



STEFAN **BATORY
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REPORT

Assessment of the Polish State's Resilience to Abuse of Power

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Assessment of the Polish State's Resilience to Abuse of Power

The abuse of power in Poland, including corruption, is a complex, systemic phenomenon that escapes narrow definitions or criminal code regulations.¹ Since coming to power in 2015, the ruling party has steadily laid the foundation for grand corruption, understood as a monopoly on power, arbitrary decisions, lack of transparency and accountability, and particularism (including political clientelism), with the particularistic redistribution of public goods (such as posts or funds) aimed at satisfying the party base's interests.

Experts and researchers studying the quality of public life are aware that this is a growing problem and that it results from the conscious policy of Law and Justice (PiS in Polish) party, which ruled Poland until the 2023 elections. It involved the steady lowering of the standards of the rule of law; above all, abandoning the principles of the separation of powers and the rule of checks and balances. The executive – or more precisely, its party base – became dominant. Parliament was steadily weakened; in particular, when it comes to providing a check on the executive and, especially in the parliament dominated by PiS, a place for public debate and exchanging views on state policy. Since 2015, we were observing a constant attack on the third branch of government in Poland: the judiciary. The ruling party increased pressure on judges, seeking to limit their autonomy and independence, and striving

to subordinate the judiciary to its priorities. The prosecutor's office, a key state body in the fight against corruption and abuse of power, was almost completely subordinated to the authorities. Restoring the model of prosecutor's office in which a politically-appointed minister is also prosecutor general, and expanding his powers in a way that enables him to freely interfere in any rank-and-file prosecutor's work, created a structure in which the people with political control over the prosecutor's office and law enforcement agencies can remain unpunished. Decisions on whether or not prosecutors investigate suspected crimes involving politicians and officials from the ruling party – and whether or not these cases were even considered in court, where they can finally be clarified – were political. Citizens and watchdogs tasked with keeping the authorities in check are deprived of basic tools, such as guarantees concerning access to public information. People who have the courage to speak out about abuse in the workplace – in other words, whistleblowers – are still not protected by law. The authorities are in no hurry to improve their situation, which could be accomplished by implementing EU regulations. All this adds up to a crisis of the rule of law, broadly understood. In these circumstances, it is difficult to speak of the state's resilience to abuse of power and corruption.

This analysis seeks to highlight the complexity of contemporary corruption and how difficult it is to counteract abuse by the people in power. Our aim is to stimulate public debate and, in doing so, raise awareness of just how dangerous abuse and corruption are. Paradoxically, they do not have to take the form of crimes. Rather, they can

1 See.: G. Makowski, *Szykując grunt pod "wielką korupcję". Działania (anty)korupcyjne władz w latach 2015–2019*, Stefan Batory Foundation, Warsaw 2020, https://www.batory.org.pl/wp-content/uploads/2020/03/Internet_Szykujac-grunt-pod-wielka-korupcje.pdf [all the documents cited were accessed online on 26.06.2023].



become a form of exercising power; an instrument built into the state system.

We present an assessment of the resilience to corruption and abuse of power of Poland's key institutions and civil society organisations, as well as their ability to counteract these problems. We focus on:

- **the institutions that constitute the three branches of government;** that is, Poland's parliament, the government and the judiciary. We bypass the president, as he is not responsible for shaping public policy, and expand our definition of the word "government" to include the civil service;
- **the prosecutor's office** – the key institution in fighting corruption;
- **civil society organisations and citizens,** who should also, from the bottom up, contribute to the fight against corruption and abuse of power, in accordance with international anti-corruption policy standards, which assume that efforts to counteract these problems must be based on civic engagement.

We invited ten experts to work with us. Each of them independently assessed these institutions according to 92 indicators/statements across three dimensions (for a detailed description of the assessment procedure and the concepts that it is based on, see the methodological appendix). These dimensions are:

- **Autonomy** – in the case of each of the institutions assessed, autonomy means something slightly different, but they all have one thing in common: the expectation that they will act independently (including independently of one another), i.e. in accordance with their own internal goals, in the way they choose, but always in accordance with the law and in the public interest. It is also assumed that they will provide checks on one another, in accordance with the principles of the separation of powers and the rule of checks and balances.
- **Integrity** – compliance with certain basic requirements regarding democratic standards

of transparency, accountability and their own internal resilience to corruption.

- **Potential** – the ability to be involved in creating and implementing an effective anti-corruption policy.

