

RESEARCH

REPORTS

RECOMMENDATIONS

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THE ROLE OF CIVIL SOCIETY IN FIGHTING CORRUPTION IN RUSSIA AND POLAND

INSTITUTE OF
PUBLIC AFFAIRS

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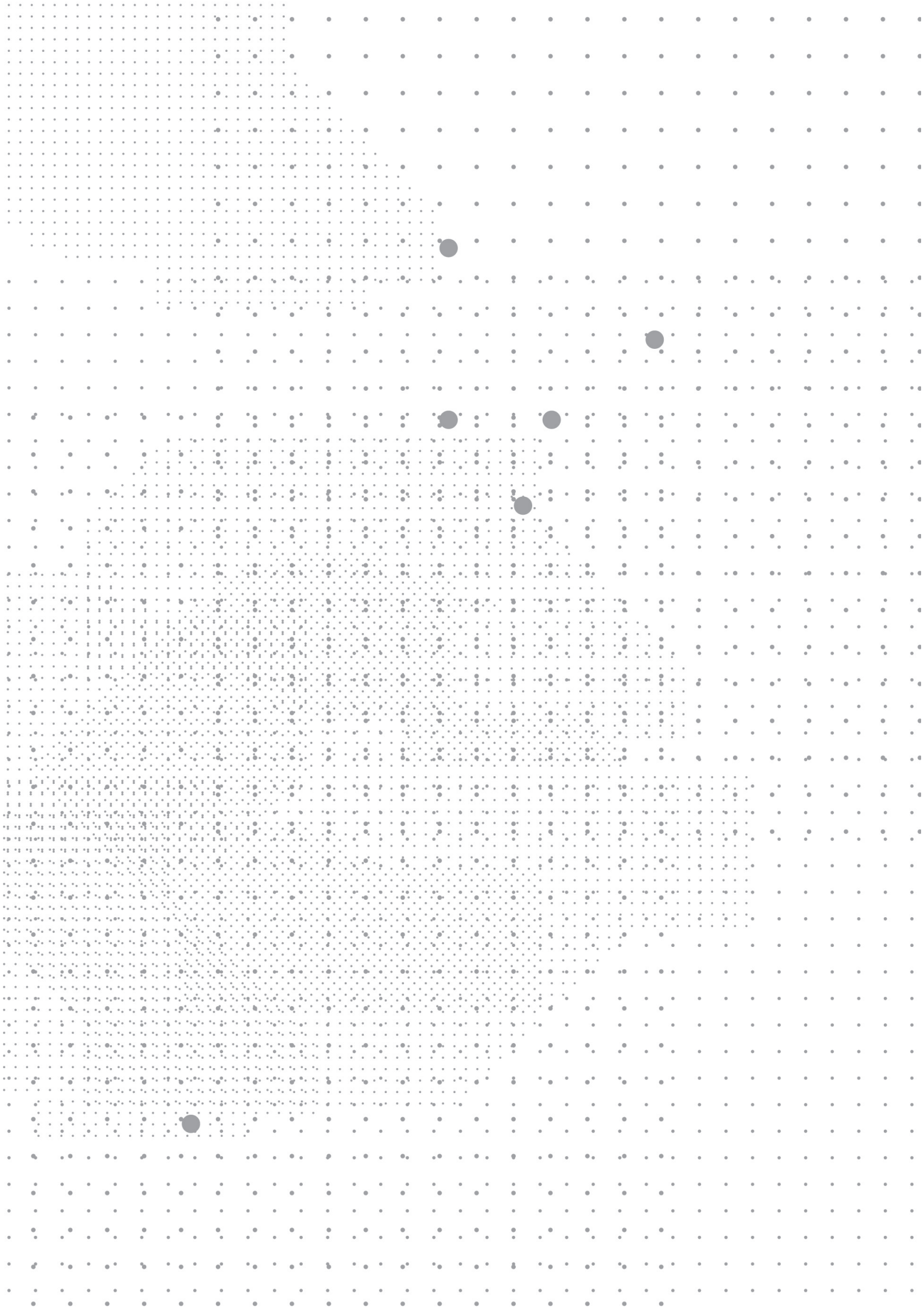
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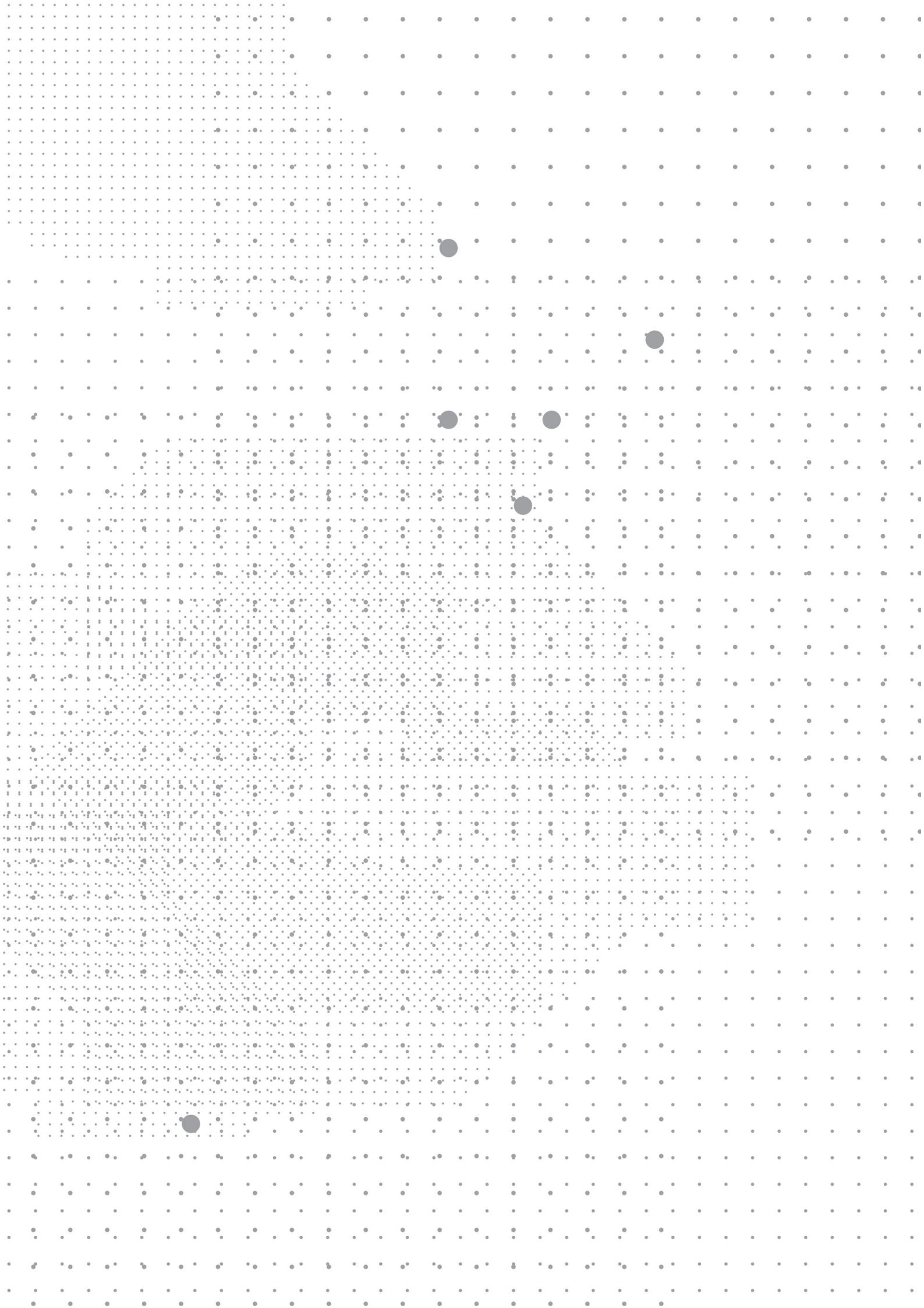


