



AREAS

**OF CORRUPTION CRIME IN POLAND
IN THE YEARS 2018–2019**



The Government Programme for Counteracting Corruption for the Years 2018-2020



CENTRAL ANTI-CORRUPTION BUREAU

8TH MAY 2020

I hereby present a publication of the Central Anti-Corruption Bureau containing reports on the areas of corruption crime in Poland in the years 2018-2019.

The document was drawn up in connection with implementation of the task 7.2 of the Government Programme for Counteracting Corruption for the Years 2018-2020 – Preparation of periodical reports on areas in which corruption crime occurs and areas threatened with such crime, including results of opinion polls, but please note that the aim of it is considerably more universal than just fulfilment of the Bureau's obligation. The reports based on the CBA's data as well as data provided by five other services reflect cross-sectional picture of corruption in Poland. While indicating the areas threatened with such crime, the reports enable analysis of situation and strategic planning of public institutions actions in scope of not only combatting but also preventing corruption.

I kindly thank all of the services, other institutions and all persons engaged in work on the reports given below. Undoubtedly, corruption in particular areas of the state activity is an extremely significant problem for the society and is a very interesting phenomenon at the same time. I would like to express my hope that these reports become a valuable source of information for you in your everyday work.

Yours faithfully,



The objective

The Government Programme for Counteracting Corruption for the Years 2018-2019 (RPPK) was drawn up as a result of the Central Anti-Corruption Bureau's actions undertaken in a consequence of arrangements between the Minister of Interior and Administration, the office responsible for implementation and accomplishment of the RPPK for the years 2014-2019, and the Minister – Special Services Coordinator.

The RPPK meets the obligation of strategic approach to counteracting corruption that arises from a recommendation of the Group of States Against Corruption (GRECO), European Union and the Council of Europe recommendations, as well as from the United Nations Convention against Corruption. While working on the RPPK, the Bureau was guided by necessity to stay consistent with the Strategy for Responsible Development for the period up to 2020 (including the perspective up to 2030) that was adopted by the Council of Ministers on 14 February 2017 and constitutes an update of the National Development Strategy 2020.

The long-term objective of the Programme is to set directions of anti-corruption policy in Poland and the operational objective is to reduce corruption crime and raise public awareness in Poland. The reports on areas of corruption crime in Poland for the years 2018-2019 were drawn up in result of implementation of the task 7.2 of the RPPK for the years 2018-2020. The reports include opinion polls.

Strategic environment

Poland faces a number of varied threats and challenges, including those related to corruption. Corruption crime is consistently present in public life. It is a phenomenon not only negative in terms of ethics but also effecting the state's security. Only its scope and level of influence on economic life as well as individuals existence remain diverse.

Combatting corruption crime includes not only investigative actions but also prevention. Effective fight with this kind of crime first of all demands a diagnosis of circumstances favouring its commission. Threats may be expected both when public funds are spent and also in areas where public institutions and business entities presents its the strongest activity.

Strategic response

The RPPK is a government document. The objectives and tasks set therein envisage introduction of new legal and organisational solutions on strategic level. Execution of the Programme involves whole administrative structure of the country.

The RPPK offers some solutions in order to raise effectiveness of activities of the competent services, official bodies and institutions, regardless of their territorial jurisdiction and scope of their tasks executed while taking local conditions into consideration.

The report methodology

Identification of areas of corruption crime in Poland in the years 2018-2019 was conducted based on data received from the preparatory proceedings ran by the Central Anti-Corruption Bureau, the Police, the Internal Security Agency, the Border Guard, the Military Gendarmerie, and the National Revenue Administration.

The Police data comes from preparatory proceedings conducted by organisational units of the regional headquarters dedicated to combatting corruption and from the Metropolitan Police Headquarters, as well as from organisational units of the Central Bureau of Investigation, and of the Police Internal Affairs Bureau that are also competent to combat corruption crime.

The data represent number of all preparatory proceedings (both before pressing the charges and after that) conducted in corruption crime cases in a particular year, so it represents proceedings from this specific year:

- initiated and not closed,
- conducted and closed,
- still on-going.