The experts were asked to assess the Polish state's resilience to abuse at the time when the analysis was being prepared. **They considered PiS's years in power – specifically, the period from 2015 to the end of February 2023, and any events (such as changes to the law or scandals) that they believed should be included.**

All the institutions were rated on a scale of 0 to 100 points, where 100 denotes the strongest resilience to corruption and the greatest potential in counteracting corruption, and 0 denotes the weakest. **None of the institutions received over 50 points, which shows how far Poland is from being able to defend itself against abuse of power — and, at the same time, how much of a risk this is.**

Government and civil service – score: 19 out of 100 points

Of all the institutions covered by our analysis, Poland's government and civil service received the lowest score. This is primarily because the government, the main centre of executive power in Poland, is focused on acting in the ruling party's interest, not the public interest. In this sense, it is not autonomous; it is unable to go beyond the narrow confines of its party base. This translates into low ratings in other dimensions, which partly result from the fact that – because it is primarily guided by the party's interest, not the public interest – the political neutrality of the civil service (the main apparatus for implementing public policy) has been weakened. The key change was the 2016 amendment to Poland's law on the civil service, which replaced the open, competitive recruitment process for top posts in the civil service with political appointments, and lowered the skill levels required. PiS also sought repeatedly to include undersecretaries of state

(that is, people on purely political posts) in the civil service corps, which would have further increased the politicisation of the civil service (the bill of November 2020 seeking to introduce this solution was vetoed by President Andrzej Duda).

Poor transparency contributes to the low integrity of the government and the civil service. The government does not proactively and systematically provide information about its actions, or respond to parliamentary interpellations or questions from journalists. Perhaps above all, this lack of transparency is compounded by the fact that the state budget is completely non-transparent. In addition, the government is reluctant to engage in dialogue with citizens; that is, to consult them when working on draft legal acts and other public decisions and seek to reach an agreement with them. Allegations of corruption have been levelled against certain members of the government. One example is the government's purchase of faulty ventilators, masks and COVID-19 tests during the pandemic without a tender. This was possible as the government had exempted these types of purchases from tender rules in its "anti-covid laws" and the public procurement law. The state budget lost hundreds of millions of złoty on these purchases and the people responsible are still on senior positions. By the time this report had been completed, the prosecutor's office had not brought charges against anyone. Another example is the prosecutor's office's discontinuation of a case involving PiS Chairman Jarosław Kaczyński right before the 2019 elections. Kaczyński had allegedly defrauded the architect who had prepared the documentation for the two towers that Srebrna, a company controlled by him, had planned to build. These kinds of cases are not being investigated by the prosecutor's office. Moreover, government members and senior officials who are increasingly embroiled in controversy are not being held accountable – in a political, criminal or even disciplinary sense.

The PiS government is not creating or pursuing an anti-corruption policy, either. This is exemplified by the Supreme Audit Office's critical assessment of the implementation of the government's

anti-corruption programme in 2018–2020, the fact that no new document outlining anti-corruption policy priorities has been created since 2020, and the almost two-year delay in implementing the EU directive on whistleblower protection, one of the key tools in the fight against corruption.

Prosecutor's office – score: 26 out of 100 points

The prosecutor's office did not score much higher. It became highly politicised under PiS. This was primarily caused by the return to a model in which the Minister of Justice is also prosecutor general. The prosecutor's office does not operate autonomously, which is crucial when prosecuting cases of abuse by people in power (see the examples of the investigations left unfinished above). Yet when it comes to pursuing PiS's political opponents, the prosecutor's office has been willing to help. One example is the case of Ryszard Brejza, the mayor of Inowrocław. Brejza is the father of Krzysztof Brejza, a former senator from the Civic Coalition (KO), who headed its electoral team in 2019 and whose phone was hacked using the infamous Pegasus software. In January 2022, the prosecutor's office summoned Ryszard Brejza as a suspect in a case concerning the extortion of money from Inowrocław City Hall – just a few hours after his son announced a lawsuit against Kaczyński for publicly insinuating that Ryszard Brejza was involved in criminal activity. Although cases of criminal corruption among prosecutors are rare – and, when they do occur, the prosecutors face consequences when their abuses are proven in court – this institution's overall integrity is low. The prosecutor's office does not operate transparently. Its political subordination – regulations adopted during the PiS era allow the Minister of Justice, who is also prosecutor general, to freely interfere in any prosecutor's work – enables the authorities to put pressure on prosecutors through disciplinary punishment, transfers and many forms of harassment, thereby undermining the institution's essence. The prosecutor's office is not involved in creating anti-corruption policy. When it comes to combating abuse of power and corruption



crimes, its effectiveness is diminished by the fact that cases involving the ruling party are not investigated, or are discontinued or delayed. They do not even reach the court stage. This is also because how its work is organised and its approach to corruption cases are not conducive to the effective investigation and prosecution of corruption crimes.

Sejm and Senate – score: 48 out of 100 points

The Sejm and Senate's score is somewhat higher, partly due to pluralism in the Polish parliament (since the 2019 elections, the opposition has controlled the Senate). When it comes to integrity, the Sejm and Senate achieved a relatively good score. Both chambers operate relatively transparently; a considerable amount of information is published online. As a rule, committee meetings are broadcast, and interested parties can attend them. However, changes in the regulations introduced after the 2015 elections, have made the parliament, especially the Sejm, less accessible to stakeholders who wish to comment on draft laws or present their own legislative initiatives.

