

## **(Anti-)Corruption in Poland since Early 2000 to 2010**

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## 1. Country overview

Population:	38 million
Territory:	312,679 km <sup>2</sup>
Currency:	PLN (polish złoty)
GDP 2008 (PPP):	\$666.1 bn
GDP 2008 per capita (PPP):	\$17,482
HDI:	0.880 (high; 41 <sup>st</sup> )
EU accession:	1 <sup>st</sup> May 2004
Last parliamentary election:	21.10.2007 (Quadrennial) – PO-PSL coalition
Last presidential election:	23.10.2005 (Quinquennial)

Early presidential election by June 2010 due to President Kaczyński's death

**Table 1: Anti-corruption conventions ratified by Poland**

Name	Signed	Ratified
OECD Convention on Combating Bribery of Foreign Public Officials In International Business Transactions	12.1997	07.2000
UN Convention against Transnational Organized Crime	12.2000	11.2001
Council of Europe Civil Law Convention on Corruption	04.2001	09.2002
Council of Europe Criminal Law Convention on Corruption	01.1999	12.2002
United Nations Convention against Corruption	12.2003	09.2006
<b>not</b> signed or ratified the Additional Protocol to the Criminal Law Convention on Corruption (ETS 191).		
Poland is <b>not</b> a party to the European Convention on Transfer of Proceedings in Criminal Matters.		

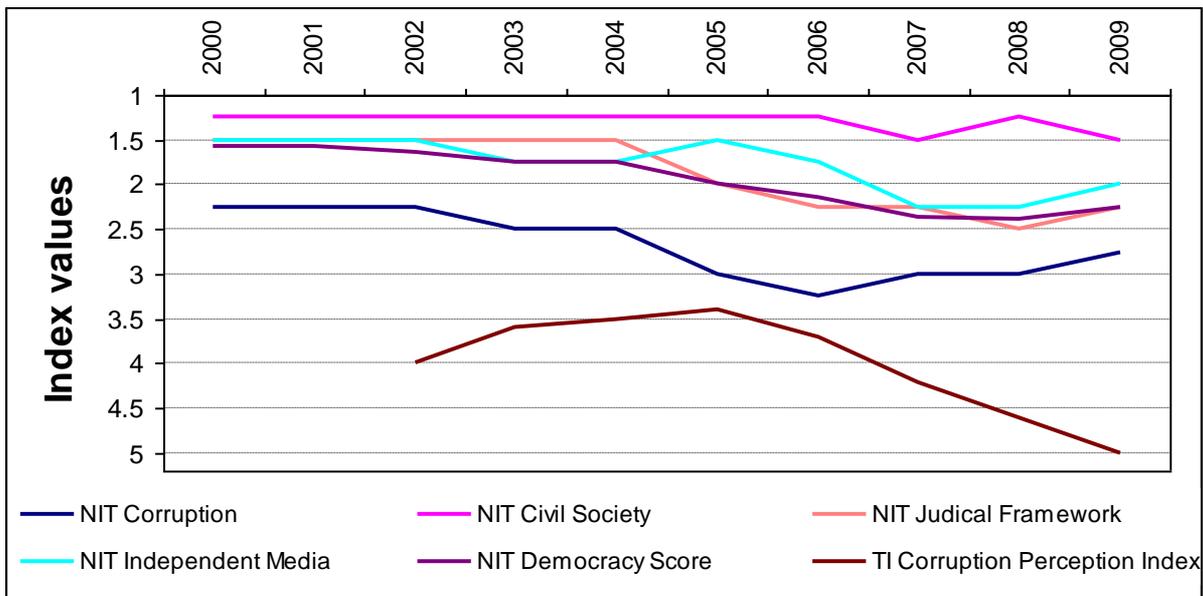
Source: <http://www.antykorupcja.gov.pl>; (TI 2009b: 357)

## 2. Country

### 2.1. Corruption trend development early 2000-present

Trend analysis of the corruption indices accessible for Poland reveals that since the late 1990s and early 2000 corruption, or at least its perception, has gradually deepened (see Figure 1). This trend bottomed out in 2005 (according to TI Corruption Perception Index, or CPI) or 2006 (according to Freedom House Nations in Transit, or NIT, corruption index) and since then on both indices began the reversed movement and have been pointing towards decreasing corruption, or perception of it.

Figure 1: Corruption indices for Poland



Source: Freedom House Nations in Transit.

\* The y-axis values are reversed and for the NIT index 1 is the highest (best score) and 5 is the worst. For TI CPI low numbers mean worse score (minimum is 1, maximum is 10).

According to TI's corruption perception index till 2007 Poland was the most corrupted country in the EU, however, after Romania and Bulgaria joined the union, Poland ceased to be the last one (Krajewski 2008). In 2008 and 2009 CPI notes an improvement in Polish situation pertaining to limiting the corruption in the country, which was attributed to both a broad civil support for fighting corruption as well as institutional reforms. Moreover plans to adopt a new anti-corruption strategy, the so-called 'anti-corruption shield' reinforced this trend (Krajewski 2009: 413). Those observations are also acknowledged by the worldwide governance indicator (a relative index comparing a country performance against the background of other countries) where Poland is on an upward path and

performs even better than other region countries (World Bank 2009). The latter fact might be attributable to Poland's relative low starting position. Other annual surveys indicate that in last four years corruption perception has declined and is currently comparable to late 1990s (CBOS 2009b: 7).

### ***2001-2005: SLD administration – on the rise***

In the late 90s and early 2000 Poles demonstrated a stable and relatively low (in comparison to the following years) concern about the corruption. In 2001 only 40% of Poles named it as the biggest social problem in Poland – 6<sup>th</sup> place – (respondents could indicate several answers), in 2002 it was 33%, or 8<sup>th</sup> place, however, in June 2003 it climbed up to the second most important concern or 61% and remained at 69% in 2004 (3<sup>rd</sup> place) to decline in 2005, 2006 and 2007 respectively to 53% (or 3<sup>rd</sup> to 5<sup>th</sup> place, depending on a survey), 44% (5<sup>th</sup>) and 44% (5<sup>th</sup>) (Kubiak 2008: 2).<sup>1</sup> The spike in 2003 indicated bringing to the daily light the first big corruption scandal at the junction of politics and the private sector, the so called 'Rywin-gate'. Later on other big corruption scandals engaging top politicians of the ruling party followed. Some claim, e.g. prof. Backer – a head of the political science department at Nicolaus Copernicus University, Toruń, Poland, that behind a sizeable amount of corruption in Poland, especially in business sphere, stand employers of the former regime secret services and that the first 'big' corruption and political scandals saw the light only when a power struggle emerged in the at that time ruling party, i.e. Democratic Left Alliance ('Sojusz Lewicy Demokratycznej' or SLD). That in turn paved the way to disclosing information about the corruptive activities at the politics-business-organized crime intersection (Oliwkiewicz, no date) and has heavily contributed to Alliance's sinking during the 2005 elections and melting down of its electorate (AKOP 2005: 12).