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Russia and Poland have a similar post-Soviet economic background, similar challenges of corruption, and similar starting positions for the development of civil society, but the outcome of the fight against corruption after 25 years of reforms is considerably different. Poland reports on tackling corruption and considerable improvements in access to information, accountability, and raising the freedom of the media, while the level of corruption in Russia remains high from year to year. It is obvious that the control of corruption is only possible when the state and non-state groups are acting together as equal actors. This working paper is aimed at studying the influence of NSA (non-state actors) in anti-corruption in Poland and making recommendations for the Russian non-state sector.





After 20 years of reforms, Russia still has a very poor record of corruption. It is generally recognised that corruption in Russia is a systemic problem and as such negatively affects the country's economy and the performance of public administration. In recent years, Russia has seen unprecedented growth in the entire corruption market and the dynamics of corruption-related transactions. According to polls, one Russian citizen out of three considers it possible to bribe for a positive or faster solution to his/her problem.¹

Over the past 10 years, the Russian authorities have made repeated attempts to fight corruption. However, their efforts are limited to high-profile statements and equally high-profile arrests of individual officials. The only serious attempts to address systemic corruption were made in Dmitry Medvedev's presidency (2008-2012), which declared that fighting corruption was his priority as head of the state. Within a few months – between July 2008 and February 2009 – Russia adopted a series of laws aimed at combating corruption. They include, *inter alia*, the National Anti-Corruption Plan, the Federal Law on Combating Corruption, the Federal Law on Access to Information, and other important legislation.

One of the merits of “Medvedev's laws” is that a definition of corruption has, for the first time, been introduced into Russian legislation, although it was limited by the scope of criminal offences – bribes, subornation, fraud, abuse of power – and does not include non-material benefits (see chapter “The notion of corruption in Poland and Russia”, p.11).

In recent years, some important steps have been undertaken, including those that have made publication of public income declarations of state officials compulsory (2012). Russia has adopted the UN Convention against Corruption, although it has not ratified Article 20 (“Illicit Enrichment”) of the Convention.

According to independent experts, however, the measures taken are not enough to make any tangible progress in combating corruption. The decrees and laws are not meant to bring about significant changes in state institutions or to reform the legislation. The level of corruption in recent years has not decreased, but has increased significantly; corruption is becoming an integral part of the system and continues to affect citizens, businesses, non-profit organisations, as well as affecting the government, undermining its power and authority.

¹ Левада-Центр. Россияне о бытовой коррупции (08.2013): <http://www.levada.ru/16-08-2013/rossiyane-o-bytovoi-korrupsii>.

Poland, like many other CEE countries, had a similar post-Soviet background to Russia. After the breakdown of the Soviet Union, Russia and Poland experienced a grave economic, social, and political crisis, undergoing a similar scope of problems, suffering from systemic failure of public administration.

Before Poland joined the European Union, legislation and regulations were considerably changed in order to correspond to EU requirements, although the perception of corruption in the country has remained identical for many years: 64 out of 133 states in 2003 and 70 out of 158 in 2005 in the Transparency International Corruption Perception Index (TI CPI).² Since the early 1990s, most Poles have believed that they live in a deeply corrupt country. According to TI CPI, the perception of corruption in Poland was the highest in the EU until 2007. However, after Romania and Bulgaria joined the EU, Poland ceased to be the last one.³ Citizens treat corruption as a permanent feature of daily life, even when this is not their own experience. According to the Public Opinion Research Center, 71 per cent in 1991 and 83 per cent in 2013 believe that corruption in Poland is significant and very significant.⁴

In this situation, non-governmental organisations, civil activists, media, bloggers, and other civil society representatives (NSA) can make a considerable impact in combating corruption. Their unique role is seen in establishing public oversight of the state administration, promoting reforms and civic participation, advocating for democracy and human rights, and offering independent expertise. It seems that corruption can be tackled only when the state acts together with civil society applying its expertise, independent knowledge, and supporting civil oversight over the authorities. Along with reforms, legislation on access to information, and anti-corruption measures, the real participation of citizens makes the struggle against corruption efficient.⁵

