

Is Closer Co-operation between Various State Bodies the Answer? Polish Experience from the Perspective of the Supreme Chamber of Control

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Counteracting corruption involves pursuing three basic goals:

- collecting information about areas threatened by corruption;
- identifying and prosecuting specific cases in order to punish those guilty of corruption;
- preventing corruption by way of drawing conclusions from irregularities disclosed for future use.
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Only the first goal can be fully achieved by Supreme Audit Institutions acting on their own. Works performed by the SAI's, which audit central and local government administration, as well as various other institutions and agencies, lead to disclosing various irregularities, including those which foster corruption. In the year 2000, Poland's Supreme Chamber of Control developed a special report based on audit findings from the preceding five year period, describing key areas threatened by corruption and indicating key corruption-fostering mechanism.

According to the report, areas threatened by corruption in Poland include privatization, customs authorities, and tax administration and public procurement. Core corruption-fostering mechanism identified by the SCC include excessive discretion tolerated in formal decision-making processes occurring at the institutional level (often resulting from lack of specific legal regulations), failure to guarantee equal access to public information (with information on possibilities to obtain certain benefits from the state provided to some and withheld from others) weak internal controls in public administration and careless treatment of file-keeping and reporting.

The SCC's report provides detailed documentation of each of these areas and highlights corruption-fostering mechanism, quoting examples from individual audits. Poland's public opinion expressed a great interest in the report. It was widely covered by the press, presented at numerous conferences and made subject of debates in various Parliamentary Committees. In 2001, the report was supplemented with further audit findings, which pointed to the risk of corruption.

While state bodies of external audit [i.e., SAIs] play key role in describing the threat of corruption and in identifying corruption-fostering mechanism, as they remain fully self-reliant in this respect the two other goals can they achieve **only in co-operation with other state agencies.**

With regard to prosecuting the crime of corruption, audit institutions use their right to notify proper **law enforcement agencies** of their suspicions evoked by audit findings to indicate that possibly criminal deeds may have been committed. In Poland, each year the SCC submits to Public Prosecutors from 100 to 120 such notifications. Not all of them refer directly to corruption more often they concern the so-called “**punishable wastefulness**”, and such as losses caused by privatization sales of state-owned companies at excessively low prices or failures to collect taxes from certain companies.

Usually, it is impossible to prove that corruption is the underlying cause of such acts and one can only suspect it. A notice addressed to Public Prosecutor paves the way for bringing those responsible to court for negligence, if not directly corruption. Experience shows that about 40-50% of all cases of suspected crime brought up by the SCC are eventually converted into formal charges and taken to court.

What counts, however, is that Public Prosecutors are notified of every suspected case, and each such case can be fully investigated. This is particularly important for building a sense of justice as such, as well as for preventing corruption, because impunity leads to devaluation and impudence.

State audit bodies do not only come across specific cases and document them in the course of their audit work, but sometimes also receive signals of occurrence of corruption incidents. During the recent audit of practices adopted for granting concessions and licenses in the Ministry of Post and Telecommunications, SCC auditors were presented with evidence to prove the occurrence of cases of bribery among high-ranking Ministry officials. The Supreme Chamber of Control could not verify that signal directly, since it does not have to mandate to carry out Police investigations. Hence, the Chamber immediately notified the Public Prosecutor's Office. It is necessary to add that, regardless of the ongoing investigation, SCC audit findings provided the grounds for dismissing the Minister of Post and Telecommunications and implementing significant organizational changes in the Ministry. This is an example of how activities of the SA and public prosecution complement each other, contributing to preventing in systemic terms.

Moreover, this co-operation scheme works the other way round, too. Under crime prosecuting procedure, Public Prosecutors are obliged to report any instances of the crime fostering situations, disclosed during investigation. Public Prosecutors use this instrument, though not very often. On the occasion of one investigation, Public

Prosecutor's Office requested the SCC to perform a wider audit aimed at examining whether similar irregularities could be found in other places. The SCC responded to the request launched an audit.

While studying failures in economy on the verge of suspected corruption committed in the course of a sale of a joint-stock company originally belonging to the State Treasury (which was done on notification by the Supreme Chamber of Control issued on the grounds of earlier audit findings), the Prosecutor's Office approached the SCC asking to broadly cover a batch of similar transactions, and relevant audit study was taken up by the Polish SAI.

Supreme Audit Institutions normally base their work on documents; their procedures are time-consuming and they have no mandate to use Police investigation methods. This applies also the Supreme Chamber of Control. In order to properly examine particular cases and possibly punish those guilty of corruption, the SCC needs to co-operate not only with Public Prosecutors, but also with other specialized state agencies furnished with relevant authorizations.

The following state institutions play an important role in preventing corruption:

1. **Regional Accounting Chambers**, which audit local governments;
2. **Tax Audit Offices**, which examine the regularity of collection of taxes and other public levies;
3. **Customs Inspection Service**, who examines the regularity of collection of customs charges and performs tasks connected with preventing corruption in customs services.
4. **Public Procurement Office**, which supervises public contracting by central and local government administration.

The Supreme Chamber of Control interacts with these agencies in a number of ways. In the first place, the SCC has the mandate to audit them as they make part of government administration. Secondly, the Chamber may instruct these agencies to carry out inspections or investigations within their respective mandates; and thirdly – the Chamber may use their findings in their own audit works. These instruments allow the Chamber to influence the activities of government inspection services and co-operate with them. Several examples of such co-operation are presented below.