The parliament's integrity is also eroded by the low financial transparency of lawmakers' offices and parliamentary caucuses and circles, as well as the lack of control over lobbying. It is also difficult to say that the parliament enjoys sufficient autonomy. In practice, the parliamentary majority, which wields a decisive influence on the legislative process, is completely subordinated to the government. The Sejm has ceased to fulfil its function as a place for debate on draft bills. Instead, it has become an implementer of government policy, as shown by the large number of government draft laws submitted as parliamentary bills to avoid public consultations and push through changes desired by PiS (an estimated one in five bills in 2015–2022, on average). This means that the Sejm does not fulfil its function of providing a check on the executive. A huge number of parliamentary interpellations remain unanswered or only receive an (often perfunctory) answer from the government after several months, or even years. Another example of the

erosion of the Sejm's function as a check on the executive is the establishment of the commission of inquiry into Russian influence. An issue that could have been examined by a parliamentary commission of inquiry was transferred to an unconstitutional body completely controlled by the government and the ruling party. There is little that the Senate can do to limit the negative effects of this state of affairs. The parliament creates anti-corruption policy to a moderate and insufficient extent. Several parliamentary initiatives should be mentioned. One is the "anti-corruption law" pushed through by Paweł Kukiz, which requires that contracts signed by political parties be made public, among other things. Yet a year after these regulations entered into force, it turned out that they contain many loopholes, which allow them to be circumvented. Given the scale of the challenge, the Sejm and Senate's anti-corruption efforts are insufficient.

Judiciary – score: 50 out of 100 points

Despite the attacks by the ruling camp and the constant changes since 2015, Poland's judiciary achieved a relatively good score, compared to the other institutions and in the context of the political conditions in which it has been forced to operate. Poland's courts, including the Supreme Court, have still managed to maintain a relatively high degree of independence. Despite the pressure, judges still enjoy many opportunities to act independently, including in cases concerning abuse of power and corruption, even those involving representatives of the ruling party (if these kinds of cases are considered in court).

When it comes to integrity, the judiciary did relatively well. Contrary to how the judiciary is presented by the ruling party, cases of criminal corruption among judges are the exception. If abuse occurs, judges bear criminal and disciplinary liability. At the same time, the integrity assessment is lowered by the fact that disciplinary proceedings have become a way of to put pressure on judges and limit their independence, rather than to hold them responsible for abuse. This is primarily because the ruling majority has

created an unconstitutional system for the disciplinary liability of judges (and members of other legal professions) based on the Supreme Court's Disciplinary Chamber, which was renamed the Chamber of Professional Responsibility in 2022. It is staffed by judges with close ties to the ruling camp, which is inconsistent with European standards of rule of law.

In terms of anti-corruption policy, the judiciary's potential could be greater. This is not to say that courts are lenient towards people who have committed corruption offences. Courts could handle these cases (and others) more effectively. Yet this is hampered by the low quality of court management, the lack of evaluation of courts' and judges' work, and administrative staff shortages. Courts could also act more transparently towards citizens.

Civil society organisations and citizens – score: 45 out of 100 points

CSOs and citizens have the opportunity to get involved in investigating abuse of power, as well as in anti-corruption activities. There are no significant barriers to establishing CSOs, including ones that specialise in fighting corruption. However, the authorities are not particularly supportive of these types of initiatives. Sometimes, they even try to stop them by filing lawsuits against social activists, whom they accuse of defamation or infringement of personal rights. In doing so, they want to create a chilling effect, which would affect the entire community (strategic lawsuits against public participation, or SLAPPs). Whistleblowers – people who report abuse in the workplace – are not protected by law. Overall,

however, civil society has the capacity to act autonomously to fight corruption. CSOs also have a good reputation when it comes to integrity, mainly assessed through the prism of how CSOs (especially watchdogs) function.

The CSOs operate transparently. Cases of corruption in this milieu are rare. It is potential that seems to constitute the biggest problem. Few watchdogs track abuse of power, corruption and anti-corruption policies. It is very difficult to obtain funding for anti-corruption projects, including watchdog projects. Furthermore, the above-mentioned lack of legal protection for whistleblowers does not encourage individuals to take action against corruption. Organisations and citizens interested in creating an effective anti-corruption policy are unable to partner with the government. There is no dialogue with the authorities on this issue. For this reason, this pillar of Poland's anti-corruption infrastructure did not receive a high score, either.