Apparently, Poland and Russia have had similar start-up positions for the development of the non-governmental sector. The 1990s was the era of the development of civil activity in both countries; most of the NGOs and media in Poland and Russia were registered in 1989-1995. In both countries, NSA have been playing a key role in promoting access to information and public administration reforms. Nevertheless, the outcome in fighting corruption in Poland and Russia differs significantly. Currently, Poland is one of the less corrupt countries in CEE, ranked 38 out of 177 states in TI CPI 2013, while Russia continues to suffer from endemic corruption, and is ranked 127.⁶ The Global Integrity 2010 report placed Poland at 80 out of 100, assessing the legal

2 TI CPI 2003, 2005.

3 Wolszczak, G. (Anti-)Corruption in Poland since Early 2000 to 2010, ERCAS, 2010, p.5: <http://www.againstcorruption.eu/wp-content/uploads/2012/09/WP-11-Anti-Corruption-in-Poland-new.pdf>.

4 Makowski, G. Diagnosis of Governing Regime in Poland. Stefan Batory Foundation, 2014, p.5.

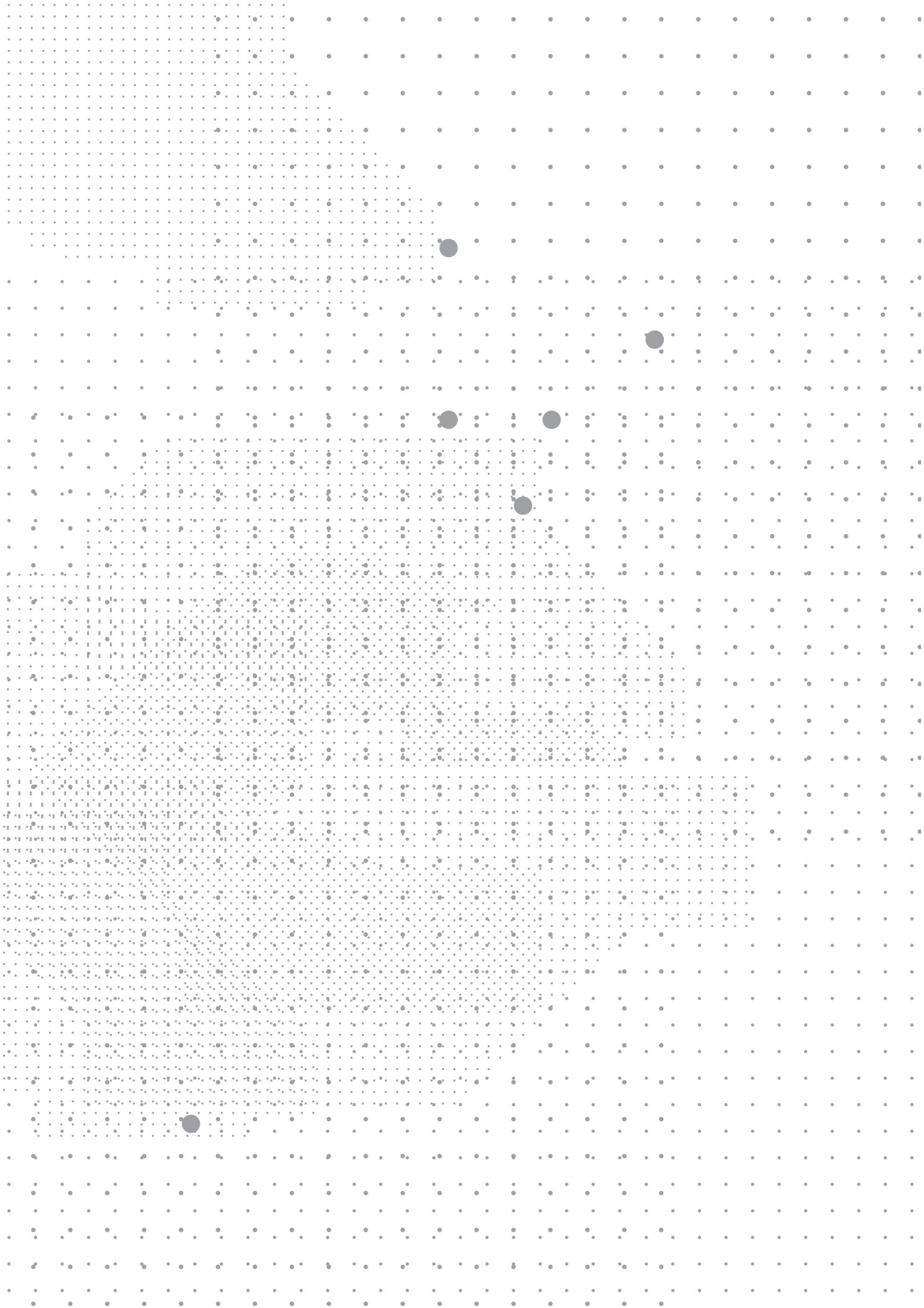
5 The author's interview with Lev Gudkov, Director of the Levada Center. Moscow, 13.03.2014.

6 TI CPI 2013.

framework as 86 (strong) and actual implementation score as 71 (moderate), while Russia's regulation was also assessed as strong (90) but implementation as "very weak" (56).⁷

The goal of this working paper is to study the role and impact of NSA in fighting corruption in Poland, and to explore what specific approaches and tools help them make their impact possible.