For these reports a following catalogue of corruption crimes was assumed: official venality (art. 228 of the Criminal Code), bribery (art. 229 of the Criminal Code), influence peddling and trading in influence authority, if it is connected with accepting material or personal benefit (art. 230 and 230a of the Criminal Code), exceeding authority, if it is connected with accepting material or personal benefit (art. 231 § 2 of the Criminal Code), buying and selling votes (art. 250a of the Criminal Code), assisting illegal immigration in connection with accepting material or personal benefit (art. 264a of the Criminal Code), attesting to an untruth, if it is connected with accepting material or personal benefit (art. 271 § 3 of the Criminal Code), infliction of substantial damage in economic circulation, if it is connected with accepting material or personal benefit (art. 296 § 2-4 of the Criminal Code), corruption of managers (art. 296a of the Criminal Code), corruption of creditors (art. 302 § 2-3 of the Criminal Code), hindering a public tender, if it is connected with accepting material benefit (art. 305 § 1 of the Criminal Code), giving or accepting material or personal benefit for collecting signatures or putting a signature supporting a candidate or a list of candidates (art. 497 § 3 of the Election Code), corruption in sport (art. 46-48 of the Act on Sport), corruption in trading in pharmaceuticals (art. 54 of the Act on Refund of Pharmaceuticals).

In case of the crimes set forth, for example, in art. 231 § 2 of the Criminal Code, art. 296 of the Criminal Code, and art. 305 of the Criminal Code, undertaking actions in order to gain material or personal benefit not always determine corruption crime, since a perpetrator may act to detriment of public or private interest himself or herself. Therefore in such cases there is no party giving bribe or providing other benefit and no party accepting such bribe or benefit. Cases like these are not included in the reports.

The preparatory proceedings with an individual giving material or personal benefit, or a promise thereof, regardless revealing its name during in course of actions, were the subject of the study.

While reviewing the preparatory proceedings there was used an evaluation survey with the following classification:

I. area of sector of an entity accepting benefit by ownership structure (sector area):

- public
- private
- public-private

II. operations area of an entity accepting benefit (accepting entity area):

- customs and revenue administration
- public administration
- financial institutions
- non-governmental organisations
- law enforcement and justice system
- the Parliament members
- private sector – enterprises other than commercial law companies
- health care and pharmaceuticals
- science and education
- commercial law companies
- military

III. subject area connected with an entity giving benefit (giving entity area):

- financial activity and audit
- education
- implementation of IT solutions, digitalisation, and communications
- infrastructure, construction, and real estate
- health care
- production, logistics, and transport
- EU programmes
- agriculture, forestry, and fishery
- sport
- art, entertainment, mass media, and recreation
- environment and mining industry
- elections and referendum
- justice system
- employment and human resources



Case studies:

- I. *The proceedings conducted in a case of corruption of the traffic police officers in K. renounced an official action in return for a material benefit.*
 - sector area – public
 - accepting entity area – law enforcement and justice system
 - giving entity area – justice system

- II. *The proceedings conducted in a case of corruption of the traffic police management in L. responsible for horizontal promotion – issuance of advantageous HR decision – in return for a material benefit.*
 - sector area – public
 - accepting entity area – law enforcement and justice system
 - giving entity area – employment and human resources

- III. *The proceedings conducted in a case of bid-rigging – a public tender organised by University for building new IT system.*
 - sector area – public
 - accepting entity area – science and education
 - giving entity area – implementation of IT solutions, digitalisation, and communications

Choosing entities categories, as well as subject areas was aimed at taking into consideration all spheres of citizens' activities, thus the state's activity. The classification was based on the catalogue of public administration sections stipulated in the Act of 4 September 1997 on Public Administration Sections (Journal of Laws of 2019, item 945 as amended).

AREAS OF CORRUPTION CRIME IN POLAND IN 2018

The number of preparatory proceedings in corruption related cases

In 2018 there were **1229** preparatory proceedings conducted in corruption related cases. The percentage share of each law enforcement agency in the total number of preparatory proceedings is presented in the chart below:

Police	691	56.2%
Central Anti-Corruption Bureau	223	18.1%
Border Guard	176	14.3%
Military Gendarmerie	95	7.8%
Internal Security Agency	25	2.0%
National Revenue Administration	19	1.6%

The number of preparatory proceedings with regard to the sector of an entity accepting benefit by ownership structure

Taking into consideration the sector by ownership structure of an entity accepting benefit corruption crime may be classified as public, private, and public-private. The number of preparatory proceedings by sector with regard to the percentage share in the total number of 1229 preparatory proceedings is given as follows:

public sector	895	72.8%
private sector	194	15.8%
public-private sector	140	11.4%

The number of conducted preparatory proceedings allows to assume that in the ca. 73% of cases of corruption the accepting entity was a representative of public sector, meaning that corruption crime in public sector occurs two times more often than in private and public-private sectors jointly.