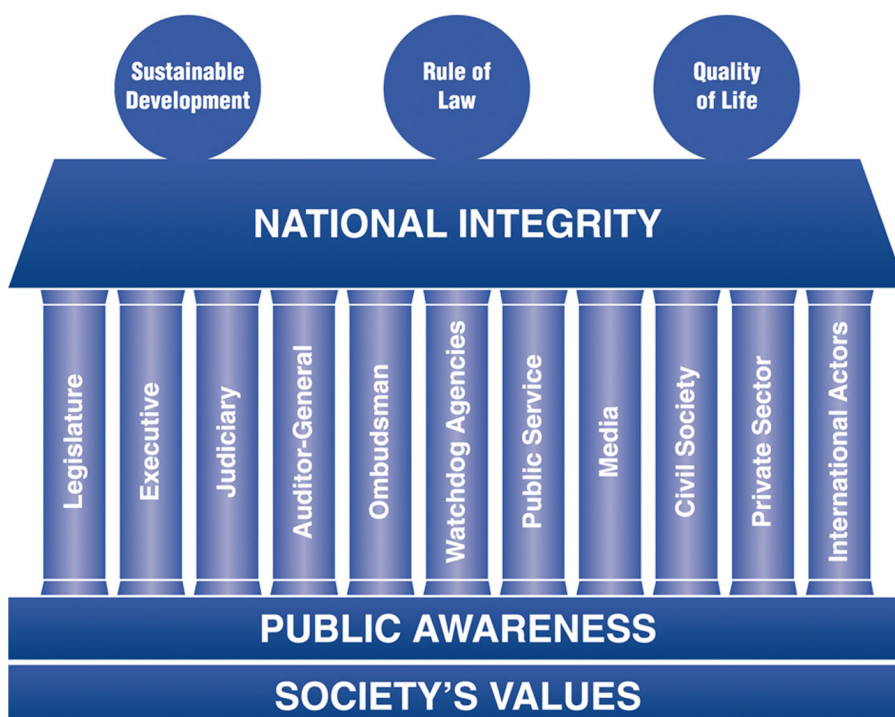
Like most indexes and surveys on corruption, our assessment of the Polish state's resilience to corruption is an expression of people's perception (or, to be precise, experts' perception) of the problem. At the same time – unlike the international corruption indices most often cited by the media and politicians – this is an assessment by Polish experts who observe public life in Poland closely, day in, day out. It therefore complements polls and international indices in which experts outside the country express their opinions. Preparing our assessment of the Polish state's resilience to abuse of power and corruption, we were inspired by Transparency International's National Integrity System and the Global Integrity Index.

Methodology Used to Assess The State's Resilience

In our analysis, we drew on the experience of two indices, primarily the National Integrity System (NIS) created by Transparency International. This approach assumes that abuse of power and corruption are conditioned by both political and economic factors, as well as cultural and normative factors, as well as social awareness of the problem (or rather, the lack thereof). We must analyse these aspects before looking at how abuse manifests itself in specific behaviours (particularly as punishable acts), and the extent to which specific institutions – such as the public administration, the justice system, political parties, media and

civil society organisations – help counteract it. The socio-institutional basis of corruption, and how the state and society have adapted to combat it, ultimately determine economic development, whether a country is moving towards (or further away from) standards of the rule of law, how corruption affects quality of life (such as social inequality), and so on. It is therefore a broad approach that complements the well-known and widely-accepted guidelines on creating an effective anti-corruption policy, which assume that this also requires a holistic approach.

The National Integrity System approach



Source: *National Integrity Systems – An evolving approach to anti-corruption policy evaluation*.²

² A.J. Brown, F. Heinrich, *National Integrity Systems – An evolving approach to anti-corruption policy evaluation*, "Crime, Law and Social Change" 2017, no. 68 (3), pp. 283–292.



In practice, a full study based on NIS methodology is a lengthy process.³ According to the manual prepared by Transparency International, it requires many in-depth interviews with experts, numerous discussions and consultations with key stakeholders (among others, decision-makers, pundits, social activists, scientists), in-depth analysis of existing material, and so on. Conducting a full NIS analysis takes at least a year and requires a team of several people. It is an expensive undertaking.⁴ For this reason, although over a hundred analyses based on this approach have been carried out around the world so far, the study is not easy to repeat because it is time consuming and relatively expensive.

The second study that we drew on is the Global Integrity Index (GII) created by American organisation Global Integrity, which was published every year between 2006 and 2011. Global Integrity ended the programme due to the cost of the study, but the GII methodology is still used by, for example, the World Bank in certain countries. The assumptions used in this study are similar to the NIS ones, with corruption and abuse of power considered in a holistic way – as a multi-faceted phenomenon not limited to criminal activity. Yet unlike in the NIS, where the diagnostic element is strongly present, the emphasis in the GII was not on trying to diagnose corruption and abuses of power, but rather on fundamental public and social institutions' resilience to corruption. The GII creators assumed that it is not worth creating another tool measuring corruption based on perception (while this is the most popular approach, it has many limitations). Perception research will provide a different, but equally useful, perspective if we focus on the perception and assessment of the effectiveness of institutions and anti-corruption mechanisms. Studying the effectiveness of a country's anti-corruption infrastructure will not enable us to measure the scale of corruption, but we will be able to assess, much

more reliably, how well protected it is against corruption – if only because knowledge on this subject is much more accessible. This is the approach we adopted in our Corruption Index by adapting some of the GII index questions to our own needs.

In both the indices we drew on, assessments regarding corruption or protection against abuse are ultimately based on the opinions of so-called competent judges; that is, people who are interested in a given issue, research it and/or have practical experience in a specific area. Our study's form resembles that of the indexes mentioned above, which makes it systematised and transparent. It could also be turned into an index in the future, which would enable us to track changes in the Polish state's resilience to corruption over time.