7 Global Integrity 2010 report, Global Integrity: https://www.globalintegrity.org/global_year/2010/.





The Central Anti-Corruption Bureau – the most important state agency in Poland monitoring corruption – uses the World Bank’s definition of corruption. According to this definition, corruption is “an act which involves promising, proposing or giving [...] of any undue advantage to a person performing a public function for themselves or any other person, in return for acting or omission to act in performing the person’s function [...]”.⁸

Despite Russia’s participation in a number of international anti-corruption conventions, the Russian legislation, until recently, has contained no definition of corruption. It made its appearance only in 2008, thanks to the adoption of the Federal Law “On Combating Corruption”. The law defines corruption as “abuse of official position, giving bribe, acceptance of bribe, abuse of power, commercial bribery or other illegal use by a physical person of his/her official position in defiance of the legitimate interests of the society and the State for the purpose of profiting in the form of money, valuables, other property or services of material nature, other rights of property for oneself or for third parties, or illegal provision of such benefits to the said person by other physical persons”.⁹

However, today, the understanding of corruption solely as a criminal offence is too narrow and outdated. The understanding of corruption as a social phenomenon is more adequate to modern conditions. This is the reason why the EU introduced not only criminal, but also civil liability for corruption, i.e., liability not related to criminal charges, but assuming civil actions in the courts regarding, in particular, violations of rights and freedoms, and tangible and intangible interests of the parties. In particular, civil claims from individuals who have suffered damage as a result of corruption may be filed with the courts in order to obtain full redress, which is not the case in modern Russia. But as Russia signed the Council of Europe Convention on civil liability for corruption, such understanding of corruption should also gradually be introduced in Russia: “For the purposes of this Convention, ‘corruption’ means requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect thereof, which distorts the proper performance of any duty or behavior required of the recipient of the bribe, the undue advantage or the prospect thereof”.¹⁰

8 World Bank. Fraud and Corruption Awareness Handbook. 2013: http://www.cba.gov.pl/ftp/filmy/Handbook_for_Staff_FINAL.pdf.

9 Federal Law N 273-FZ “On Combating Corruption”, Article 1: <http://archive.kremlin.ru/eng/text/docs/2008/12/222114.shtml>.

10 Council of Europe. Convention on civil liability for corruption (1999), Article 2.

Thus, the most adequate for Russian conditions, apparently, is the recognition as being corrupt of any action disturbing normal regulation and development of an industry, sector, region, and the country in general through the use of public power for the realisation of personal or corporate interests at the expense of the public. The interests need not necessarily be material, they may be intangible if actions are taken to match some ideas or ideological grounds, for example.

Therefore, corruption should entail any action involving the use of one's social status, or standing in the state power system, private business, in non-commercial or public sphere, aimed at profit-making under any circumstances or by whatever means.¹¹

Of course, legally punishable actions are only those that violate the norms of the law, although corruption is not limited to these actions.

11 Kalikh, A., Rimski, V. Corruption and Human Rights in Contemporary Russia. Center for the Development of Democracy and Human Rights, INDEM Foundation, 2013, p.6: <http://www.demokratia.ru/docs/?content=doc&id=20>.



In the course of the research, experts were asked to enumerate NSA making the most contribution to combating corruption in Poland. Most of the interviewees identified three NSA groups whose impact they consider as crucial: non-governmental organisations (NGOs) acting in coalitions, whistleblowers, and the media. In what follows, an effort will be undertaken to describe the role of each group and some of the best practices focusing on their achievements and problems.

1. Non-governmental organisations (NGOs) and coalitions

Interviews with experts taken by the author in Warsaw in March 2014 generally show a low assessment of the role of NGOs in counteracting corruption. Most of the interviewees do not consider the anti-corruption NGO movement as numerous and divide it into two groups – four or five key institutions at the national level and some initiatives at the local level. Among the largest ones are the Stefan Batory Foundation, the Foundation in Support of Local Democracy, the Polish branch of Transparency International (defunct), the Foundation for Social Communications, and the Helsinki Foundation for Human Rights.

Grzegorz Wolszczak, in his study “(Anti-)Corruption in Poland since early 2000 to 2010”, marks their common similarities: there are large organisations working at national and international levels which have many areas of activity where anti-corruption is one of them, most of them were founded during socialist times (the end of the 1980s). These NGOs set out trends, sponsor local organisations and develop major anti-corruption campaigns, and have been receiving substantial external financing from both foreign and domestic donors, including the Open Society Institute, the EU, the Polish-American Freedom Foundation, and the Polish government, etc.¹²

The second group is composed of a large number of smaller organisations, usually, but not exclusively, of regional scope and grass-root origin, or which concentrate on one specific undertaking, e.g., the Movement Normalne Państwo, the Institute of Public Affairs, and the Center for Citizenship Education.¹³

12 Wolszczak, G. (Anti-)Corruption in Poland since Early 2000 to 2010, ERCAS, 2010, p.14: <http://www.againstcorruption.eu/wp-content/uploads/2012/09/WP-11-Anti-Corruption-in-Poland-new.pdf>.

13 Ibid, p.14.

Interviewed experts also evaluate public involvement in anti-corruption as weak. Among the reasons, they mention common passivity, lack of general trust, and lack of knowledge on corruption and anti-corruption methods.

Apparently, such problems might be common for all of the post-socialist CEE countries as well as based on the absence of civil activism for dozens of years and traditional trust of the state. According to experts, one of the main goals of anti-corruption campaigns at the beginning of the 2000s in Poland was to fill the lack of information about corruption and anti-corruption policies.