### ***2005-2007: PiS administration – decline among a rhetorical crack down***

Anti-corruption was an important theme of two 2005 electoral campaigns, i.e. presidential and parliamentary. The winning party, 'Prawo i Sprawiedliwość' (PiS, or Law and Justice) used anti-corruption as one of its most prominent slogans. Lech Kaczyński, a then-on presidential candidate and a present president, who is closely affiliated with this party, also was depicted as a good and powerful sheriff, who was capable of bringing criminality numbers down during his term as a minister of justice (2000-2001) and a president of the capital city, Warsaw (2002-2005). PiS administration frequently played an anti-corruption tune, between 2005 and 2007 many scandals

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<sup>1</sup> Usually the unemployment has taken the first place, other important issues being health service, criminality and the pension system.

were uncovered as well as a number of public charges with grew. Fight with corruption was one of the main planks of the '4<sup>th</sup> Rzeczpospolita' project, i.e. a reformed and clean from corruption country (BF 2006: 2). This was accompanied by a governmental omnipresent rhetorical anti-corruption offensive and open conflict with health care sector employees, especially doctors, who are widely blamed for taking and/or extorting bribes. This resulted in a decrease of people, who either admitted engagement in any kind of corruptive activity (annual anonymous surveys,) or heard from colleagues and family members that the latter had engaged in such activities (BF 2006: 7, 11, 35). FH NIT clearly recorded those swings where corruption perception decelerated its downward path after the 2005 election and in fact rebounded in 2006, as observable in the figure 1. Interesting is that during PiS administration, despite pursuing slogans of justice and strict law-enforcement, one of the deputy prime ministers was officially sentenced by the court and more accusations were in the pipeline. This was Mr. Lepper, a leader of the coalition party 'Samoobrona', or Self-defense.

### ***Oct. 2007 – present: PO administration – stabilization through inaction***

Data indicates that since 2006 to 2009 the corruption perception decreased in the society (no numbers from domestic annual surveys are available for 2007 and 2008 (CBOS 2009c: 2)). FH NIT corruption index also marks the improvement over this period. Perception of corruption as a major threat rather stabilized in those years, which might be related to de-politicization of the corruption topic. The current PO administration ('Platforma Obywatelska' or Civic Platform<sup>2</sup>) claims that its implementation of the anti-corruption strategy goes well despite some delays. On the other hand there are some clearly contrary views on this issue. The Adam Smith centre, Centrum im. Adama Smitha, (a well-established liberal think tank), states that the current government does 'nothing or almost nothing' in order to tackle the roots of the corruption, i.e. too much state in the economy and too complex and incoherent law. This is despite of the PM's statement, which was expressed in his expose, that fighting corruption will be a superior goal of the governing coalition (Adam Smith Centre 2009). It seems fair to argue that the latter assessment is closer to the truth, because since late 2007 a special governmental anti-corruption plenipotentiary has not even managed to work out a list of top anti-corruption priorities (more on that in chapter 3). Yet, the social perception may soon change, as two big corruption scandals saw the daylight during last half a year, one of them related to illegal lobbying during introducing amendments to a law on lottery games.

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<sup>2</sup> In coalition with 'Polskie Stronnictwo Ludowe' (PSL or the Polish People's Party).

## 2.2. Main areas of corruption

Politicians/Parliament and the health sector are two areas which persistently have been scoring the highest in corruption perception surveys carried out by Transparency International. Moreover, their scores have remained constant, ca. 3.8-4.2<sup>3</sup>, whereas other sectors, e.g. judiciary, have noted a significant improvement over the years and nowadays enjoy much higher level of trust in the society (TI 2005: 19; TI 2006a: 21; TI 2008: 20; TI 2009a: 28). By and large, other public surveys confirm those numbers, which can be observed in the table below.

**Table 2: Corruption perception according to different areas of public life**

Once in a time one talks about corruption in various spheres of public life. In your opinion, in which of the listed areas is corruption most frequent?								
Public life area	Oct 2001	June 2002	June 2003	June 2004	May 2005	July 2006	Dec 2007	April 2009
	Per cent points							
Politicians	54	52	60	64	61	35	44	55
Health care	47	42	43	37	50	53	58	54
Courts and prosecutor office	37	33	33	42	37	32	30	29
Local administration	29	25	29	30	21	28	25	28
State administration	38	29	37	39	34	22	32	27
Police	31	23	25	21	34	31	28	16
State enterprises	13	12	11	11	11	9	15	14
Private enterprises	13	9	11	9	12	8	9	10
Banks	6	3	5	4	4	3	2	4
Education sector	7	8	4	5	4	8	3	3
Others	1	0	1	1	1	2	0	4
Hard to tell	1	12	8	7	6	15	10	8
Per cent points do not sum up to 100 because respondents could indicate more than one answer.								

Source: (CBOS 2009c: 5). Numbers for 2000-2006 come from Stefan Batory Foundation's Corruption Barometer.

### **Healthcare sector**

The healthcare sector scored the highest in 1997 and 1999 public opinion polls in terms of an area where a Pole could achieve something by handing in a bribe (CBOS 1999: 7, 9). In 2006 the health

<sup>3</sup> 1 marks the best score and 5 the worst.

sector came to the fore of the ranking of the most corrupted areas of public life. It even succeeded in overtaking ‘politics’ – the unbeaten No.1 of a number of previous surveys – and the difference was large – 18% (CBOS 2007: 1; CBOS 2009c: 5). Health care area managed to maintain its ‘leading’ position also in 2007, however, according to TI data those were politicians who still led in this inglorious ranking (TI 2006a: 21). As was already mentioned above this change is society’s perception about corruption in politics and healthcare areas is likely attributable to a massive political and media campaign targeted at the health care services during the PiS administration and the wave of strikes in this sector (demands of higher salaries). However, ‘politics’ returned to the pinnacle of the most corrupted spheres in 2009, but the difference to the healthcare sector was only 1% (CBOS 2009c: 5).

Although the described improvement could be a perception change rather than a real alteration, it is obvious that health care services are peppered with instances and opportunities inviting corruption. Indeed, Poles are likely to encounter corruption more frequently in the health sector than in any other sphere of their everyday lives (see Table 3). There is also a fine division concerning perception of ‘gifts’ and ‘bribes’ for healthcare employers and this partition is not clearly visible in the public survey data.

**Table 3: Institutions with highest degree of bribery**

<b>Institutions where respondents handed in a bribe</b>					
	<b>2000</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Health sector	47	57	56	68	58
Road police	26	15	12	7	14
Local offices	7	5	8	9	8
Getting a job	-	5	5	2	2
School, university	3	2	5	2	2
Others	-	7	4	7	10
Answer refusal	17	7	10	5	6

Numbers are per cent points of those respondents who admitted giving a bribe.