The core of our analysis was provided by a mixed group of experts, who either have practical experience in a given area of public life or are involved in research, or both. Following the example of the NIS index, this analysis was created in several stages:

- **The group of experts** – as mentioned, the analysis is based on the assessments of so-called competent judges, on specially-prepared forms. When inviting experts to participate, two main factors were taken into account: whether a person has worked closely on a given issue, and whether his or her experience combines practical and analytical elements. We managed to gather a group of people who meet both these criteria, with extensive achievements and experience that go far beyond the PiS era, the period covered by this first assessment. These are highly knowledgeable people who have been observing public life in Poland for years and can therefore provide a balanced assessment that takes into account both the long-term and the short-term perspective.
- **The basic principle of assessment** – embarking on the analysis, we assumed that the experts' assessment is an expression of their understanding of the public sphere's

3 See: A. Kobylińska, G. Makowski, M. Solon-Lipiński, *Mechanizmy przeciwdziałania korupcji w Polsce. Raport z monitoringu*, Instytut Spraw Publicznych, Warsaw 2012.

4 See: National integrity system assessments, Transparency International, <https://www.transparency.org/en/national-integrity-system-assessments>.

problems and their perception of a given aspect. It might not always be supported by hard numbers, reports or analyses (if they exist). This is a way of expressing the opinion of experts who we assume are following events in the public sphere on an ongoing basis (and perhaps even actively participating in them) and are in close contact with the area being assessed (for example, through their own experience, research or analysis), and therefore have the competence to express their opinion and evaluate the individual areas covered by the statements.

- **The scope of the assessment** – unlike Transparency International's Corruption Perceptions Index or the World Bank's Control of Corruption index, our analysis does not seek to determine the scale of corruption or abuse of power. Rather, like the GII index described above, it focuses on assessing the state's (and society's) resilience to corruption. The statements that the experts were presented with are therefore positive; in other words, they express expectations as to how a given institution, such as the government or civil society organisations, should function to help reduce the risk of corruption. If the experts did not agree with the statements, they indicated that, in their opinion, the given element is not functioning optimally. **The maximum scores that the individual institutions can obtain are therefore a point of reference, too. To help fight corruption to the fullest possible extent, each of the institutions assessed should strive to achieve the maximum score.**

Some of the indicators/statements used in our analysis are identical to the questions asked in the GII and NIS indices; others were inspired by them. This means that basically all the indicators have been "tested in the field" to some extent. Insofar as possible, we aimed to use approaches that had already been verified. At the same time, the content of all the statements used was discussed by the Foundation's team and with the experts

who participated in the study. Many of them were revised as a result of these discussions.

All the indicators were grouped into three dimensions, primarily inspired by the NIS index: autonomy, integrity and potential (in fighting corruption). Although each element of the anti-corruption infrastructure considered was assessed in a slightly different way – with a different set of indicators due to differences in the nature of the individual institutions – at the conceptual level, the assumptions remained identical.

Above all, both the NIS and the GII – and, following in their footsteps, our study – assume that corruption can be countered effectively if a variety of institutions and social structures provide checks, criticise, and oblige both themselves and each other to be involved in fighting corruption. For this reason, we consider the three dimensions described above: autonomy, reliability and potential.

As for the elements of anti-corruption infrastructure, we focused on five of the standard institutions listed in the NIS index. Our assessment covered the **executive** (specifically, the government, taking into account the core of the state administration; that is, the civil service), the **legislature** (including the Sejm and the Senate), the **judiciary**, the **prosecutor's office**, and **civil society organisations and civil society** (mainly in terms of assessing how watchdogs operate). We chose these pillars of the system's resilience to corruption because, by assessing them, we touch on the key political institutions in the classic division of power, include the main institution responsible for prosecuting crimes (the prosecutor's office), while also including society's involvement in anti-corruption policy. At the same time, we needed to narrow down the assessment and carry out the study in as little time as possible – among other things, so that it can be repeated every year or two as easily as possible. Although the NIS assumes that many other pillars of resilience to corruption in states and societies will be studied,



this narrower focus appears to be a reasonable methodological compromise.

- **How the assessment was carried out** – experts assessed selected elements of Poland's anti-corruption infrastructure using statements that they could either agree or disagree with. They expressed the strength of their agreement (or disagreement) on a five-point, one-way ordinal scale, where the number 1 means that they strongly disagree with a given statement, and 5 that they strongly agree with it. This is an intuitive scale, which is well known in research and in everyday life (it echos the academic grading scale used in Poland). This five-point scale is also used in the NIS, which provided the ultimate argument for using it in our analysis.

In addition, drawing on the GII index, the experts were asked to briefly justify their assessments and (if possible) provide sources that could be treated as supporting arguments. These could be reports or academic articles, as well as press materials, especially those involving analysis or reporting.

Each pillar of resilience to corruption was first assessed by two experts, individually and independently. These individual assessments were combined by the coordinator. Each pair of experts was then allowed to view them, review the other expert's assessments, and potentially revise their own assessments and justifications.

Next, the coordinator combined both individual assessments and moderated a discussion between the experts. As a result, the justifications were either combined (if they were complementary) or reconciled (if they were contradictory), and the individual ratings were averaged and/or brought closer together. In a few cases, one of the experts refrained

from making an assessment. In those cases, only one expert's assessment was taken into account. If both experts declined to provide an assessment, that indicator was discussed by the entire panel.