Katarzyna Batko-Tołuć (Citizens Network Watchdog Poland): “At the end of the 1990s, some people started to see that there was a problem with ethical standards in public life. There was no understanding among the public and activists of such concepts as conflict of interests, unfairness of using connections, or nepotism. There were no organisations that dealt with this topic. Generally, several areas were free from petty corruption; some others were still highly corrupt. Those which needed to accelerate certain procedures or get some undeserved benefits, knew how to do so. And I would claim that they did not feel uncomfortable with that. It was simply how it worked. It was a common belief that people firstly have to know that what they do is corruption and to feel uncomfortable with that”.¹⁴

This was the reason why the first efforts of NGOs were aimed at raising public awareness. Some organisations, among them the Batory Foundation and the Helsinki Foundation for Human Rights, established programmes supporting local groups and investigative journalism. “People at the local level should be more engaged in combating corruption. Training for local leaders for civil control of their governments was organised nationwide. It was very idealistic. After three years, we established an association to force people to organise themselves”.¹⁵

Grzegorz Makowski (Stefan Batory Foundation): “People are still behaving like they do not have the tools to fight corruption. This is why our main goal was to make people do something. You have the tools – the Criminal Code, Access to Information Law, the Special Anti-Corruption Unit and others, please mobilise yourself! Anyway I have to admit that after ten years of campaigning we haven’t achieve very much: people are still inactive and don’t know their rights and strengths. They have tools, but they are passive. I think this is the main challenge for the Third Sector and for us – to show people that they can and must fight corruption using all arrangements that are already in place”.¹⁶

14 The author’s interview with Katarzyna Batko-Tołuć, Citizens Network Watchdog Poland, Warsaw, 20.03.2014.

15 Ibid.

16 The author’s interview with Grzegorz Makowski, Stefan Batory Foundation’s Public Integrity Program, Warsaw, 20.03.2014.

Forms of acting

It is widespread in Poland to call NSA exercising civic oversight of public authorities **watchdogs**. Watchdog organisations in Poland promote access to information, transparency and human rights, and accountability of the state, as well as act for the proper use of the public authorities, advocate civil rights, and raise public awareness. Most watchdogs seek to institute systemic changes in the functioning of state institutions.¹⁷

The forms that Polish watchdog organisations use are similar to those occurring in other post-Soviet CEE countries including Russia: in order to make achievements as rapid and significant as possible, NGOs build **coalitions** and **associations**. Successful examples of civil society-driven good governance in the new democratic states are few, but they do exist – notably not only in Central Europe, but in the Baltics and Georgia. There are some commonalities among them, as democratisation in Georgia, Central Europe, and the Baltics was propelled by civil society movements that, after starting as grassroots protests and loosely organised social movements, eventually evolved into more institutionalised and specialised NGO communities. The anti-corruption actions of such organisations span many years and are extremely diverse, but broad government-monitoring and “naming and shaming” coalitions (watchdogs) have consistently been successful.¹⁸

Often, NGOs founded coalitions with other organisations for the sake of achieving certain goals. It is worth highlighting the activities of at least two joint NGO initiatives which impose civil oversight of the authorities and thus make an impact in combating corruption: (1) The Anti-corruption Coalition of Non-governmental Organizations, and (2) Court Watch Poland Foundation.

The Anti-corruption Coalition of Non-governmental Organizations (Antykorupcyjna Koalicja Organizacji Pozarządowych, AKOP) was created due to a successful public campaign in 2003. In 2001, the Stefan Batory Foundation, the Foundation for Social Communications, the Helsinki Foundation for Human Rights, and the Polish branch of Transparency International conducted a campaign aimed at reminding electoral anti-corruption promises by political parties before elections to the Sejm (Polish parliament). The Coalition has set itself the goal of checking how politicians elected in the parliamentary elections will fulfil their election promises on tackling corruption and work towards raising the standards of public life. During the campaign, signatures under an appeal to political parties for the fight against corruption were collected, and proposals for preventing corruption and reforms from the

¹⁷ Batko-Tołuć, K., Izdebski, K. Watchdog organizations: Current status, challenges, prospects, 2012, p.2: http://watchdog.org.pl/wwwdane/files/institute_of_public_affairs___watchdog_organizations___current_status,_challenges,_prospects_2012_gsp3.pdf.

¹⁸ Mungiu-Pippidi, A. Controlling corruption through collective action. *Journal of Democracy*, #24, January 2013, p. 110.

electoral committees of parties were gathered. The requests were sent to all electoral committees nationwide and included the following questions:

- ▶ What will you do with respect to the reduction of corruption if you govern?
- ▶ What will you do with respect to the reduction of corruption if you are in opposition?
- ▶ How will you proceed with your members who violate the law?
- ▶ How will you act if your members are in a situation of a conflict of interests? (AKOP)

The coalition received responses from 16 electoral committees and discussed them at a conference in September 2001, followed by a brochure. In addition, on every anniversary of elections to the Sejm, AKOP has organised conferences in which politicians are asked about fulfilling their promises. Finally, a group of experts made an assessment of the accomplishments of the promises. The results were published and posted on www.akop.pl.¹⁹

AKOP's electoral promises campaign seems to have gained multidimensional achievements:

Politicians have been forced to produce clear anti-corruption programmes, defend them before voters, and account for their fulfilment;

A true civic oversight has been established by NGOs making politicians responsible for the implementation of their promises;

Competition of electoral programmes has been introduced, which has improved the quality of elections and candidates.

Finally, the campaign succeeded in raising public awareness and interest in elections, has gained a lasting effect of elections contributing to their competitiveness and transparency, and has involved a wide range of other NSA: civil leaders, bloggers, and journalists, at the national and local level.

Today, the Coalition has a clearly defined goal – following-up on the promises of electoral committees in preventing corruption – although it is not exclusively composed of watchdog organisations. The Coalition also publishes statements and communications relating to the transparency of public life and the implementation of anti-corruption policies. AKOP has also raised the issue of the government preparing an anti-corruption strategy.²⁰

Another example of a joint public initiative in establishing oversight of the state authorities is Court Watch Poland Foundation, which organises nationwide monitoring of the courts by volunteers. The major goal of court monitoring is to obtain trustworthy and a broad knowledge about how citizens perceive the functioning of the Polish courts. As mentioned on the website of the campaign, this is not another public opinion poll, but a reconstruction of

¹⁹ Anticorruption coalition of NGOs (AKOP). Background of the project: <http://www.akop.pl/o-akopie/historia-projektu.html>.

