instalments related mostly to the payment of principal and only partly of interests; however, the latter is very difficult to identify. So, the declarations for the payment of instalments for liabilities will be considered as a reduction of liability and included in section “2.c Unpaid Liabilities”, presented above.

The category of expenses is specific in the asset declaration form. The legal obligation to declare “declarable expenses” entered in force in 2014, following the amendment of law nr. 9049, referring to article 1, point 7 of this law. However, even after this legal change in the format of the periodic/ yearly declaration, declarable expenses have been considered as confidential information and for this reason are not made public.

As a result, the data on other expenses are as follow:

⁴“Declarable expenses” is the total amount of money paid for education, healthcare, vacations, furnishing and other expenses of this kind carried out by the declaring subject.

Table 14: The value of declared expenses in lek

| Expenses | Value lek |
|--------------------|-----------|
| Education expenses | 3.489.800 |
| Other expenses | 259.642 |
| Total | 3.749.442 |

From this information, it should be underlined that only one Constitutional Court judge has declared education expenses for his/her children to the value of 3,489,800 lek for the period under consideration. However, analysis of the expenses of the declared subjects will remain incomplete for as long the section of Declarable Expenses in the asset declaration form remains confidential.

Also, analysis of the 106 asset declarations of the Constitutional Court judges highlights the lack of declarations on living expenses, travel expenses, etc, underlining the need to include all of these expenses in the asset declaration form as way to increase transparency. Of the nine judges that were reviewed, none has declared living expenses.



None of the 106 declarations that were analyzed include expenses related to living expenses.

6. NET INCOME

HOW LARGE IS THE NET INCOME, CONSIDERING THE DECLARED EXPENSES?

The net income of the nine judges for the declaring period has been calculated as the difference between their total income and their declared expenses in accordance with the following formula:



Based on this calculation, the net income of the 9 constitutional court judges and their family members over the declaring period was 326,155,289 lek.

This amount includes the net income of the judges and their family members, although it should be noted that expenses incurred for minimum subsistence have not been declared in any of the declarations analysed. If expenses for minimum subsistence were also calculated, the judges' net income would be relatively lower.

7. PLAUSIBILITY CHECK

From analysis of the structure of assets, liabilities, income and expenditures of the nine Constitutional Court judges during the declaring period until December 31, 2015, based on their yearly asset declarations made to HIDAACI, a number of trends and transactions can be identified as "red flags" based on international best practices.

In this context, BIRN Albania undertook a full plausibility check of the declarations of the Constitutional Court judges until the end of 2015. This analysis was based on the data declared by the subjects and their family members. The goal was to independently review the effectiveness of the plausibility checks on officials carried out by HIDAACI every calendar year.

Based on Article 25 of law no. 9049, amended, *"The plausibility check is carried out for every declaration in order to determine the accuracy of the declared wealth, the accuracy of the sources of wealth and the sufficiency of sources to account for the declared wealth. This control process is carried out within the calendar year that a declaration is submitted with HIDAACI."*

The plausibility check is documented in the "control form", in which the data declared by the official and his/her family members are reflected, organized in two financial statements: net assets and net income. After completing and processing this data, information is generated as to whether *the net income over the period justifies the changes in net assets or not*.

The formula of the control form for the plausibility check is presented below:

Increase in Net Assets = Increase in Gross Assets – Liabilities
Net Income = Total Income – Expenses

Results:

- a) *If the difference between “Net Income” and “Increase/change of Net Assets” is negative, it can be considered evidence that the wealth generated during that calendar year cannot be justified from the declared financial means.*
- b) *If the difference between “Net Income” and “Increase/change of Net Assets” is positive, it can be considered as expenses for the declaring year, as long as the declaring subject has not reported the destination of such a surplus. As a result, due to the lack of declared expenses, every surplus from the plausibility check between net income and net assets is an expense.*

Because the plausibility check has to be carried out for every declaration year and on every single declaration form, excluding the initial declaration year (the entry form declaration), it has been carried out on 97 periodical declarations of the Constitutional Court judges.