As it comes out of the EY Compliance report *Integrity in the Spotlight. The Future of Compliance* drawn within the 15th Global Fraud Survey, only 20% of respondents representing managers in Poland state that corruption is a common practice.

The number of preparatory proceedings operations area of an entity accepting benefit

public administration	331	26.9%
law enforcement and justice system	299	24.3%
health care and pharmaceuticals	207	16.8%
commercial law companies	98	8.0%
private sector – enterprises other than commercial law companies	95	7.8%
military	67	5.4%
science and education	56	4.6%
customs and revenue administration	48	3.9%
financial institutions	12	1.0%
the Parliament members	10	0.8%
non-governmental organisations	6	0.5%

The number of preparatory proceedings representing only two categories – public administration and law enforcement and justice system – exceeds half of all proceedings.

Case studies:

- **public administration**

The officers of the Regional Office of the CBA in Białystok were conducting a preparatory proceeding in case of promise of giving and giving material benefit to the Poland's consul in Minsk (Belarus) in connection with performing by him a public function, in exchange for approving the application for the Polish Charter document (Karta Polaka) and granting a Belarussian citizen with Polish citizenship.

- **law enforcement and justice system**

The officers of the National Revenue Administration were conducting a preparatory proceeding in case of more than 100 officers and smugglers acting in borderland area jointly and in concert with identified and unknown persons in organised crime group. The group was dealing with illegal import of above average volume of excise duty goods to the territory of the EU, without customs declarations, in exchange for some material benefits for the National Revenue Administration officers.

**The number of preparatory proceedings
by subject area connected with an entity giving benefit**

production, logistics, and transport	215	17.5%
security and defence system	210	17.1%
infrastructure, construction, and real estate	174	14.2%
health care	165	13.4%
justice system	111	9.0%
financial activity and audit	94	7.7%
education	89	7.2%
employment and human resources	78	6.4%
EU programmes	26	2.1%
implementation of IT solutions, digitalisation, and communications	21	1.7%
environment and mining industry	17	1.4%
agriculture, forestry, and fishery	16	1.3%
art, entertainment, mass media, and recreation	6	0.5%
elections and referendum	4	0.3%
sport	3	0.2%

In 2018 in **one out of three** preparatory proceedings related with corruption there was involved an individual giving benefit who was operating in production, logistics, and transport field or security and defence system area.

The 2018 opinion polls ran by the Organisation for Economic Co-operation and Development (OECD) shows that **42% of respondents** working in the **transport** sector confirmed that at work they experienced corruption or other unwanted phenomenon. Similar answers were given by one in three employees from the **IT sector** and one in three employee of the **financial sector**.

Surprisingly, after the OECD survey the most corruption risk endangered sectors in 2018 were: fuel industry (63% of respondents), mining industry (50% of respondents), and postal service sector (45% of respondents)

Case studies:

▪ public sector

The officers of the Operations and Investigations Department of the CBA were conducting a preparatory proceeding in case of influence peddling crime. The sworn translator of Arabic, instructed by the court in the criminal case, convinced a representative of an accused she had some influence on the judge, offered to intermedate in arranging a sentence advantageous for the accused in exchange for the material benefit in the amount of 20% of USD 50,000.

The Police officers were conducting a preparatory proceeding in case of privatization of one of the State-Owned Enterprises. A group of officials from one of the ministries enabled privatization only after they were promised a material benefit. In order to make it, they established some personally related entities in Poland and abroad. Bank accounts of these companies received money that was sent as a remuneration for some alleged consulting services contracts on enterprise privatization.

▪ private sector

The officers of the Regional Office of the CBA in Katowice were conducting a preparatory proceeding in case of maladministration in a cooperative bank granting loans for a number of business entities in exchange for material benefits.

The officers of the Regional Office of the CBA in Gdańsk were conducting a preparatory proceeding in case of demanding and accepting some material benefits and promises thereof by persons holding positions in an arms manufacturer in exchange for exceeding duties by these persons who were reserving for themselves 10% of equipment price or service cost of undue commission from various contracting parties that was included in the total cost of transaction.

▪ public-private sector

The officers of the Regional Office of the CBA in Kraków were conducting a preparatory proceeding in case of giving the material benefit of PLN 825,000 and giving promise of thereof in the amount of PLN 1,000,000 to a person holding public office, in connection with his office, in exchange for unlawful influence on decisions of governing bodies of the State-Owned Enterprises or public institutions or intermediation in dealing with proceedings in public institutions.