Source: (BF 2006: 23).

Several governments intended to address the issue of a high corruption level in the sector and attempted to change laws in order to increase efficiency of the sector. However, as noted by AKOP, a permanent anti-corruption NGOs coalition, there is a notorious lack of money, which impedes sector functioning (AKOP 2005: 9).

### ***High-rank politicians***

Even though the health sector is the area, where a regular citizen may most frequently personally experience corruption (see Table 3), this is still politics that has the worst opinion among the society if it comes to the corruption issue. Only in 2006 and 2007 there was a shift, when the health services overtook the politicians in this ranking. This consistently high position might be credited to a number of corruption scandals related to high-rank politicians and the perceived lack of accountability of the latter. The NIT corruption index shows that when the first major corruption scandal came to daily light in 2003 (Rywin-gate) then society's perception of corruption proliferation began its downward movement and Poland's similarly overall corruption scores declined (CPI).

Since 2003, high-level corruption scandals have been frequently populating first pages of the press and taking over news headlines. Also politicians were very responsive to such scandals because since 2003 special investigative parliamentary committees became a standard answer to address those instances of corruption. Since media coverage of those special committees has been high, politicians used them as a springboard for their careers and of course as a tool to fight against political opponents (usually it has been a governing party that created a commission to uncover the misuse of power of a former governing team).

The most recent corruption scandal is an ongoing investigation pertaining to obscure amendments in a project of lottery games law. They were allegedly introduced by the ministers of the current government and were to favor companies from the game industry, to which those ministers had personal contacts. An investigative parliamentary commission was set up and now its activities are broadly commented in the news and public. Some of politicians, e.g. Minister of Sport, Mr. Drzewiecki, stepped down from the office under the weight of the allegations.

### ***Administrative corruption***

A crime of corruption in the public sector is punishable in various ways: from fines, through incrimination (6 months – 8 years) for active or passive bribery. When an object of corruption is of a 'considerable value', i.e. 200 times or more of the lowest salary (in January 2010 the lowest wage was PLN 1.317 = EUR 324) then imprisonment may range between 2 and 12 years. Additionally to a prison sentence a fine may be imposed. In the case of legal persons, the court may impose a fine of between PLN 1.000 and 20.000.000 (EUR 290 – 5.800.000), however, this cannot be higher than 10% of the annual income of the company in question. In the private sector basic punishment for corruption ranges between 3 months – 5 years of imprisonment and in terms of 'significant material damage', which is equal to 'considerable value', it is 6 months – 8 years of imprisonment (GRECO 2008b: 7-8).

GRECO provides valuable data:

“Statistics show that, during the period 2005-2007, 7,390 cases of active bribery of public officials were detected, 6,288 of which lead to an indictment (in 2005: 1,948; in 2006: 2,205; in 2007: 3,135). During the same period 5,012 persons were *convicted* of active bribery (in 2005: 1,364; in 2006: 1,464; in 2007: 2,184). The large majority (4,845) of offenders concerned were sentenced to imprisonment, mostly of between 1 and 3 years, and in a majority of cases on the grounds of section 229 § 3 PC [Penal Code] which requires an – intended or real – violation of the law by the public official. The sentence was *suspended* in 4,614 of those cases” (author's emphasis, GRECO 2008b: 8).

“In respect of passive bribery of public officials, statistics show that 6,588 cases were detected during the period 2005-2007, 6,347 of which lead to an indictment (in 2005: 1,833; in 2006: 2,012; in 2007: 2,502). During the same period 1,303 persons were *convicted* of passive bribery (in 2005: 361; in 2006: 447; in 2007: 495). As with active bribery, the large majority (1,276) of passive bribery offenders concerned were sentenced to imprisonment, mostly of between 1 and 3 years, and in a majority of cases on the grounds of section 228 § 3 PC [Penal Code] which requires an – intended or real – violation of the law by the public official. The sentence was *suspended* in 1,126 of those cases” (author's emphasis, GRECO 2008b: 8).

Although the numbers of indictments and sentences may look large, the ratio of suspensions in both groups matches them with ease and it is not clear why there is such a high percentage of suspended sentences. Moreover, indictments do not deter public officials from corruptive activities, e.g. extorting bribes for speeding up bureaucratic procedures, especially frequent in the construction sector (Bełdowski 2008). Such observations suggest that corruption in administration has to be fought via different means and on different fronts than only prosecution.

### ***Business environment and public procurement***

The entrepreneurs perceive corruption as a more frequent phenomenon than the rest of the society does (TNS OBOP 2005). This observation remains valid despite a nation-broad improvement in the perception of corruption that occurred in 2007 (TNS OBOP 2007).

Various reports and surveys indicated that many corruption problems one encounters in the public procurement field, where for instance, as one official commented in 2001, IT firms offering computer systems that did not have insiders in the ministries had no chance to win a tender (Allnutt, Druker et al. 2001: 128). It also happens that prices of contracts are negotiated after awarding the contract.

The subsequent governments kept tackling this adverse situation in public procurement area. An initial bill, to fix legal loopholes, was created in 2004 during the left-wing government (SLD). The law

envisaged cutting red tape and enhancing transparency. However, created environment was far from being perfect.

The law was amended again in 2007 during PiS government. While trying to fight with prolonged appeal processes, which regularly stalled public tenders proceedings, and trying to increase efficiency of utilizing EU money the government accepted new public procurement law. On the one hand it made public officials and service providers' lives easier thanks to the simplified procedures. On the other hand it paved the way to more corruption as transparency and ex-post control processes were compromised.

The amended law introduced e.g. restraints on bidders' appeal possibilities making it contingent on a contract value: in the state sector min. EUR 137.000; in local government tenders min. EUR 211.000 and for the road construction min EUR 5.278.000. The new law also applies only to public contracts above EUR 14.000, which means that any public contract below this amount depends solely on a decision by a head of an offering unit. The last major change pertained to an increase in a contract value where a tender commission has to be established for the sake of tender decision, now three minima are the same as in the case of appeal, mentioned above.

These solutions definitely simplify the procedure but at the same time open more space for corruption (AKOP 2007: 14-16). They constitute an obvious efficiency-transparency trade-off, however, the lower parliamentary chamber, Sejm, accepted them in unanimously fashion, which does not happen very often. The lower chamber even overruled an upper chamber's amendments, which intended to re-introduce more appeal means and apply them also to contracts of lower value (AKOP 2007: 14-16). Unanimity was dictated by the fact of slow EU fund absorption, which was to be improved thanks to new regulations. Will it be beneficial in a long term, remains to be seen.