The final element of the analysis was a general discussion between all the experts concerning the entire material (the assessments in all the areas that had previously been agreed on), so that the results could be validated and potentially revised.

In total, ten experts took part in the process.

- **Standardising the scores** – the ratings on a five-point, one-way ordinal scale from 1 to 5 were first transformed into a five-point scale ranging from 0 to 4. This procedure (which is also used in the NIS) results from the fact that, as research on the Likert scale shows, raters tend to avoid choosing "zero" when the scale begins at zero. For this reason, it is recommended that scales starting at 1, or letters, be used. The ratings on a scale from 0 to 4 were transformed into fractional ratings (the ratio between the ratings for individual indicators/areas and the maximum values that could be achieved). The results were multiplied by 100. In this way, the results for all the areas were standardised. Moving to a scale of 0 to 100, where 0 is the worst possible result and 100 is the best, enabled us to present assessments in a way that allows comparison and is easier for people to understand.

In this way, we obtained an in-depth assessment of the institutions that we were interested in, in terms of how much they contribute to the Polish state's resilience to corruption, and created a methodology that can be used for similar assessments in the future, if we wish to track changes in Poland's anti-corruption infrastructure systematically.

List of statements used to assess individual areas

Sejm and Senate

1. Autonomy:

- 1.1. The Sejm and Senate operate (in particular, initiate legislative work) independently of the government.
- 1.2. The Sejm and Senate effectively control the state budget.
- 1.3. The President of the Republic of Poland ensures that laws passed by the parliament comply with the Constitution.
- 1.4. The Constitutional Tribunal verifies the content of laws passed by the parliament to ensure that they comply with the Constitution.
- 1.5. Deputies and senators enact the idea of the "free mandate" enshrined in the Constitution and relevant acts.
- 1.6. Deputies and senators have adequate financial and organisational resources (appropriate remuneration, staff, and funds for running their offices, communicating with voters, commissioning expert opinions, etc.) that enable them to fulfil their mandate.
- 1.7. Opposition deputies use effectively the institution of parliamentary checks on the executive.
- 1.8. Opposition deputies use effectively interpellations/current questions/parliamentary questions to provide checks on the executive.

2. Integrity:

- 2.1. The Sejm and Senate chancelleries provide the public with full information about their operations.
- 2.2. Deputies and senators perform their duties relating to disclosing information about their financial situation in their asset declarations and in the register of benefits.
- 2.3. The information disclosed by deputies and senators in their asset declarations and in the register of interests is verified effectively by the relevant state authorities.
- 2.4. The spending and settlement of financial resources at the disposal of Sejm/Senate caucuses and circles are transparent.
- 2.5. Deputies' and senators' staff (office managers, advisers, assistants, etc.) work transparently.
- 2.6. Deputies and senators comply with the requirements designed to prevent conflicts of interest.
- 2.7. Lobbying in the Sejm and Senate is properly managed and transparent.
- 2.8. The risk of corruption and other abuse in connection with the revolving door (that is, movement from the public sector to the private sector and vice versa) is low.
- 2.9. Deputies and senators do not use their position to achieve additional financial benefits (for example, to create unnecessary parliamentary subcommittees).
- 2.10. Corruption crimes among deputies and senators are rare.



2.11. Suspicions of potential abuse (in particular, relating to bribery, influence peddling and patronage) by deputies and senators are investigated by the prosecutor's office.

2.12. Deputies and senators are legally liable in court for abuse (in particular, relating to bribery, influence peddling and patronage), if it is proven.

2.13. Deputies and senators enforce sanctions against each other for violations of the code of ethics.

2.14. Deputies and senators present the public with justifications and explanations for their legislative initiatives.

2.15. Citizens have the opportunity to observe directly the work of the Sejm and Senate (in particular, Sejm and Senate committees and subcommittees).

2.16. Citizens have the opportunity to participate in the work of the Sejm and Senate directly, and to present their own opinions and proposals for draft laws there.

2.17. The Sejm and Senate use the institution of public hearings to gauge citizens' opinions on draft laws, especially the most controversial ones.

2.18. Deputies and senators take into account the comments and recommendations submitted by citizens as part of the consultations on draft laws.

3. Potential:

3.1. Deputies and senators have the ability to analyse and recognise the problem of corruption, allowing them to put forward their own anti-corruption policy initiatives.

3.2. The Sejm and Senate contribute significantly to shaping the state's anti-corruption policy (for example, on their own initiative, they propose draft laws on counteracting corruption or increasing the budget of the bodies responsible for fighting corruption).

3.3. The Sejm and Senate are engaged in activities aimed at implementing international

standards on preventing and fighting corruption (in particular, those resulting from the United Nations Convention against Corruption and the Council of Europe's anti-corruption conventions) through appropriate legislative initiatives.

3.4. The Sejm and Senate fulfil their function of providing checks on the government.

3.5. The Sejm and Senate cooperate with entities interested in counteracting corruption (in particular, civil society organisations, the business sector, and academic circles).

Government and civil service

1. Autonomy:

1.1. The government makes decisions on counteracting and fighting corruption without being guided by the particular interests of its political base.