²⁰ Batko-Tołuć, K., Izdebski, K. Watchdog organizations: Current status, challenges, prospects, 2012, p.9: http://watchdog.org.pl/wwwdane/files/institute_of_public_affairs___watchdog_organizations___current_status,_challenges,_prospects_2012_gsp3.pdf

the actual experience of people who have found themselves in court – very often for the first time – yet with no personal interest in the cases observed.²¹

Its first project, Citizen Monitoring of District Courts in Poland 2010/2011, resulted in a report based on ca. 2,500 observations from over 150 volunteer observers. The report was analysed and recommended by the Ministry of Justice in a letter sent to all courts in the country. The publication was followed by a series of meetings with court directors and judges, to whom detailed reports of their local courts were presented. The second report was issued in October 2012, and was based on over 5,000 observations from over 500 volunteers and ca. 70 courts. This time, both regional and circuit courts were taken into account. The present, third, report is based on an even greater amount of data: almost 7,000 trial observations from over 450 volunteers and 132 courts throughout the country, Court Watch reports (Court Watch, 2).²²

Another important function of citizen court monitoring is the legal education of its participants, and also of the wider public. As it is noticed in the report, many Polish citizens reveal a low legal awareness and are fearful when faced with the court. Court Watch Poland Foundation has been trying to break the spell of this passive attitude and show citizens how to effectively control the judiciary while respecting the rule of judicial independence. Over the course of the programme, over 3,000 people have been introduced to the idea and methodology of court monitoring. During training for volunteers, the Foundation emphasises the rights and duties of citizens in court. Experience shows that participation in the programme is an important educational, civic, and existential experience for most of the volunteers.²³

During the monitoring of courts, volunteers are asked to observe:

- 1) The “external” conditions of the trial in a certain court dealing with court infrastructure: whether the court building is clearly marked, accessible for the disabled, the work of the personnel towards court users, whether public toilets in the building are easily accessible and equipped with toilet paper and soap. “We assume that these – sometimes mundane – issues can, and quite often do, discourage citizens from dealing with courts”.²⁴
- 2) The “internal” narrative of the court hearing itself following questions: access to information about the case, punctuality, the presence of those who are not part of the courtroom staff before the hearing begins, judges’ reactions to the presence of the public, observers, and journalists, the demeanour of the judges, and the way in which the sentence is explained to the parties.

21 Court Watch Poland Foundation. Summary of monitoring 2012/2013: <http://courtwatch.pl/in-english/summary-of-monitoring-20122013>.

22 Ibid.

23 Court Watch Poland Foundation. Court Monitoring Methodology (2013), p.9: http://courtwatch.pl/wp-content/uploads/Court_Monitoring_Methodology.pdf.

24 Ibid, p.13-14.

Another specific part of the observation is to monitor independence and the adversarial nature of the trial, although this task has been implemented by Court Watch's legal experts.

Court Watch considers legal education of participants and the wider public as one of the most important goals of the project. "At present, many Polish citizens lack legal consciousness and feel disempowered in face of the court. Court Watch Poland Foundation tries to overcome this passive attitude and show citizens how to effectively control the judiciary, while preserving the principle of judicial independence. During the three years of the programme, over 3,000 people were introduced to the idea and methods of court monitoring. While training volunteers the Foundation's staff emphasises citizens' rights and duties in the court. Experience shows that participation in the programme is an empowering experience for most of our volunteers".²⁵

As in the case of the Anti-corruption Coalition of Non-governmental Organizations, Court Watch achieved clear results: a civic initiative has been establishing a powerful and independent civil oversight fostering independence, transparency, and competitiveness of the courts.

The involvement of members of the public into civil control is of crucial importance for raising legal awareness and overcoming the common mistrust of the people towards trials. According to the organisers, the methodology of the monitoring of courts is fit for anybody who would like to visit their local court and watch trials – no special knowledge of the law is expected or required.²⁶

Functions

Bearing in mind the above-mentioned, functions of watchdog organisations can be described as the following:

- a) Intervening and alerting – raising burning issues, e.g., responding to harm done to individuals or groups, as well as threats to the democratic system and civil rights;
- b) "Naming and shaming" – pressuring and reminding, e.g., that specific laws should be adopted or actions taken;
- c) Promoting the introduction of actual changes, e.g., court decisions, international treatments, or adopted law amendments.²⁷

Methods:

- ▶ enhancing the professional capacities of local leaders and NGOs: trainings and seminars;

²⁵ Court Watch Poland Foundation. Summary of monitoring 2012/2013: <http://courtwatch.pl/in-english/summary-of-monitoring-20122013>.

²⁶ Ibid.

²⁷ Batko-Tołuć, K., Izdebski, K. Watchdog organizations: Current status, challenges, prospects, 2012, p.8-10: http://watchdog.org.pl/wwwdane/files/institute_of_public_affairs___watchdog_organizations___current_status_challenges_prospects_2012_gsp3.pdf.

- ▶ control and observation: establishing monitoring and civil oversight of public administration preventing the misuse of power, promoting transparency and accountability;
- ▶ putting pressure on authorities by raising public awareness and campaigning.

All of these watchdog functions can be described as anti-corruption functions. The principles of good governance, rule of law, accountability, and transparency are the key demands by civil society in exercising civil oversight. On the other hand, activities of NGO coalitions should be open, public, and involve wider society as much as possible. Focusing on crucial societal problems or cases of injustice, coalitions cannot act effectively without raising public awareness and making problems and cases widespread. Thus, the highest mission of watchdogs is to bring the state and society closer in solving problems that unite most of the people.

2. Whistleblowers

The term “whistleblower” (“sygnalista” in Polish), usually means an individual who discloses facts of corruption, abuse of power, violations of human rights, and misconduct by fellow persons, supervisors, and state officials. Whistleblowers are members of the public who investigate, reveal, and report on their own and, thus, remain one of the key actors at the grassroots level in fighting corruption and pressuring the authorities to work properly. Their functions are similar to ones of watchdog organisations with the goal of “naming and shaming”, although the legal position of whistleblowers is much weaker, and the challenges and risks are much higher than those of watchdogs. Usually, a whistleblower belongs to a unit or corporation that he/she reports about, which can entail harassment, pressure, and mobbing.