HOW BIG IS THE WEALTH THAT IS NOT SUPPORTED BY FINANCIAL RESOURCES?

From the data resulting from the plausibility check, it emerges that 14 of the 97 declarations have problems, as the increase in net asset cannot be justified by the net income of the same declaring period (Table 15).

Table 15: Number of declarations when net assets are not justified with net income

| Subject | No. of declarations analysed | No. of problematic declarations | No. of declarations without problems |
|-----------------|------------------------------|---------------------------------|--------------------------------------|
| Altina Xhoxhaj | 12 | 2 | 10 |
| Bashkim Dedja | 12 | 1 | 11 |
| Besnik Imeraj | 12 | 1 | 11 |
| Fatmir Hoxha | 12 | 1 | 11 |
| Fatos Lulo | 12 | 0 | 12 |
| Gani Dizdari | 10 | 4 | 6 |
| Sokol Berberi | 9 | 2 | 7 |
| Vitore Tusha | 8 | 0 | 8 |
| Vladimir Kristo | 10 | 3 | 7 |
| Total | 97 | 14 | 83 |

Only two out of nine Constitutional Court judges pass the plausibility check in all the declared years.

Fourteen per cent of the yearly declarations have problems, as the increase in net asset cannot be justified by the net income of the same declaring period.

The calculations are based strictly on the data declared by the subjects and their family members in their yearly declaration forms.



Roughly 14 per cent of periodical declarations failed the plausibility check.

In total, the unjustified wealth of the 14 declarations with problems in their plausibility checks has a total value of 35,285,915 lek. This amount accounts for 11 per cent of the total net wealth declared by the Constitutional Court judges in Albania.



Roughly 11 per cent of the judges' declared net wealth is not justified by their declared financial means.

HOW IS THE RESULT OF THE OTHER DECLARATIONS THAT HAVE A POSITIVE OUTCOME IN THE PLAUSABILITY CHECK EVALUATED?

Returning to the results of Table 15, the number of declarations without problems in the plausibility check is 83. Referring to the law and the guidelines on how to fill the asset declaration forms and to the fact that there are data on declared expenses, we can deduct that the positive difference between:










Net Income and net assets gives us the value of expenses carried out during the calendar year by the subject and his family.

In arriving to this conclusion it has been taken into account that the subject has the obligation to declare the cash liquidity for every year and if he/she has not declared cash liquidity from the savings of the previous year, this means the subject has spent all the declared income.

So, apart from the 14 declaration that resulted in a negative difference between net income and net assets, cases with a positive difference (83 declarations) give us information on the years were there

is a “surplus income”. This difference under the conditions and regulation that the asset declaration form is filled in should be interpreted as yearly expenses.

Table 16: The average yearly value of declared expenses

| Subject | Declarations without problems | Total expenses | Average yearly expenses |
|-----------------|-------------------------------|--------------------|--|
| Altina Xhoxhaj | 10 | 18.172.273 |  1.817.227 |
| Bashkim Dedja | 11 | 14.956.984 |  1.359.726 |
| Besnik Imeraj | 11 | 27.277.980 |  2.479.816 |
| Fatmir Hoxha | 11 | 14.284.873 |  1.298.625 |
| Fatos Lulo | 12 | 34.474.979 |  2.872.915 |
| Gani Dizdari | 6 | 5.797.513 |  966.252 |
| Sokol Berberi | 7 | 27.328.018 |  3.904.003 |
| Vitore Tusha | 8 | 30.352.250 |  3.794.031 |
| Vladimir Kristo | 7 | 8.019.876 |  1.145.697 |
| Total | 83 | 180.664.747 | 19.638.292 |

The average value of yearly expenses varies from 966,252 lek (the minimum value) to 3,904,003 lek (the maximum value).

HOW BIG IS THE WEALTH UNJUSTIFIED BY FINANCIAL SOURCES IF WE ADD INSTAT’S MINIMUM SUBSISTENCE EXPENSES?