1.2. People on managerial posts in the civil service (directors general, department directors and managers) are politically neutral.

1.3. Access to managerial posts in the civil service (directors general, department directors and managers) is equal, open and competitive.

1.4. Managerial posts in the civil service (directors general, department directors and managers) are filled based on substantive criteria (in particular, those concerning education and experience).

1.5. Civil servants and employees are promoted on merit.

1.6. Ministers respond to interpellations/current questions/parliamentary questions substantively and on an ongoing basis.

1.7. The government cooperates with deputies who are carrying out parliamentary audits.

1.8. The government cooperates with the Supreme Audit Office as it carries out its statutory tasks.

2. Integrity:

2.1. The government regularly and proactively publishes information about its operations in the Public Information Bulletin and online.

2.2. The state budget is transparent and understandable to citizens.

2.3. The legislative process at the government level is transparent.

2.4. The government makes decisions on the creation of public policies (such as strategies, programmes and plans) in a transparent way.

2.5. People in the most senior positions in the state (members of the government, directors general and heads of central offices) perform their duties relating to disclosing information about their financial situation — in their asset declarations and in the register of benefits.

2.6. The information disclosed by people in the most senior positions in the state (members of the government, general directors and heads of central offices) in their asset declarations and in the register of benefits is verified effectively by the relevant state authorities.

2.7. The government properly and transparently addresses lobbying undertaken in connection with work on draft legal acts and other public decisions (for example, on the creation of public policies, strategies, programmes, plans, and so on).

2.8. Politicians and people in the most senior positions in the state (members of the government, directors general, heads of central offices, and so on) invariably comply with the restrictions relating to the revolving door (that is, movement from the public sector to the private sector and vice versa).

2.9. Requirements designed to prevent conflicts of interest are enforced against politicians and people in the most senior positions in the state (members of the government, general directors and heads of central offices).

2.10. Positions in the management and supervisory bodies of state-owned business entities are

filled according to substantive criteria (in particular, those concerning education and experience).

2.11. Cases of corruption crimes among politicians and people in the most senior positions in the state (members of the government, directors general, heads of central offices, and so on) are rare.

2.12. Suspicions of potential abuse (in particular, relating to bribery, influence trading and patronage) by politicians and people in the most senior positions in the state (members of the government, general directors, heads of central offices, and so on) are investigated by the prosecutor's office.

2.13. People in the most senior positions in the state (members of the government, directors general, heads of central offices, and so on) are criminally liable for abuse (in particular, relating to bribery, influence trading and patronage) that they are accused of.

2.14. Members of the government bear political responsibility for abuse (in particular, relating to bribery, influence peddling and patronage) that they are accused of.

2.15. The government consults stakeholders about draft legal acts and other decisions.

2.16. The government takes into account comments and recommendations submitted by citizens as part of the consultations on draft legal acts and other decisions.

2.17. The government provides the public with justifications and explanations for its public policy decisions.

2.18. Within the civil service, cases of corruption can be reported without the risk of retaliation against the people who report them (whistleblowers).

2.19. Citizens can enter into legal disputes with the government over violations of civil rights (for example, freedom of speech and the right to private property).



3. Potential:

- 3.1. The government has analysis on and a substantive diagnosis of the problem of corruption.
- 3.2. The government creates anti-corruption policy (that is, it proposes strategies or programmes aimed at preventing and fighting corruption).
- 3.3. The government implements international standards for preventing and fighting corruption (in particular, those resulting from the United Nations Convention against Corruption and the Council of Europe's anti-corruption conventions).
- 3.4. The government provides efforts to counteract and combat corruption with sufficient support from the state budget.
- 3.5. The government creates a framework (regulations, procedures within administrative offices, and educational and information campaigns) for the protection of whistleblowers who report cases of corruption or the suspicion thereof.
- 3.6. The government cooperates with entities interested in counteracting corruption (in particular, civil society organisations, the business sector and academic circles).
- 3.7. The civil service is involved in preventing and fighting corruption (for example, it implements its own anti-corruption programmes, develops compliance management, and protects whistleblowers).

Judiciary

1. Autonomy:

- 1.1. The system of supervision over the judiciary guarantees that judges can perform their duties independently.
- 1.2. The internal organisation of the judiciary guarantees that judges can perform their duties independently.
- 1.3. Judges shall be adequately protected against removal, suspension or transfer without just cause.

1.4. The system for assigning cases to judges promotes objective examination of these cases.

1.5. Courts have the ability to freely adjudicate in corruption cases involving people holding the most senior positions in the state (members of the government, deputies and senators, heads of central offices, and so on).

