

Information provided by the Ministry of Justice of the Republic of Poland as a response to the note Ref. CU 2023/247/(A)DATA/CEB/CSS

With respect to a revision of data on following recommendations accepted after phase 1 of the review of Poland's implementation of the United Nations Convention against Corruption (UNCAC), please be advised as follows:

As regards Chapter III Criminalisation and law enforcement. Specialised authorities and coordination of actions among agencies, please be advised that the Act of 9 June 2006 on the Central Anti-Corruption Bureau (Journal of Laws of 2022, item 1900) stipulates that the Head of the Central Anti-Corruption Bureau (CBA) is appointed following a consultation with the President and the Special Services Committee of the Sejm, which provides for a debate and an opportunity for a wide array of institutions (and consequently, for the political spectrum) to assess the candidacy. That the Head of the CBA is appointed for a specific term of office and that they may only be re-appointed once is also what warrants CBA objectivity and independence. At the same time, pursuant to Article 8 of the Act on the CBA, the Head of the CBA may be removed from office in the event the conditions of Article 7 are not met, including in the absence of unblemished moral, civic and patriotic attitude and a failure to satisfy the requirements for access to "top secret" classified information.

As regards the postulates formulated later on in this part of the report with regard to enhancing institutional effectiveness, analytical and preventive potential of the CBA, please be advised that the Bureau is constantly developing these directions of activity and consistently building the image of an anti-corruption service combating corruption in education, prevention, control, as well as offensive operations the outcome of which can be evidence in proceedings.

In addition, the government anti-corruption strategy envisaged for 2014–2019 and the Government Programme for Counteracting Corruption for 2018–2020 (hereinafter "RPPK 2018–2020") have been completed.

The programme originated from the work of the Central Anti-Corruption Bureau following the arrangements by the Minister of the Interior and Administration (as the entity responsible for implementing and carrying out of the RPPK for 2014–2019) and the Minister-Special Services Coordinator.

The RPPK 2018–2020 followed an obligation to carry out systemic anti-corruption operations imposed by the recommendations of the Group of States Against Corruption (GRECO), the recommendations of the European Union and the Council of Europe, as well as the United Nations Convention against Corruption. In its creation, consistence was also observed with the Strategy for Responsible Development up to 2020 (with a 2030 perspective) adopted by the Council of Ministers on 14 February 2017.

The assumptions for 2018–2020 were that the programme would act as a tool to ensure flexible planning and management of legislative, operational, preventive and educational activities undertaken by state services and authorities in counteracting corruption.

The proposed changes to the 2014–2019 strategy mainly concerned the modification of the goal, the redefinition of tasks and activities and the establishment of new standards for implementation and evaluation.

The goal of RPPK 2018–2020 was actual curbing of corruption crime at home and raising social awareness as regards prevention of corrupt behaviour. The objectives were the following:

- enhancing prevention and education activities;
- improving mechanisms for monitoring corruption risks and monitoring legal regulations in terms of counteracting corruption crime;
- intensifying cooperation and coordination of activities among law enforcement agencies.

As compared to the 2014–2019 strategy, the number of tasks has been reduced to 8, and of activities to 33. The programme was significantly relaxed and shrunk, also by abandoning the inclusion of permanent tasks of institutions and services implemented under other legal acts.

Tasks from 1 to 6:

- 1) enhancing the openness and transparency of public life,
- 2) developing rules to shield the law-making system, as well as the most important instances of public procurement, and monitoring the exercise of rights in the commercialisation and consolidation of assets by companies crucial to the economy,
- 3) enhancing the transparency and objectivity of the public procurement process,
- 4) strengthening measures to reduce opportunities for corruption in the public and private sectors,
- 5) incorporating anti-corruption education in the curricula of educating and training of public officials and holders of public functions,
- 6) shaping public awareness through anti-corruption education.

In formulating the tasks 1–6, emphasis was placed on the areas of socio-economic life that first require protection in the form of a legislative base ensuring coordinated criminalisation of corrupt behaviour.

The programme's priority was intensifying efforts to tighten and reform the system of property declarations, introducing a single and coherent whistleblower protection system, developing the concept of a public compliance system, as well as organising party funding issues. For the party funding, it was assumed that the changes would be oriented in line with the recommendations of the Group of States against Corruption (GRECO). The recommendations concern repayment of loans given to political parties and election committees, better consistency and comprehensiveness of financial reports of political parties and election committees, more frequent publication of information on donations received by political parties and election committees, increased financial and personnel resources of the State Electoral Commission for the control of political financing, more active examination and monitoring of financial reports of political parties and election committees, and fostering cooperation among authorities in charge of political financing control.

In formulating the tasks of the programme, a need to organise corrective measures to eliminate imperfections in the current legal system (loopholes, legislative inflation) was also identified, including a need to amend the act on lobbying activities in the law-making process. The act, as it is now, does not ensure the exercise of actual control over professional lobbying activities. Focus was also on the role and importance of educational activities in the national anti-corruption policy and the need to propagate knowledge and promote skills in identifying corruption and its risks.

Task 7 of the RPPK 2018–2020 concerned the implementation of solutions for the interaction and coordination of law enforcement agencies in the combat against corruption. The rationale for this task was primarily the need to organise legislation, mitigate the risk of overlapping powers of law enforcement services and agencies set up to prevent and combat corruption and, further, to develop uniform standards, methods and principles of cooperation. Activities undertaken to implement the aforementioned task allowed to identify expectations of competent services and authorities as regards the course, organisation and scope of cooperation.