AREAS OF CORRUPTION CRIME IN POLAND IN 2018

SECTOR AREA	PUBLIC SECTOR 73%
ACCEPTING ENTITY AREA	PUBLIC ADMINISTRATION 26,9% LAW ENFORCEMENT AND JUSTICE SYSTEM 24,3% HEALTH CARE AND PHARMACEUTICS 16,8%
GIVING ENTITY AREA	PRODUCTION, LOGISTICS AND TRANSPORT 17,5% SECURITY AND DEFENCE SYSTEM 17,1% INFRASTRUCTURE, CONSTRUCTION AND REAL ESTATE 14,2%

AREAS OF CORRUPTION CRIME IN POLAND IN 2019

The number of preparatory proceedings in corruption related cases

In 2019 there were **1366** preparatory proceedings conducted in corruption related cases. The percentage share of each law enforcement agency in the total number of preparatory proceeding is presented in the chart below:

Police	820	60.0%
Central Anti-Corruption Bureau	244	17.9%
Border Guard	170	12.4%
Military Gendarmerie	65	4.8%
Internal Security Agency	38	2.8%
National Revenue Administration	29	2.1%

The number of preparatory proceedings with regard to the sector of an entity accepting benefit by ownership structure

Taking into consideration the sector by ownership structure of an entity accepting benefit corruption crime may be classified as public, private, and public-private. The number of preparatory proceedings by sector with regard to the percentage share in the total number of 1366 preparatory proceedings is given as follows:

public sector	948	69.4%
private sector	218	16.0%
public-private sector	200	14.6%

The number of conducted preparatory proceedings allows to assume that nearly in the 70% of cases of corruption the accepting entity was a representative of public sector. It means that corruption crime in public sector occurs almost two times more often than in both other sectors.

The 2019 opinion polls ran by Kantar and ordered by the European Commission indicate that according to the Polish entrepreneurs corruption is not a significant problem for them. Up to **69%** of the Polish entrepreneurs responded that corruption is not a problem in running their business activity, and **38%** of respondents stated that this is a very rare or rather rare phenomenon. The similar answers were given by the British and the French entrepreneurs.

Case studies:

- **public sector**

In 2019 the officers of the Military Gendarmerie were conducting a preparatory proceeding in case of a deputy commander of one of the military units who in years 2017-2019, in connection with the position he was holding, accepted the material benefits in total amount of PLN 45,200 from a CEO of one of limited liability companies. The commander supervised public tenders conducted in the unit and the said company was carrying out orders for delivering some specialist military equipment.

- **private sector**

The officers of the Regional Office of the CBA in Szczecin were conducting a preparatory proceeding in case of a counsel and a former policeman who were claiming to have influence in public institutions. And they took up arrangements in order to give back a withheld driving licence in exchange for PLN 30,000 and to cause an advantageous resolution of the case, i.e. discontinuance of the criminal case, in exchange for PLN 100,000. In this case the charges were pressed also against a psychologist who – in order to hinder the court procedure – drew up untrue expertises regarding mental health of the accused. Her efforts were aimed at protracting the court proceedings so as the previous sentences would be erased. It would result with a change of the offence qualification and lack of legal grounds for prohibitory injunction of lifelong ban of driving any motor vehicles.

**The number of preparatory proceedings
by operations area of an entity accepting benefit**

law enforcement and justice system	329	24.1%
customs and revenue administration	231	16.9%
health care and pharmaceuticals	227	16.6%
public administration	216	15.8%
private sector – enterprises other than commercial law companies	99	7.3%
commercial law companies	97	7.1%
science and education	84	6.1%
military	42	3.1%
non-governmental organisations	16	1.2%
financial institutions	14	1.0%
the Parliament members	11	0.8%

The data given above shows that in 41% of all corruption related preparatory proceedings in Poland the accepting individual was a representative of law enforcement or justice system or customs or revenue administration.

Case studies:

▪ law enforcement and justice system

The officers of the Border Guard were conducting a preparatory proceedings in case of an organised crime group aimed at organisation of illegal crossing the Polish border for other persons and facilitating the other persons their stay in Poland in exchange for some material benefits. In the course of the proceeding it was determined that the perpetrators were searching for people from so called the 'third countries' (mainly from Ukraine and Turkey) who were interested in obtaining – for a payment – declarations of an employer to entrust a job to a foreigner in Poland. Next, it would give grounds for applying for a national visa that enables crossing the Polish border. Foreigners were not taking this job or they were working in other European Union countries as a matter of fact.