In many countries of the world, the role of whistleblowers is officially recognised. Some of the countries run state programmes on protecting whistleblowers in the military, police, and other law enforcement agencies (e.g., Canada, the UK, the US)²⁸, in the private sector and public administration.

There is no special recognition of whistleblowers in Russia. To some extent, the rights of people reporting on crimes are partly protected by the Federal Law “On the state protection of the aggrieved persons, witnesses and other participants of the judgement”, although the legislation and measures are not sufficient enough and do not correspond to the reality.

As in Russia, there is no specific whistleblower law in Poland. Polish whistleblowers recourse to the provisions of the Labour Code common for all employees, e.g., protections against unfair dismissal, discrimination, and mobbing. However, research of employment courts conducted by the

28 Калих, А. Институт уполномоченных по правам военнослужащих в мире. Центр развития демократии и прав человека, 2013, p.14: <http://www.demokratia.ru/docs/?content=doc&id=22>.

Stefan Batory Foundation showed that such provisions, seemingly providing sufficient protection, are ineffective in the courtroom. According to the interviewed judges, the most challenging barrier results from the rule set up by the Supreme Court, according to which the court is obliged to confine the proceedings exclusively to the grounds of dismissal stated in the termination notice. As in most cases, employers do not refer to blowing a whistle by an employee, but instead evoke pretence grounds, such as redundancy or low performance of the employee, the actual reason of dismissal is not even analysed by the court.

Anna Wojciechowska-Nowak (Stefan Batory Foundation): “Our research demonstrated shortcomings of the legal practice and the gap between the law and the reality. This is why we have started the programme aimed at promoting outlining of the law on the protection of whistleblowers”.²⁹

The Batory Foundation undertakes initiatives to improve the status of whistleblowers in criminal proceedings and adequate protection in labour law cases, as well as monitoring court cases involving whistleblowers by taking part in court hearings as social observers (under Article 61 of the Civil Procedure Code or Article 90 of the Criminal Procedure Code) and by presenting its position on the case before it is decided (*amicus curiae*). In addition, the Foundation issues directions of possible legal changes that may improve safeguards for whistleblowers (e.g., an outline of the law on protection of whistleblowers in the professional environment) (Stefan Batory Foundation’s Protecting of Whistleblowers programme).³⁰

3. Media

Journalists remain another group of key actors in the counteraction of corruption. They make inestimable contribution by disseminating information, investigating and revealing corruption affairs, publicising cases of corruption and human rights violations, and making the authorities accountable. “Media are capable of exerting strong pressure on politicians and public officials as well as communicate widely on the anti-corruption issue, and as a result agitate people into action. Media can perform their role in the anti-corruption area either in a pro-active way, e.g., encouraging investigative journalism, or in a passive fashion, namely by paying attention to already investigated scandals uncovered by other actors. All in all, their most important contribution is making a given issue widely known in a possibly objective manner”.³¹

²⁹ The author’s interview with Anna Wojciechowska-Nowak, Stefan Batory Foundation’s Public Integrity Program, Warsaw, 22.03.2014.

³⁰ Stefan Batory Foundation. Protecting of Whistleblowers programme: http://www.batory.org.pl/en/operational_programs/anti_corruption/support_for_and_protection_of_whistleblowers;

³¹ Wolszczak, G. (Anti-)Corruption in Poland since Early 2000 to 2010, ERCAS 2010, p.15: <http://www.againstcorruption.eu/wp-content/uploads/2012/09/WP-11-Anti-Corruption-in-Poland-new.pdf>.

Polish media, according to an independent media index, rank high in terms of independence (2.00).³² However, experts in Poland claim partly free or not free conditions, especially at the local level. The local press in Poland is much more vulnerable than nationwide media to threats related to the freedom of expression, especially regarding legal proceedings triggered, for example, by critical publications on the local authorities.³³ Experts report on shortcomings in the implementation of the Access to Public Information Law (2001). Fifty per cent of local governments do not respond to motions for access to information within a 14-day deadline, as dictated by Polish law.³⁴