### ***Sport – football affair***

The last major area of corruption, which has been hotly debated in recent years in Poland, pertains to large irregularities in the national top football league and in the Polish Football Association (PZPN or Polski Związek Piłki Nożnej). Those mainly involved setting up game outcomes and it seems that individuals from all interested actors took active part in this wrongdoing. Since football is Poland's national sport, a corruption scandal, which was uncovered and has been encompassing a continually growing number of individuals (referees, players, trainers, officials) and clubs, strongly shook the society. In result many supreme league clubs were dismissed from the league for a period of time, referees and trainers were jailed, heavy fines were imposed. The investigation is still ongoing and will most probably deliver more convictions (Krajewski 2006: 13; Krajewski 2007: 14; TI 2009b: 360).

### 3. Civil society

#### 3.1. Civil society in Poland

There were some 50.000 associations and 7.000 foundations in Poland in 2009 (in 2007 respectively 45.000 and 7.000). All together these organizations report ca. 8 million members<sup>4</sup> and 1 million of them perform a voluntary work. This looks quite impressive, however, has to be confronted against another set of data namely, “only 1 in 10 Poles belongs to some form of social organization, and 70 percent of those confess they are only passive members. This means that the social capital in Poland is among the lowest in the EU, despite the country’s lively and influential nongovernmental organizations (NGOs).” Moreover the current coalition government PO-PSL lends support to the civil sector, which marks a sharp contrast in comparison to the previous administration (Krajewski 2009: 405-406).

Poland has a long tradition of the civil society organizations (CSOs) stemming from the Solidarity movement of 1970s and 80s and strong church organizations engagement in public life. Moreover, frequent government changes contributed to strengthening of various CSOs because politicians who were ousted from political posts, could find job in NGOs etc. (Krajewski 2009: 406).

Landmark changes for the civil sector took place in 2003 when a legislation regulating NGOs’ cooperation with local governments came into force. Since then on NGOs could perform paid-for ‘public assignments’ services, although they had to obtain a public benefit organization status (Keat 2004: 2). Another milestone was a 2004 law allowing NGOs with the public benefit status to acquire donations from individuals equal to 1% of their income tax (Jałowicki 2005: 2).

In recent time the civil society experienced a strong revival in 2005-2007 years (observable in FH NIT civil society index – see figure 1), when disappointment with twin-brothers rule mobilized various civic organization to project their voice. This was reflected in the highest turnout since 1989 during the 2007 early parliamentary elections – 54% (or up by 13% from 2005 elections). Broad civil participation resulted in the replacement of the PiS administration with the current PO-PSL coalition (PKW 2007: 1; Krajewski 2008: 1; wikipedia 2010).

Three most recognizable Polish NGOs are Wielka Orkiestra Świątecznej Pomocy (the Great Orchestra of Christmas Charity), Polska Akcja Humanitarna (Polish Humanitarian Organisation) and Caritas Polska. Major donors are the Polish American Freedom Foundation, Stefan Batory Foundation (founded by the Soros Foundation), and Kronenberg Foundation (Krajewski 2009: 406).

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<sup>4</sup> These is not an absolute number as membership is not mutually exclusive, hence one person may be a member of many different organizations.

Two first NGOs have a strong widely-known in Poland leaders, however, none of them is active in the anti-corruption field. On the other hand, the first two donors actively support anti-corruption initiatives.

### **3.2. General structure of anti-corruption CSOs in Poland**

Polish landscape of anti-corruption-oriented civil society organizations may be divided in two parts. The first part encompasses large organizations working at the national and international levels whose action scope is vast and among others includes anti-corruption. They not only set out trends, sponsor local organizations and develop major anti-corruption campaigns, but also have been founded relatively long time ago, like the most prominent NGOs, e.g. the Stefan Batory Foundation (1988), the Foundation in Support of Local Democracy (1989) or Transparency International Poland and have been receiving substantial external financing from both foreign and domestic donors e.g. Open Society Institute, the EU, Polish-American Freedom Foundation, Polish government etc. They also create coalitions with other organizations for sake of carrying out particular tasks. E.g. AKOP or Antykorupcyjna Koalicja Organizacji Pozarządowych (Anti-corruption Coalition of Non-governmental Organizations) is a single-issue coalition for monitoring of electoral campaign promises. The second CSO group is composed of a large number of smaller organizations, usually, but not exclusively, of the regional scope and a grass-root origin, or which concentrate on one specific undertaking e.g. the Movement Normalne Państwo, Institute of Public Affairs or Center for Citizenship Education. However, there are also country wide networks e.g. the Association of Leaders of Local Civic Groups (SLLGO).

Undoubtedly both levels play an important role in the anti-corruption area, which is evident while looking at a large number of various projects aimed at fighting corruption (major projects described in the attached excel sheet and the adjacent word file). Here it suffices to notice that CSOs' anti-corruption undertakings usually fall into five general categories, i.e. informative campaigns aiming at awareness rising on anti-corruption, enhancing transparency (watchdog activities), creation of and support for NGOs and civic initiatives that deal with anti-corruption initiatives, legal council and finally enhancing civic participation in public life and anti-corruption initiatives. A great majority of projects includes media participation. Moreover, NGOs coalitions are not uncommon as well as collaboration with administration at state and local levels, although the latter is more often involved.

Very often anti-corruption is not the sole purpose of those projects, nonetheless, this theme is an important one. By and large civil society organizations demonstrate vigorous involvement in anti-corruption sphere and may mark significant successes on their account in the field.

### **3.3. Role of anti-corruption NGOs**

The impact of the civic sector on the anti-corruption issue is large and seems to be sustainable and picking up the strength, especially at the local level. For instance official governmental documents refer to NGOs' publications (e.g. an anti-corruption manual from Ministry of Interior and Administration accessible at the governmental anti-corruption portal [http://www.antykorupcja.gov.pl/portals/ak/11/27/PORADNIK\\_ANTYKORUPCYJNY.html](http://www.antykorupcja.gov.pl/portals/ak/11/27/PORADNIK_ANTYKORUPCYJNY.html)), some surveys have been carried out by NGOs for a long time and currently are invaluable source of information for a longer-term analysis. State agencies take stances on the NGOs' reports concerning implementation of anti-corruption strategies or assessing anti-corruption activities in the public sphere. Parliamentary bodies also sometimes look for an opinion on legal pieces from NGOs. Having said that it has to be mentioned that there are also clear signs of omitting those practices. For instance, NGOs have to frequently struggle to get heard on parliamentary committees, which are working out new law proposals, sometimes they get ignored. E.g. the current government has not taken any steps to ask for an opinion of any of the main anti-corruption NGOs about the anti-corruption bill (AKOP 2009: 32). There are difficulties in obtaining public information from public offices, although it should be widely accessible etc.