Regional Accounting Chambers (along with Tax Audit Offices and Voivodship Environmental Protection Inspectorates) are among those agencies whose findings have been most frequently used by the SCC. Those findings were particularly useful in conducting performance audits by municipalities and in auditing management of municipal property. Furthermore, the Supreme Chamber of Control has frequently ordered Regional Accounting Chambers to conduct ad hoc audits upon receiving information on the occurrence of irregularities in particular local governments.

In another case, the Supreme Chamber of Control was auditing the functioning of the tax offices responsible for tax collection, and found that some tax offices, applied excessive discretion in granting tax exemptions and allowances to companies and for no reason tolerated the fact that certain firms were delayed with taxes. This gave rise to suspicion that these offices were somehow involved in corruption. Detailed examinations of all suspected cases, was clearly beyond the capacity of the SCC, and so the **Tax Audit Offices** were ordered to carry out this task. Thanks to the supplementing role played by the Tax Audit Offices, the result of the audit was more comprehensive, as the audit disclosed irregularities of a more general nature, while individual cases were later examined in separate proceedings.

The Customs Inspection Service is another state agency responsible for preventing corruption. The SCC co-operates with this body in auditing the functioning of customs offices. For example, when the SCC audited the regularity of customs clearance performed by customs offices, it requested the Custom Inspection Service to copy and thus double-checks the work of

customs offices by way of carrying out independent customs examinations. The findings from these examinations were then used in evaluation of the customs clearance system.

At times post-audit conclusions developed by the Supreme Chamber of Control would indicate the necessity to strengthen and better regulate co-operation among different services, e.g., between the Chief Customs Office and Veterinary Inspection.

The Chamber would also use assistance from such specialized services as the Drug Inspection on studying the legality of applying subsidies to various groups of drugs. The Inspection verified correctness of cashing particular prescriptions, while the SCC used the fruit of their work, taking their findings into account in the course of their audit work.

The most important goal, however, is to prevent or at least significantly reduce corruption in future. According to a Polish proverb, *opportunities create thieves*. Opportunities also create bribery among officials. The point is to limit such opportunities, so that officials are not tempted by corruption offers and citizens are not provoked to offer bribes when dealing with state officials or institutions. Hence, it is important to identify and name all these situations in which corruption-fostering opportunities occur. This is where the role of Supreme Audit Institutions is particularly important. In Poland, The SCC is the main agency responsible for **preventing corruption**. In its reports, the Chamber specifies areas threatened by corruption and, in each case, recommends legal amendments or changes in the organizational structures of an institution in order to reduce the risk of corruption. However, if results are to be achieved, the SAI cannot act alone. Even best advice is useless when it is ignored. The SCC, as most other SAI's in the world, does not have formal statutory powers to enforce its recommendations. The functioning of the Chamber's audit recommendations is based on prestige rather than power. Therefore, the SCC's work in the field of combating and preventing corruption needs to be supported by a good co-operation with other state institutions and by a more active approach among the public displaying attitudes characteristic of the civil society.

In Poland, which is going through a particularly hard and prolonged period of transformation, the role played by **the media** is of special importance. Achievements of the media in combating corruption in Poland are very impressive, winning them undoubtedly the title of another "anti-corruption watchdog". The press eagerly brings up subjects connected with corruption and, in doing so, often refers to reports by the Supreme Chamber of Control, quoting them as a source that guarantees reliability. Some time ago, the Supreme Chamber of Control, basing on audits of numerous central and local government bodies, proved that the so called "Anti-corruption Act", which bans top-level state officials from engaging in business activities and obligates them to submit periodical financial statements, is frequently violated. Very often, authorities in charge will not request financial statements from officials; once such statements have been submitted, nobody verifies them. The relevant report of the SCC has been sent to the Parliament, but apparently went unnoticed by politicians for several weeks. The politicians showed interest and reacted to the report only after it became widely publicized by the media. The result was, among others, prompt drafting of an amendment to the Anti-corruption Act. Another amendment to the Act on MP's Status introduced the obligating to publish financial statements by MP's and made it possible for tax administration to verify those statements. This would have not been possible without significant support from the media; thus the important recommendations by the SCC would have remained on paper.

Co-operation with other bodies, such as **Ombudsman**, is also important for preventing corruption in future. Exchange of information between the two institutions often mutually inspires

them to take up specific actions. For example, in response to numerous complaints submitted to the Ombudsman, the SCC undertook an important audit how the Police react to notifications of committed crime or missing persons.

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Obviously, the answer to the question posed in the title is YES. Co-operation between the SAI and all other institutions involved in combating corruption in this or another way must be strengthened. Such co-operation does not weaken the role or status of the SAI. On the contrary its position becomes strengthened, built on tangible results of audit works performed. This can only be achieved through good co-operation with other government and non-government institutions. Corruption is such a broadly defined and complex phenomenon that it can be effectively combated and prevented only with the use of a wide range of measures, and this requires co-operation among numerous institutions. Poland's experience, and probably that of the others countries, too, shows that the SAI should play a fundamental, but not exclusive role in mounting a wide anti-corruption front.