Expenses are considered personal information and are classified in the category of confidential data within the asset declaration form. Based on the data on expenses discussed above, it is important to mention that none of the nine Constitutional Court judges has declared living standards expenses, or these expenses are included under the declaring form section “Declared expenses”, which is classified as personal information. For this reason, for complete plausibility checks, we refer to the annual living standards expenses for a family as calculated by the National Institute of Statistics, INSTAT.

Based on the official data on living standards expenses published by INSTAT in 2006, 2014 and 2015, the monthly average living expense for an Albanian family was calculated respectively as 69,383 lek, 69,442 lek and 70,766 lek. For the purposes of this report, a monthly average consumption expense of 69,383 lek per family is taken into account in order to run the plausibility check once again.

For the same reason, HIDAACI uses the annual minimum living expenses for a family as calculated by INSTAT in its plausibility checks.

If INSTAT’s average annual living expense⁵ is added to the declared annual expenses of the judges, the value of unjustified wealth rises. If the plausibility check is run including INSTAT’s average annual living expense, the number of problematic yearly declarations for the declared period reaches 26 of the 97 asset declarations, or 27 per cent of the total number of declarations (Table 17).

Table 17: Number of periodical declarations that failed the plausibility check if average annual living expenses of INSTAT were taken into consideration

| Subject | No. of declarations analysed | No. of problematic declarations | No. of declarations without problems |
|-----------------|------------------------------|---------------------------------|--------------------------------------|
| Altina Xhoxhaj | 12 | 4 | 8 |
| Bashkim Dedja | 12 | 2 | 10 |
| Besnik Imeraj | 12 | 2 | 10 |
| Fatmir Hoxha | 12 | 4 | 8 |
| Fatos Lulo | 12 | 0 | 12 |
| Gani Dizdari | 10 | 7 | 3 |
| Sokol Berberi | 9 | 2 | 7 |
| Vitore Tusha | 8 | 0 | 8 |
| Vladimir Kristo | 10 | 5 | 5 |
| Total | 97 | 26 | 71 |



Roughly 27 per cent of periodical declarations failed the plausibility check, if the annual average living costs were added to their expenses.

⁵Average annual living expense is calculated based on the average monthly living expenses declared by INSTAT in 2006.

IV. Discussion and Recommendations

Structural analysis of the asset declaration data of the Constitutional Court judges in Albania identifies a number of indications of suspicious transactions or “red flags”. They include:

- Holding large cash assets outside the banking system;
- Large amounts of debts owed to relatives, without time limits and no interest attached to such debts.
- Significant financial obligations not fulfilled toward construction companies;
- Large revenues obtained by gifts in cash.

Along with above-mentioned “red flags”, identified by the structural analysis of the data and by plausibility checks of the self-declaration of these subjects of the law on asset declaration, the number of judges who cannot justify their assets, at least at some point during their careers, is high. Seven out of nine judges in at least one year during their careers have unjustifiable differences between assets created and their declared financial sources.

Above-mentioned data on identified “red flags” show that the origin of a part of the wealth owned by the Constitutional Court judges raises is suspicious in terms of the possibly illegal sources of this wealth. Ideally, this should have prompted HIDAACI to carry out in-depth administrative investigations of these subjects.

The data obtained from the plausibility checks of the declarations also show that a large number of judges are unable to justify their wealth for at least one year of their career inside the justice system. This raises question about the effectiveness of the controls that HIDAACI carried out in the past.

Considering that, in light of the vetting process, the wealth of judges and prosecutors will be audited again by HIDAACI, as one of the institutions that will assist the Independent Qualification Commission in vetting the integrity of judges, the work of this institution in this direction could be improved through a number of internal steps or interaction with outside actors.