### **3.4. Media and anti-corruption**

Media are one of the most important anti-corruption actors in the stakeholder analysis. They are capable of exerting strong pressure on politicians and public officials as well as communicate widely on the anti-corruption issue, and thanks to that agitate people to action. Media can perform their role in anti-corruption area either in a pro-active way, e.g. encouraging investigative journalism, or in a passive fashion, namely pay attention to already investigated and uncovered by other actors scandals. All in all, their most important contribution is making a given issue widely known in a possibly objective manner.

Polish media, according to FH NIT independent media index, rank high in terms of independence (2.00). Against the background of the EU-10 only the Baltic States score better. Poland seems particularly strong in this area as well as in the civil society sphere. In other spheres Poland usually ranks lower than the EU-10 average (FH 2009).

On the other hand other indices and sources point to a weak media position in Poland. For instance an index measuring press freedom from Reporters without Borders put Poland at 58<sup>th</sup> place. Other EU-27, except Bulgaria, got into top 50 (RwB 2007), however, till 2009 it has dramatically improved and now Poland scores 37<sup>th</sup>. The 2007 low grade was attributed to facts described by RwB "[i]n Poland, the authorities refuse to decriminalize press offences and the courts often pass suspended

prison sentences on journalists. Ever since Lech Kaczynski became president in October 2005 and his brother, Jarosław, became prime minister a few months later, there has been an increase in prosecutions of news media” (RWB 2007: 1). Also Freedom House noticed the slippage in the free media environment in 2007, which was a reflection of an increasing state influence on media (Karlekar 2008: 8), although it was a continuous trend since 2003, which stopped only in 2009.

All in all a statement of the FH sounds viable “[e]ven though 2007 saw increased pressure from state institutions and ever more partisan usage of public outlets, the Polish media remained vibrant, independent, and diverse” (FH 2008).

### ***Political influence on media***

A mentioned political factor indeed plays quite a role in Polish media environment. Public and private media are under supervision of “the highly politicized National Radio and Television Broadcasting Council”, or KRRiT (FH 2008: 1-2). Moreover just before 2007 Parliamentary election, the prime time TV show was interrupted to demonstrate another ‘success story’ of the government’s fight with corruption, i.e. arresting a politician from the opposition party, who was accused of bribery. During the same run up to 2007 election KRRiT was brought to a sudden stop when its chair resigned from the post in order to run in the electoral campaign. Subsequently, the post was taken by the chief of staff from the presidential office (FH 2008: 1-2; Krajewski 2009: 408). Press is much less influenced by politicians since all major Polish newspapers are privately owned.

### ***Support of anti-corruption campaigns and initiatives***

In general Polish media have contributed to counteracting corruption at two mentioned earlier fronts, i.e. active and passive. Not only did they spread out information about corruption scandals, but also used investigative journalism to shed light on obscure situations. In fact, the first huge corruption scandal in 2003, the so-called Rywin-gate was exemplary for investigative journalism. A lobbyist, Mr. Rywin, attempted to extort money from a media holding company, Agora, in return for introducing a favorable passage in a bill on ownership mergers in the media sector (Keat 2004: 2). Mr. Rywin, who was to represent ‘an authority holding group’ i.e. politicians from the then-on governing party (SLD) came to the editor of the daily paper, Mr. Michnik, with the proposal and the latter published the whole situation in the newspaper. This resulted in a long investigation with no imprisonment of the allegedly involved politicians, although Mr. Rywin was sentenced.

Another major case, which awoke public outrage was ‘Starachowice affair’. Governing party’s local representatives (SLD) had connections to local mafia and they inform the latter about a planned by the police crackdown on mafia premises. Two senior officials in the party regional office, Mr. Andrzej

Jagiello and Mr. Henryk Długosz, in fact should not have known about the police raid, but they allegedly got informed about that from a deputy interior minister, Mr. Zbigniew Sobotka. Eventually they got sentenced in 2005 to three and a half, two and one and a half year of prison (Keat 2004: 2; Krajewski 2006: 6; TI 2006b: 229).

Investigative journalists have noted a range of other successes on their account in revealing other corruption and sex-affair scandals among both the top politicians, as well as at the local level or in public agencies, e.g. hospitals etc. Nonetheless, investigative journalism is expensive and not many companies can afford it. Moreover, journalists are poorly organized and therefore more prone to political and business pressure (Krajewski 2007). That is why programs such as 'Tylko Ryba nie Bierze' (Only fish does not take) by the Stefan Batory Foundation, which offered prizes to journalist revealing corruption, accurately filled in this financing gap.

In the topic of informing broad public about anti-corruption campaigns and activities, Polish media performs well. They have proven to be a vital part of any anti-corruption campaign or project that have been taking place in Poland. The CSOs quickly learned that press, radio and television constitute very useful tools in fight against corruption. Naming, shaming and blaming and thus exerting pressure on public officials without free media is very difficult if not impossible. All the major corruption scandals became major exactly because of the media interests in those issues. Although media have not always played the main role in uncovering the corruptive activities, they were a key player in holding the perpetrators accountable or at least in initiating legal proceedings against them. Additionally, media information about anti-corruption campaigns and programs made the latter more appealing to the addressees of those undertakings and ensured broader participation in them.

#### **4. Government and political society**

Anti-corruption became an important theme of elections since 2005, i.e. elections following unveiling major corruption scandals in 2003. As already mention both PiS and the current president, Mr. Kaczyński, were elected on anti-corruption mandates. Also the current PO administration made corruption an important part of its campaign, although when at power it does not promote this area any more.

The subsequent governments have been announcing many anti-corruption strategies and programs. Some of them stayed on the paper, some were introduced with bigger or smaller successes. TI surveys show that in 2005 44% Poles stated that the corruption level have increased 'a lot' and next 18% that 'a little' over past three years. This was against 3% and 0% who said that

decreased 'a little' or 'a lot' (TI 2005: 21). In 2006 13% of Poles claimed that the government's anti-corruption actions are (very) effective while 41% indicated 'not effective' additional 28% said the government was not fighting against corruption and 12% said it was in fact encouraging it (TI 2006a: 19). In 2008 (very) ineffective got 54% and effective 13% and it improved in 2009 to ineffective 43% and effective 21% (TI 2008: 19; TI 2009a: 33). Despite poor social appraisal, the governmental programs have profoundly reshaped institutional and legal anti-corruption landscape and touched upon many important issues.