▪ customs and revenue administration

The officers of the Internal Security Agency were conducting a preparatory proceeding in case of an organised crime group of employers of a tax office and persons related with them. The suspects were, among others: the head of the tax office and his wife, the manager of the executive unit of this tax office and his subordinate, as well as a dozen of entrepreneurs. In the course of the proceeding it was determined that the head of the tax office, who was holding this managerial position for many years, consistently and in organised way was accepting material and personal benefits from the entrepreneurs in exchange for regular tax decisions advantageous for them. Moreover, under the threat of job deprivation he was forcing the tax office employees to share with him part of their commissions from running the executive proceedings.

▪ health care and pharmaceuticals

The officers of the Regional Office of the CBA in Poznań were conducting a preparatory proceeding in case of a head of ward of a hospital who accepted some material benefits and was given some material benefits in exchange for actions considered criminal behaviour. In the course of the proceeding it was determined that the head of the ward was admitting patients to the ward or extending their stay in exchange for the material benefits ranging from PLN 500 to PLN 3,000 as well as for some food products from members of families of the patients.

▪ public administration

The Internal Security Agency officers were conducting a preparatory proceeding in case of some material benefits given to the employees of the Poviato Road Administration (Powiatowy Zarząd Dróg), including the director of the Administration, his deputy, unit managers, and a construction supervision inspector in exchange for favourable treatment during public tenders for road construction works. The material benefits were given for the director's friendliness and support in getting single-source procurement procedure orders and for drawing up a technical specification in a way so that only one contractor could meet the conditions in public tenders.

**The number of preparatory proceedings
by subject area connected with an entity giving benefit**

infrastructure, construction, and real estate	328	24.0%
security and defence system	194	14.2%
health care	154	11.3%
justice system	148	10.8%
education	112	8.2%
production, logistics, and transport	111	8.1%
employment and human resources	104	7.6%
financial activity and audit	95	6.9%
EU programmes	31	2.3%
implementation of IT solutions, digitalisation, and communications	30	2.2%
environment and mining industry	20	1.5%
agriculture, forestry, and fishery	16	1.2%
art, entertainment, mass media, and recreation	13	0.9%
sport	5	0.4%
elections and referendum	5	0.4%

In 2019 nearly a quarter of conducted preparatory proceedings was related with infrastructure, construction, and real estate industries.

Case studies:

▪ **infrastructure, construction, and real estate**

The officers of the Regional Office of the CBA in Wrocław were conducting a preparatory proceeding in case of (1) demanding benefits (money, real estate properties, construction services, garden and cleaning works) and accepting them by one of the deputy ministers in exchange for his favourable attitude in connection with his supervision competences over public institutions and (2) in case of inciting the entrepreneur by this deputy minister to give him a material benefit in exchange for awarding the entrepreneur with a public tender.

The officers of the Regional Office of the CBA in Lublin were conducting a preparatory proceeding in case of promise of a material benefit and then giving it in the amount of PLN 10,000, to a person performing public function – the receiver – in exchange for profitable free sale of a real estate property being part of the estate in bankruptcy.



AREAS OF CORRUPTION CRIME IN POLAND IN 2019

SECTOR AREA	PUBLIC SECTOR 69,4%
ACCEPTING ENTITY AREA	LAW ENFORCEMENT AND JUSTICE SYSTEM 24,1% CUSTOMS AND REVENUE ADMINISTRATION 16,9% HEALTH CARE AND PHARMACEUTICS 16,6%
GIVING ENTITY AREA	INFRASTRUCTURE, CONSTRUCTION AND REAL ESTATE 24,0% SECURITY AND DEFENCE SYSTEM 14,2% HEALTH CARE 11,3%



References:

- The Act of 25 June 2010 on Sport (Journal of Laws of 2019, item 1468 as amended)
- The Act of 12 May 2011 on Refund of Pharmaceuticals, Foodstuffs for Particular Nutritional Use, and Medical Devices (Journal of Laws of 2020, item 357)
- EY Compliance, *Integrity in the Spotlight. The Future of Compliance*, the 15th Global Fraud Survey, 2018
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- The European Commission, *Flash, Eurobarometer 486. Business' attitudes towards corruption in the EU*, 2019

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