In this context, the authors of this report list the following recommendations:

- Introduction of an electronic form for the declaration of assets, which allows for easier analysis of the data and avoids handwritten mistakes;
- Development of an electronic database containing the data of asset declarations, which will give HIDAACI, journalists and researchers the ability to analyse trends towards the

enrichment of public officials;

- Civil society organizations should undertake similar studies/monitoring reports on the trends/structure of the wealth of First Instance Court judges and prosecutors;
- Civil society organizations and the media should become actively involved in running independent plausibility checks of the asset declaration of First Instance judges/prosecutors that are included in the vetting procedure;
- Civil society and media should carry independent plausibility checks on wealth declarations of judges and prosecutors during the vetting process.
- HIDAACI's capacities to publish reports on the wealth trends of public officials should be increased as a measure leading to greater transparency;
- HIDAACI should increase its capabilities and transparency and should publish periodic reports on main trends of public officials.
- HIDAACI should have the capacities to extend its administrative investigations to the real estate market so as to identify the properties of justice officials that are not registered with the Office for the Registration of Immovable Property;
- The declared expenditures of the subjects of the law for declaration of assets should be published.
- Development of investigative techniques, mainly by independent property experts, in the evaluation of real estate declared under its market value (also underlining the importance of the declaration of costs of home furnishing expenses);
- Application by HIDAACI of the declaration by request of linked persons (outside the official's family circle) and their full administrative investigation, when suspicions arise about the financial resources of a debtor or someone who makes a gift to the official;
- Introduction of sanctions for linked persons in cases of administrative offences, etc.

Annex I

The codification of categories and subcategories

| Code | Subcategory | Category |
|------|--|-------------|
| 11 | Immovable property | Assets |
| 12 | Movable property | Assets |
| 13 | Cash liquidity | Assets |
| 14 | Bank liquidity | Assets |
| 15 | Shares of capital/stock | Assets |
| 16 | Small business | Assets |
| 17 | Valuables | Assets |
| 18 | Loans given their parties | Assets |
| 19 | Other Assets | Assets |
| 21 | Bank Loans | Liabilities |
| 22 | Loans received by third parties | Liabilities |
| 23 | Liabilities toward construction companies | Liabilities |
| 24 | Other Liabilities | Liabilities |
| 31 | Salary due to function | Income |
| 32 | Salary of family members | Income |
| 33 | Net bonuses | Income |
| 34 | Income from businesses | Income |
| 35 | Income from rent | Income |
| 36 | Income from teaching | Income |
| 37 | Cash gifts | Income |
| 38 | Other income | Income |
| 391 | Income from the sale of immovable property | Income |
| 392 | Income from the sale of movable property | Income |
| 393 | Reevaluation of immovable property | Income |
| 41 | Payment of liabilities | Expenses |
| 42 | Tuition fees | Expenses |
| 43 | Other expenses | Expenses |

Annex II

The exchange rate according to the Bank of Albania

| Period | The exchange in Lek according to the Bank of Albania | | | | |
|------------|--|--------|--------|--------|--------|
| | EUR | USD | GBP | CHF | CAD |
| 31.12.2003 | 133.65 | 108.69 | 190.25 | 85.97 | 82.76 |
| 31.12.2004 | 126.74 | 92.64 | 178.69 | 81.87 | 76.92 |
| 31.12.2005 | 122.54 | 103.58 | 178.65 | 78.86 | 89.11 |
| 31.12.2006 | 123.85 | 94.14 | 184.65 | 77.17 | 81.13 |
| 31.12.2007 | 121.78 | 82.89 | 166.02 | 73.65 | 84.45 |
| 31.12.2008 | 123.8 | 87.91 | 127.66 | 82.97 | 72.22 |
| 31.12.2009 | 137.96 | 95.81 | 154.64 | 93.04 | 91.34 |
| 31.12.2010 | 138.77 | 104 | 161.46 | 110.98 | 104.29 |
| 31.12.2011 | 138.93 | 107.54 | 165.92 | 114.46 | 105.36 |
| 31.12.2012 | 139.59 | 105.85 | 171.18 | 115.65 | 106.37 |
| 31.12.2013 | 140.2 | 101.86 | 168.39 | 114.41 | 95.7 |
| 31.12.2014 | 140.14 | 115.23 | 179.48 | 116.52 | 99.55 |
| 31.12.2015 | 137.28 | 125.79 | 186.59 | 126.74 | 90.53 |

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