## **4.1. Governmental campaigns and projects**

### ***Anti-corruption strategy***

An initial governmental anti-corruption program the so-called 'Program for fighting corruption: Anti-corruption strategy' was launched in September 2002. It aimed at ordering laws and regulations, stimulating cooperation between government and society in anti-corruption activities and changing social attitude towards corruption. For sake of monitoring, coordinating, reporting and advising on issues related to the strategy implementation a special unit was created in 2003 – the Body for Coordination of the Anti-Corruption Strategy, which is located in the Ministry of Interior and Administration. The Body was conferred with a mission to elaborate a set of output and outcome indicators for monitoring of the Strategy, which would guide future work of an envisaged high committee composed of top-rank politicians, government and CSO representatives (GRECO 2006b: 4-5). In 2004 naturally the government announced a successful implementation of the program (MoIA 2004). There is not much information about creation of a said high committee. However, a special anti-corruption plenipotentiary was appointed just after elections in 2005 as well as the Central Anti-Corruption Bureau (CAB) was established.<sup>5</sup> The second phase of 'Anti-corruption strategy' followed from 2005 till end of 2009 and attempted on the one hand to introduce systemic changes and on the other hand to shape anti-corruption ethical behavior – both with the goal of impeding corruption (MoIA 2005: 6).

Within the framework of the Anti-corruption Strategy multiple trainings on ethical public service and anti-corruption for civil servants have been carried out. Among others the EU and OECD sponsored them and they included such initiatives as twinning projects with Germany, UK or Holland (GRECO 2006a: 5-6). Additionally, trainings have been provided for prosecutors, judges and SCC (Supreme Chamber of Control) controllers and tax officials (GRECO 2008a: 3, 6). From other measures, e.g.

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<sup>5</sup> See more in the following section on anti-corruption structures

the Ministry of Interior set up secured hotline where cases of corruption could be anonymously reported (Krajewski 2007: 14).

All in all it is evident that pressure from international bodies as well as own promises regarding realization of the Anti-Corruption Strategy have brought tangible results. Besides new agencies also an encompassing governmental web portal for corruption-related issues was designed (<http://www.antykorupcja.gov.pl>). Many diverse documents and anti-corruption manuals can be found there as well as description of the anti-corruption projects etc. Accessible material is of a mixed quality, ranging from very good to low quality texts. To the latter belongs e.g. the 2009 Central Anti-Corruption Bureau's analysis of corruption in Poland, which after 44 pages of presenting various types of information and statistics suddenly concludes that all the presented data, which was gathered from different ministries and governmental organizations, is not compatible and thus cannot be either compared or a basis to any overarching analysis and conclusions (CAB 2009: 42). However, despite its vast resources the portal also possesses white spots, especially in the area of project appraisal. Although the evaluations are envisaged within the project proposals their texts are not accessible at the portal, which might suggest that they do not exist. For instance the project: 'Enhancing anticorruption activities in Poland' that started in 2005 and lasted 15 months has no available evaluation despite initial statement that it would be carried out.

### ***Anti-corruption shield***

The so-called 'Anti-corruption shield' constitutes another attempt of the government to fight corruption. However, the shield, which started to be operational since ca. beginning of 2009, is surrounded by the nimbus of secrecy. The main goal of the shield is to conduct screening and monitoring of the major public tenders and privatization processes, where large sums of money are involved and/or where national interest is at stake (Money.pl 2009). The government rejects providing any official information on this topic and currently there was even a litigation against the government for not disclosing information on the shield, however, in January 2010 the litigation was rejected on formal grounds, but probably will be continued (TVN24.pl 2010).

### ***Professional civil service***

Since the breakthrough in 1989 Poland has been struggling to create professional, protected and depoliticized civil service providing high-quality corruption-free services to citizens (Jałowiecki 2005: 4). Actually some of the reforms went in an opposite direction, like 2001 one allowing appointments to high-rank administration posts individuals, who did not belong to the civil service corps and with

bypassing a competition procedure. The ruling party, SLD, excused this move with an inadequate number of highly qualified persons in the corps and thus there was alleged need to bring people from outside the administration but in fact it allowed hiring political appointees (AKOP 2005: 9). In fact there was an upper limit of 6 months for such employees, however, it was bypassed by a legal loophole i.e. employing for an 'acting' position. That eliminated duration constraint and allowed longer employment of politically appointed individuals. Another method to avoid open competitions for a position was preserving an empty top managing position and conferring a vice-position with decision-making power (Burnetko 2003: 56-59). Fast-track carriers and political appointments not related to personal merits, which could be overruled by a following government definitely did not counteract corruption, on contrary it invited it.

In the election year 2005 SLD amended the law again and introduced obligatory competitions for director positions in state administration and agencies. Newly elected PiS government also introduced new procedures in 2006. Information about vacancies in local administration and civil service had to be released together with requirements for those positions. To enhance transparency also names of candidates for a given position have to be made public as well as winning name with justification why a person was chosen (TI 2006b: 228-9). However, Ernst&Young report concludes that 2006 reform also led to unintended accelerated staff rotation and thus deprived high-rank public servants of motivation to excel their skills. Moreover, both competition and nomination criteria for high-ranks were loosened, which contributed to decreasing strength of the governmental administration. Those elements combined with inadequate systems of internal and external control resulted in worsening of anti-corruption conditions in the governmental administration as well as policy-making process in general. This process took place despite the introduction of many procedural elements aimed at exactly contrary goals, however, the procedures were applied in a patchy manner and their utilization strongly depended on top-rank officials (Heywood and Meyer-Sahling 2008: 5-8). PO administration reversed some of those 2006 changes with a new 2009 law and empower high-rank administration officials and included them into civil service. However, open competitions were not re-established and choice of candidates for high-rank civil service positions is still arbitrary (AKOP 2009: 2, 20-23).

### ***Independent general attorney office***

The PO-PSL government recently managed to finalize an important anti-corruption step, namely separation of functions of Minister of Justice and the general attorney. Among others Transparency International was pointing out that joint performance of both functions undermined independency of the prosecutor (TI 2009c: 41) and thus could lead to less efficient persecution of irregularities in political life, e.g. corruption. Plans of this institutional reform, which is to depoliticize the attorney

office, took roots already in 2003 (gazeta.pl 2003). The change materialized only at the end of March 2010 when Mr. Andrzej Seremet took over the general prosecutor position.

## **4.2. Anti-corruption structures**

### ***Police and Central Anti-Corruption Bureau (CAB)***

Since 2000 special anti-corruption departments started to be created in every provincial police force and the process was accomplished in 2004. Thanks to equipping them with new measures, like 'controlled bribery' and whistle blower protection schemes those units could more effectively engage in fighting corruption.

Moreover, the road police which once was scoring high in surveys on institutions where bribes were handed in most often (see table 3), nowadays, is perceived significantly better (BF 2006: 23). The source of improvement could be twofold. Firstly, from 2006 on a policeman caught on receiving a bribe loses his special pension privileges (Krajewski 2007: 14). Secondly, road policemen cannot take cash any more from fined drivers and all fines have to be wired directly to a police bank account.