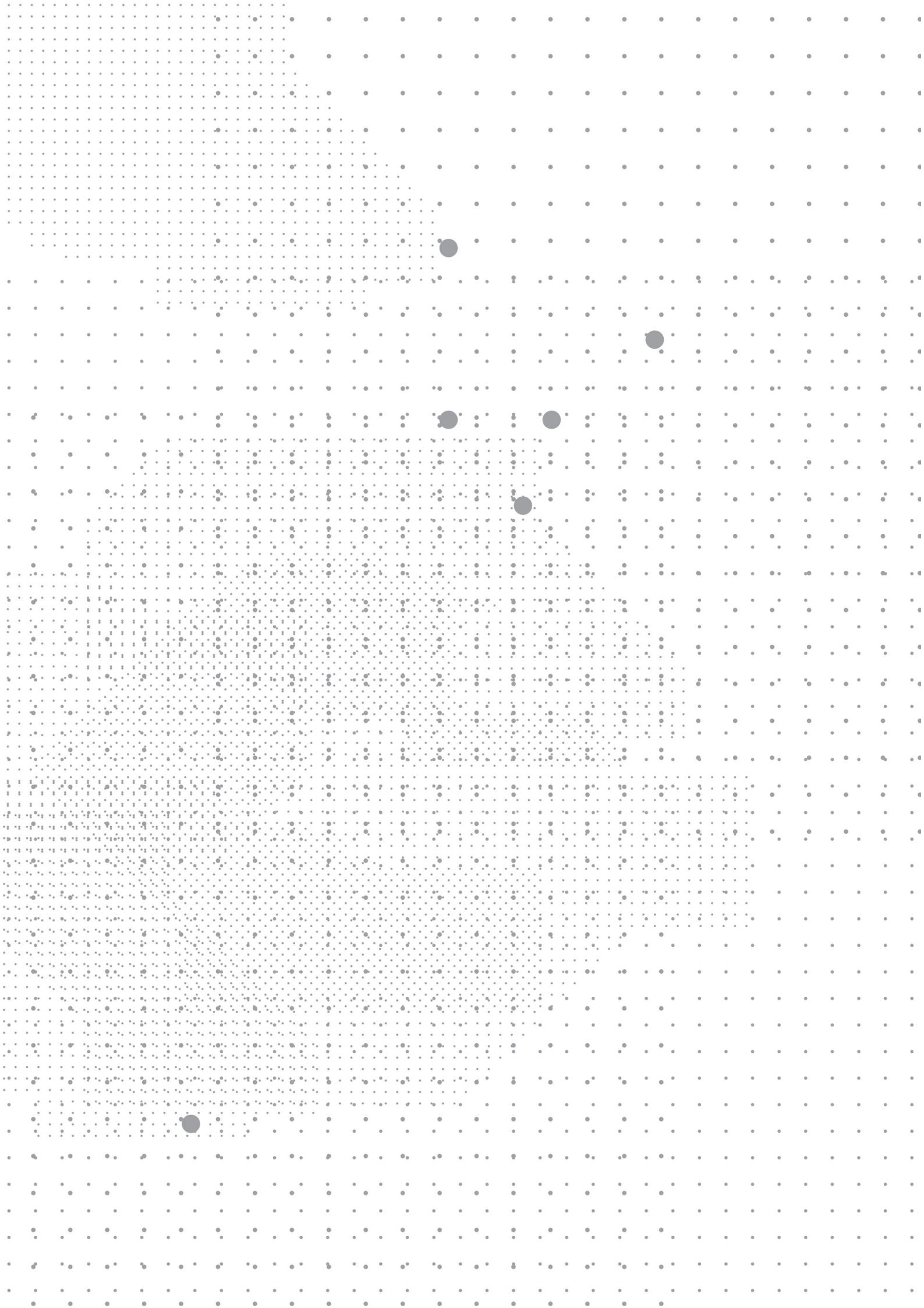
Another problem creating obstacles for the freedom of expression is abuse by public officials of the Article 212 of the Polish Criminal Code concerning crime of defamation. According to a survey conducted by the Local Newspapers Association, half of publishers indicated that they have experienced cases of freedom of speech violations over the last five years.³⁵

32 Freedom House. Nations in Transit (2009). Table 4. Independent Media: http://freedomhouse.org/sites/default/files/Ratings%20Tables_o.pdf.

33 Helsinska Fundacja Praw Czlowieka. Media lokalne i regionalne – nierozwiazane problemy, nowe wyswania. Warszawa, 2013, p.14.

34 Batko-Tołuć, K., Szymon O. Prawo do informacji publicznej jako narzedzie w pracy dziennikarzy lokalnych (English summary) // Helsinska Fundacja Praw Czlowieka. Media lokalne i regionalne – nierozwiazane problemy, nowe wyswania. Warszawa, 2013, p.81.

35 Barlik, E., Mroz, A. Konkurencja i wolnosc slowa w pracie lokalnej – podsumowanie wynikow badan (English summary) // Helsinska Fundacja Praw Czlowieka, HFPC. Media lokalne i regionalne – nierozwiazane problemy, nowe wyswania. Warszawa, 2013, p.135.



Conclusions

Despite a generally low assessment of the role of NSA by interviewed experts, the impact of the civic sector on combating corruption in Poland can scarcely be overestimated. Their contribution is sustainable and picking up the strength, especially at the local level. For instance, official governmental documents refer to NGOs' publications (e.g., the anti-corruption manual of the Ministry of Interior and Administration and reports by NGOs on the governmental anti-corruption portal). Parliamentary bodies sometimes use legal analysis made by NGOs. EU bodies also refer to the Polish NGO expertise in their conclusions (e.g., EU Anti-Corruption Report, 2014).

On the other hand, experts claim that there are also clear signs of omitting these practices. For instance, NGOs have to struggle to get heard on parliamentary committees, working out new law proposals, and sometimes get ignored. There are also difficulties in obtaining public information from public offices, although it should be widely accessible.³⁶

Nevertheless, the experience of Polish NSA in anti-corruption campaigning seems to be useful for Russian civil society activists.

First, a coalition is one of the most effective and widely used forms of action by NGOs. Coalitions are usually set up with a certain goal (e.g., the adoption of a law) and dissolve when the goal is achieved (temporary coalitions), while many coalitions remain active for many years, pursuing goals that are not limited in time (e.g., against corruption, for human rights, etc.). Even more, some coalitions gradually turn into associations and NGOs with international influence (for example, Transparency International). Despite some examples of very influential NGO coalitions in Russia making real changes (e.g., the Coalition for a Democratic Alternative Civilian Service, "No Xenophobia and Racism", etc.), Russian NGOs lack solidarity and need to overcome difficulties in common vocabulary and practice.

Second, the functions of watchdog coalitions described above cannot afford to bring about changes in the political system, but, if efficient, can put real pressure for reforms or improvement of the legal system. These functions also appear to be very practical for Russian joint actions and can have a considerable impact on policy-making.

Third, watchdog campaigns require no special knowledge or experience; thus, they involve volunteers and win the largest number of public representatives as possible. Another advantage of such civic participation is that campaigning requires no special funding.

36 Wolszczak, G. (Anti-)Corruption in Poland since Early 2000 to 2010, ERCAS 2010, p.15: <http://www.againstcorruption.eu/wp-content/uploads/2012/09/WP-11-Anti-Corruption-in-Poland-new.pdf>.

“Whistle blowing” as a specific kind of civic participation must receive state recognition and legal protection in both Poland and Russia. Special legislation and additional measures in raising public awareness about their positive role are required to make their impact on corruption counteracting significant.

Both, Polish and Russian media require improvement of the legislation, especially in the Criminal Code: defamation should be decriminalised and remain only as an administrative sanction. Governments should recognise the unique and crucial role of media and journalists in combating corruption.