2. Integrity:

- 2.1. The results of competitions for judicial vacancies are solely based on candidates' competences and experience.
- 2.2. Taking up office as a judge through the judicial apprenticeship and assistant judgeship process takes place solely on the basis of transparent criteria.
- 2.3. Courts have systems that provide the public with reliable information about the actions of individual judges.
- 2.4. Judges face disciplinary liability if they violate the rules of professional conduct.
- 2.5. The system of disciplinary liability of judges is free from political pressure.
- 2.6. Cases of corruption crimes among judges are rare.
- 2.7. Judges are effectively held criminally liable if they violate provisions of criminal law (in particular, for corruption offences).
- 2.8. Courts have effective mechanisms to verify whether judges face a conflict of interest and potentially exclude them from proceedings in such situations.
- 2.9. Cases of corruption within courts can be reported without the risk of retaliation against the people who report them (whistleblowers).
- 2.10. Citizens have free access to public information on courts' operations.
- 2.11. Citizens have free access to information about judges' financial situation (asset declarations).

2.12. Citizens have free access to observe court proceedings.

2.13. Citizens have free access to their case files.

3. Potential:

3.1. There are enough judges to ensure that citizens have access to justice.

3.2. Courts are managed efficiently.

3.3. Courts have enough judges' assistants to carry out their tasks efficiently.

3.4. Courts have enough administrative staff to carry out their tasks efficiently.

3.5. There is an effective system for evaluating and improving the quality and efficiency of courts' work.

3.6. Jurisprudence contributes to the fight against corruption.

3.7. Judges are actively involved in counteracting corruption (for example, by participating in consultations on draft regulations or anti-corruption policies).

Prosecutor's office

1. Autonomy:

1.1. Prosecutors perform their functions independently of the political authorities.

1.2. The internal organisation of the prosecutor's office ensures that prosecutors can perform their duties without political pressure.

1.3. Prosecutors are protected from removal, suspension or transfer without just cause.

1.4. The method used to assign corruption cases to prosecutors ensures that these cases are examined objectively and ultimately brought to the court stage.

2. Integrity:

2.1. Prosecutors are appointed and promoted in a way that is transparent.

2.2. Citizens have free access to public information on the prosecutor's office's operations.

2.3. Citizens have free access to information about prosecutors' financial situation – in their asset declarations.

2.4. The information disclosed by prosecutors in their asset declarations is verified by the relevant state authorities.

2.5. Cases of corruption crimes among prosecutors are rare.

2.6. Prosecutors are held criminally liable if they violate the law (in particular, for corruption offences).

2.7. Prosecutors face disciplinary liability if they violate the rules of conduct of their profession.

2.8. The system of disciplinary liability of prosecutors is free from political pressure.

2.9. Cases of corruption within the prosecutor's office can be reported without the risk of retaliation against the people who report them (whistleblowers).

3. Potential:

3.1. There are enough prosecutors to prosecute crimes (especially corruption) effectively.

3.2. The prosecutor's office cooperates with law enforcement agencies to ensure the effective prosecution of crimes (especially corruption).

3.3. Prosecutors are actively involved in counteracting corruption (for example, by participating in consultations on draft regulations or anti-corruption policies).

3.4. Prosecutors take up corruption cases directly reported by citizens.



Civil society organisations and citizens

1. Autonomy:

- 1.1. Citizens have the legally-guaranteed freedom to establish organisations that seek to fight corruption.
- 1.2. CSOs that seek to fight corruption have the potential (in terms of finances and staffing) to operate stably.
- 1.3. Civil society organisations that seek to fight corruption have the freedom to obtain funds for their activity, including funds from outside Poland.
- 1.4. CSOs that seek to fight corruption operate without the risk of retaliation (for example, detention, defamation charges, surveillance, direct attacks on activists, and so on).
- 1.5. The government does not create barriers to the activities of organisations that seek to fight corruption.
- 1.6. The authorities do not put pressure on organisations, arbitrarily refusing them financial support.
- 1.7. Whistleblowers are adequately protected by the law.

2. Integrity:

- 2.1. Cases of corruption crimes in civil society organisations' milieu are rare.
- 2.2. CSOs that seek to fight corruption proactively disclose their sources of funding.
- 2.3. CSOs that seek to fight corruption publish information on their activity and its effects.

3. Potential:

- 3.1. CSOs that seek to fight corruption have the ability to monitor the abuse of power.
- 3.2. Whistleblowers (people who report abuse in the workplace in the public interest) influence the detection of corruption crimes.
- 3.3. Citizens have full access to information about the activity of central state bodies (in particular, the government, the Sejm and the Senate).
- 3.4. Citizens have full access to information on the activity of economic entities controlled by the state (in particular, state-owned enterprises).
- 3.5. CSOs that seek to fight corruption are involved in creating anti-corruption policies.
- 3.6. CSOs that seek to fight corruption are recognisable in society.

The report assesses to what extent key institutions of the Polish state (government and civil service, Sejm and Senate, judiciary, prosecutor's office) as well as citizens and civil society organizations can prevent and counteract abuse and corruption, as well as how resistant they are to these ailments. The assessment was based on the opinions of a panel of experts – researchers and practitioners from the best academic centres in Poland and civil society organisations. The assessment methodology is modelled on the Transparency International's concept of National Integrity Systems, developed for the purpose of analysing the quality of public life and preparing recommendations for creating anti-corruption policies. The report aims to draw the attention of society and politicians to the declining standards of functioning of the most important public institutions in Poland and to stimulate discussion on the need to strengthen the state's resilience to corruption and other abuses of power.