The Central Anti-Corruption Bureau (CAB) was established in June 2006 during the PiS administration as a tangible sign of its fight against corruption. Staffed with some 500 well-paid elite officers under the leadership of a PiS politician CAB was to address corruption within state and local administration environment as well in the area of illegal economic activities. Professional monitoring of income sources and property reports as well as investigations into public procurement, where corruption is estimated to reach 5 to 20 per cent of contract values, were to be some of the tools that the Bureau could apply (Krajewski 2006: 13). Doubtlessly, it is the main public agency dealing with anti-corruption issues and investigating into corruption prone areas. Its officers among others can set up bribery provocations in order to obtain material for a prosecution. Besides investigatory activities CAB also fulfills informative tasks via a website inaugurated in December 2008 ([www.antykorupcja.edu.pl](http://www.antykorupcja.edu.pl)), which, however, is not as impressive as the governmental portal mentioned before. In general it might be argued that informative dimension of CAB leaves much room for improvement, however, it is not its main duty. On the operational front it is clear that initially CAB was used for political reasons e.g. during the 2007 Parliamentary electoral campaign. On the other hand, CAB was also accused by PiS critics of working for two years in the informational limbo as it had not had at its disposal any corruption map of Polish public life, which would systematize its actions (Solska 2009). Currently, CAB's actions are not present in daily news headlines, which suggests a lower degree of politicization of its activities. Although recently its name again visited on

headlines due to a Constitutional Court sentence in 2009 ruling that the definition of corruption applied in the CAB erecting bill was breaching the Constitution, because it was too encompassing and obscure (gazetaprawna.pl 2009). The questioned by the Court regulations have been changed.

### ***Special government plenipotentiaries (anti-corruption hero)***

Last two administrations appointed special plenipotentiaries for sake of showing their attachment to anti-corruption activities. Already in November 2005 PiS created a post of 'The Government Plenipotentiary for the Program Elaboration on Counteracting Abuses within Public Institutions' whereas in November 2007 PO turned it into 'The Government Plenipotentiary for the Program Elaboration on Incorrectness Prevention in Public Institutions'. The main task of the first plenipotentiary was to not only elaborate the program, which is spelled out in its name, but also to create a bill laying the legal foundation for CAB, which was fully accomplished and the Bureau was erected in 2006 (Szelest 2008).

PO administration also rushed with appointing its plenipotentiary for the anti-corruption front, which was done just after the won parliamentary early elections. This post was created to fulfill electoral promises pertaining to fighting corruption, nonetheless, the scope of this post has not been so far published. Ms. Julia Pitera, a former member of the board of TI Poland (TI 2009b: 357) and a relatively widely recognizable person who could easily be named an anti-corruption hero, holds this position. Until now, however, she has not performed well at her position. Actually, within those two years no coherent anti-corruption program was released (March 2010). Moreover, the government also has not managed to amend the so-called 'anti-corruption bill' yet, which restricts business activities of public officials. Changes in the bill are required by the GRECO and they were one of the electoral campaign promises of the currently governing parties (AKOP 2008: 10; AKOP 2009: 32). Hence the government critics have reasons to strongly complain of its anti-corruption 'campaign' (Rzeczpospolita 2010).

### ***Supreme Chamber of Control***

The Supreme Chamber of Control (Najwyższa Izba Kontroli or SCC) is the central governmental agency tasked with controlling state institutions and other bodies. It is responsible to the Parliament. Among others the Chamber monitors public life from a corruption viewpoint by a broad analysis of processes and institutional structures within the state. It does not carry out controls of individual firms but usually points to the areas or sectors of state functioning where improvements are needed and draws more general conclusions. The SCC has an advisory role and the implementation of its

recommendations is fully dependent on the government, and, as is documented by the SCC, the enforcement goes slow (Shkolnikov 2009: 7-9).

### ***General Inspector of Financial Information***

The General Inspector of Financial Information belongs to the state administration institutions. The General Inspector is a deputy minister in the Ministry of Finance and after the minister of finance it is the second organ responsible for counteracting the injection of illegal financial measures to the state economy. Among others the office gathers and analyses data as well as prevents inflow of illegal domestic and foreign equity into the economy. Moreover it is a central organ of Polish anti money-laundering system (TI 2009c: 41). In general its duties fall into two general categories, i.e. anti-corruption and anti-terrorism.

### ***Special parliamentary committee 'Friendly State'***

The objective of the special parliamentary committee 'Friendly State' is the administrative burden reduction, simplification of regulations and cutting the red tape and legal loopholes. The committee has been working since December 2007 and so far it has come out with 133 proposals or either new bills or their amendments. It is not purely anti-corruption body, but aim at lowering administrative burden and in turn improving regulatory environment, which would be less prone to corruptive behavior.

## **4.3. Short remarks**

### ***Public finances***

GRECO have been continuously drawing attention of Polish authorities to special off-budget funds (value more than 10% GDP) that pave the way to potential embezzlements and create supervision problems (GRECO 2002: 17, 23; GRECO 2004: 9-10; GRECO 2006a: 3). Poland has been slow to address this earmarked fund issue. Nonetheless, some progress was noted as the value of the funds is decreasing and their number shrinks thanks to a newly enacted in September 2009 law (AKOP 2009: 18-20).

### ***Political parties funding***

Polish law on financing political parties is of good standards and provides a good check on party revenues. On average 80% of party funding originates from the state (GRECO 2008c: 22). Annual financial reports as well as election reports are submitted to an independent National Electoral Commission that controls parties' expenditures with detailed financial regulations. Despite the above statement, GRECO identified some minor elements that could be amended in order to improve the current situation. The most important one is empowering the Electoral Commission to perform more proactive controls of party financing and not only formal examination of submitted information (GRECO 2008c: 28). The control system, nevertheless, seems to catch major misuses well, which is exemplified in case of the current coalition party, PSL, which has to pay back some PLN 18m (EUR 4,5m) it received for the 2001 electoral campaign. The reason being, campaign finances were not channeled via the electoral funds but went through the party account (gazeta.pl 2010). However, Polish NGOs report that electoral campaigns (both parliamentary and to local governments) still leave much room to improve, especially at the level of individual candidates.

Electoral campaigns are financed solely from permanent election fund that are specially created by each party. Only natural persons may donate money to those funds whereas donations from legal entities are illegal. The law also allows membership fees, party transfers and legacies. Individual candidates are prohibited from individual spending (GRECO 2008c: 7).

### ***Important regulatory shortcomings***

Despite, and sometimes because of, continuous activity in the anti-corruption sphere there are still areas in Polish law that require attention and substantial adjustments to make them less prone to corruption. Both international organizations and domestic CSOs play an important role in pointing out such deficiencies of which the most important are shortly discussed in this section.

Poland has not implemented yet GRECO's recommendations on curbing 'pantouflage' phenomenon, i.e. improper movement of public officials to the private sector. The problem here mostly refers to a too short transition period (currently 1 year) after which a public official may take a position in a sector, which she could influence while working in the administration. Legislation proposing extension of the period to 3 years was halted with the early dissolution of the Parliament in 2007 and although it is back on the agenda right now, there is no explicit timeframe for its adoption (GRECO 2008a: 2-3).

Transparency International draws attention to the fact that Polish law does not recognize criminal liability of corporations and that it does not offer a wide range of non-criminal sanctions against legal

entities, moreover maximal fines are low and many public officials enjoy immunity protection from prosecution (TI 2009c: 41).

Also a whistle blowing issue raises some questions. Both GRECO and TI notice that although the whistle blower protection is an important and desired institution, Polish solution may invite abuses. The solution in force gives a complete impunity to individuals/legal entities that turn to authorities and reveal corruptive precedence. Nonetheless, GRECO reports that the introduction of the impunity solution for active bribery in 2003 contributed to a higher number of detected corruption cases (GRECO 2008c: 21-22; TI 2009c: 41). Moreover, 'active regret' cannot be always invoked as is the case in a very recent whistle-blower initiated investigation (2009), which pertains to corruption in hospital equipment tenders. Bribes handed in by an equipment manufacturing company to hospital and local administration representatives exceed PLN 3million, or EUR 750.000. A whistle blower will most probably get convicted but thanks to his cooperation the sentence will be relatively low, as already happened in previous similar cases (Rzeczpospolita 2010).

## 5. Voters

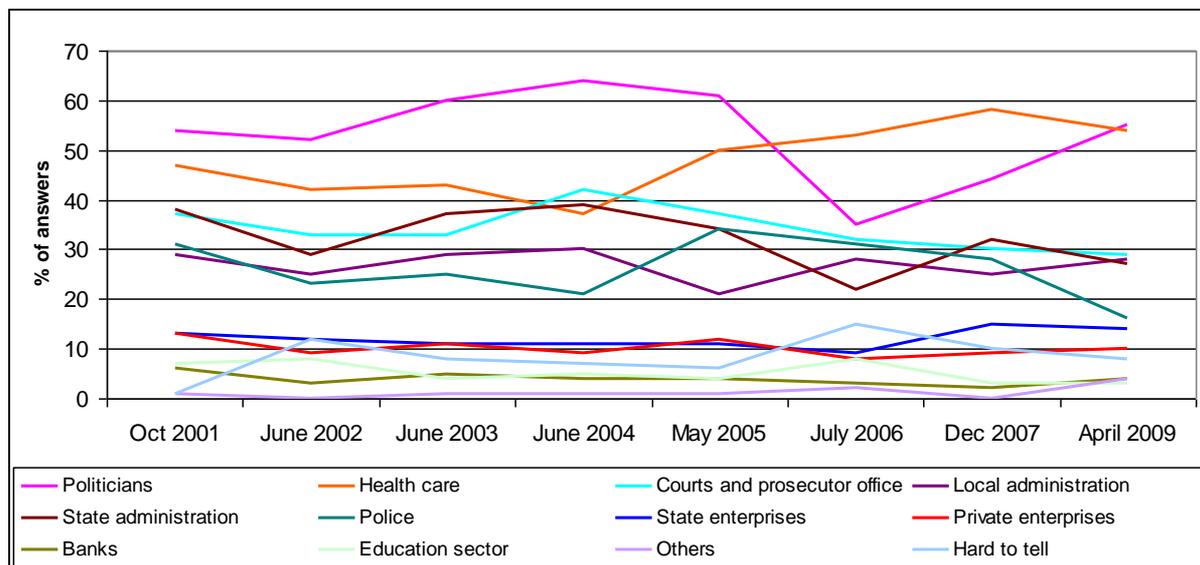
Poles in general seem used to corruption in public life and to some degree in the everyday activities, especially in the mentioned before healthcare sector, where they encounter corruption most frequently. Nonetheless the general corruption perception (see Figure 2), follows a slightly but continuously improving path with the exception of 2004. Only 'politicians' and 'health sector' categories stand out and remain persistently high. Additionally, in 2007 also 'state enterprises' moved up above their hitherto levels. FH NIT corruption index paints a more optimistic picture and lends support to a conclusion that general corruption perception in Poland improves much faster (FH 2009).

The below presented figure 2 neatly matches outcomes of other public opinion survey, which since the 1990s has annually probed Poles on their view if corruption is a large or small problem. There was a steady rise of concern about corruption in the society since 1991 when 71% of respondents stated that the issue was a large problem till 2004 (95%) and then a slight decline could be observed to 89% in 2009 (CBOS 2009c: 2). Striking is the fact though that with such high scores expressing significant concern about corruption, only 15% of Poles said in 2009 that they knew someone who took bribes (strong decline from 30% in 2000 and 22% in 2004) (CBOS 2009a: 1).

The recent data also demonstrates Poles' mounting doubt in the effectiveness of bribes and their necessity all together. Nevertheless, a widely-spread opinion remains that corruption and bribery is a matter of a habit deeply rooted in the social mentality, which still reflects a lingering belief that

offering a 'present' will speed up bureaucratic machinery (CBOS 2009a: 6). Actually, offering 'presents' or 'signs of gratitude' especially after e.g. accomplishing a treatment in a hospital or obtaining a permission in administration are very often not considered as corruptive. Sometimes the line between a thankful gift and a bribe is very fine and its reflection in public opinion polls cannot be taken for granted.

**Figure 2: Corruption perception according to areas of public life in Poland**



Source: (CBOS 2009c: 5). Numbers for 2000-2006 come from Stefan Batory Foundation's Corruption Barometer.

Fortunately a number of Poles that admit that in recent 3-4 years were faced with a situation where they had to hand in a bribe has declined from high 20% in 1997 and 19% in 1999 to 9% in 2006-09 period (CBOS 2009a: 4). The same survey indicates that also the frequency of giving bribes has declined over the last decade. Other studies corroborate this fact but point out that a bribe average amount has increased. An encompassing state analysis indicated that although a number of households offering 'gifts' to health sector employees decreased to 3,8% in 2009 from 8,7% in 2005, the value of bribes paid in a quarter rose from EUR 25 to EUR 34 (Czapiński and Panek 2009: 114). Another study pointed out that bribes represented 30% of health expenditures in Poland which led to almost doubling physicians' salaries (TI 2006b: 64-5).

The above report suggests that although corruption is relatively spread-out in Poland, its level is slowly declining. Improved laws and regulations, which are an effect of government, civil society organizations and international community's activities, as well as continuous monitoring of public life and officials carried out by state organs as well as civic watchdogs have heavily contributed to reshaping the anti-corruption environment in the country. Additionally, media support has drawn

public attention to the issue and has helped to raise awareness about (anti-)corruption and its effects. Nonetheless, there is still long way to go to uproot the described corruption-inviting behavior and catch up with leaders of the rankings on the least corrupted jurisdictions. The social change is slow to happen and requires continuous effort on part of both government and the NGO sector to ensure sustainability of this evolution.

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