Task 8 pertained to fostering international cooperation in preventing and combating corruption, with the rationale being the efforts made by international communities to create and develop international legal instruments in combating and preventing corruption crime. It was shown as necessary to join forces internationally and to work together in a systemic way to create a coherent legal instrument to ensure that national authorities and institutions are more effective in countering corruption crime, e.g. by implementing already applied and proven standards.

The four-tier system of implementation was abandoned for a three-tier one while retaining the positions of coordinators of the programme implementation, the Team for carrying out the Programme as the institution implementing the programme, and the Council of Ministers to which, through the Minister-Special Services Coordinator, the status of carrying out the Programme will be reported; the obligatory creation of working groups was abandoned. The works of the aforementioned Team were chaired by the Head of the Central Anti-Corruption Bureau. Hence, new duties were imposed on the Bureau which included coordination and monitoring of the programme and the provision of administrative services.

RPPK 2018–2020 contributed to the development of new standards for the identification, monitoring and prevention of corruption threats and the development of effective response mechanisms. In April 2021, a vast (89 pages) final report on carrying out the RPPK 2018–2020 was produced, and it is available at www.antykorupcja.gov.pl/strategie-antykorupcyjne. This document sets out both the status of the tasks and activities, how they were carried out, what were costs incurred and how they were funded. Should the Minister deem it appropriate to provide the UNODC Secretariat with a summary of this document in English, we are willing to prepare and submit such a study.

With respect to report Section 2.2 *Successes and good practices*, please be advised that the application channel referred to in the section has practically been in service since the Bureau's inception (telephone: 800 808 808, e-mail: sygnal@cba.gov.pl). All the CBA contact details are available at www.cba.gov.pl/pl/zglos-korupcje, and a corruption notification form is also available on this website. In 2022, the CBA received 29 726 notifications, of which 23 903 at dedicated email addresses, and 3 691 by telephone. The remaining 2 000 cases were written and personal notifications. Noteworthy is also that from 2006 to 2022, the CBA received nearly 290 000 notifications thus provided. Electronic and telephone communication channels have become a particularly important instrument to collect information during pandemic restrictions. Each of the notifications is analysed and passed on to the relevant organisational unit of the CBA or to other institutions, given their subject matter competence. In 2022, nearly 1 000 notifications concerned corruption and, for instance, 50 pre-inspection analyses and 13 inspections were initiated on their basis.

The Bureau is also currently modernising its website, with particular focus on improving access to educational and informational content. Within the framework of the #ABCuczciwości project, it is

envisaged to create on the website a kind of an information hub providing both easy-to-read *modus operandi* on “what to do in a corruption situation” and specialised analyses on corruption and activities detrimental to the economic interests of the state, forecasts and risk assessments in these areas.

As regards dilemmas concerning the preventive function of the CBA, the totality of the Bureau’s educational activities must not be overlooked, either. They are currently mainly composed of a training platform available at www.szkolenia-antykorupcyjne.edu.pl and a system of anti-corruption training delivered by lecturers (CBA officers and employees).

Three training modules are available on the educational platform (in Polish and English). The *Corruption in public administration* module includes information on legal and institutional instruments for combating corruption, anti-corruption regulations and methods for counteracting the phenomenon. It also provides examples of corruption and tips on how public administration employees should behave in the face of corruption, and how they can contribute to curbing it. Part 2, *Corruption in business*, provides information on systemic and institutional anti-corruption solutions in place in legal transactions and economic dealings, as well as on economic consequences of corruption (for society and the state) at the intersection of administration and the private sector. Module 3, *Counteracting corruption*, presents the anti-corruption policy and the problem of whistleblowing, the role of NGOs in countering corruption, and related social research. Each of the modules is followed by a knowledge test. The test having been passed, a certificate can be generated that confirms the course has been completed.

The training platform is a highly rated and very popular tool with an educational profile. The table below shows data on the number of users of each module and the total number of training courses completed.

Modules	Training courses completed in 2022	Training courses completed from 2014 to December 2022
Korupcja w administracji publicznej [Corruption in public administration]	13 993	198 907
Korupcja w biznesie [Corruption in business]	4 384	58 326
Przeciwdziałanie korupcji [Counteracting corruption]	11 225	125 475
Corruption in public administration	83	625
Corruption in business	70	431
Counteracting Corruption	97	699
Total	29 852	384 463

The Bureau is also engaged in training activities at public institutions. In accordance with the internal legal regulations of 2023 which professionalise the team of lecturers and the entire training process, training sessions are on-site or remote, at the request of, in particular, a public finance sector

institution, an institution receiving public funds, enterprises partly owned by the State Treasury or by a local government.

During the meetings, issues in the following areas are discussed:

- counteracting activities detrimental to the economic interests of the state, corruption and other crimes or prohibited acts for which the CBA is competent,
- fostering anti-corruption culture and promoting an integrity-based culture,
- anti-corruption policies, gift policies and professional ethics policies,
- property declarations,
- recommendations for purchasing and procurement procedures, as well as recognising and managing conflicts of interest.

In 2022, CBA lecturers held 80 anti-corruption trainings at 54 institutions, during which the awareness and competencies of 4 949 people were raised. Since its inception, the CBA has trained nearly 60 000 people during 1 445 training sessions.

An important part of the Bureau's educational activity is also its publishing activity. In the context of the CBA's subject matter competence, noteworthy are publications available at www.cba.gov.pl on assessing corruption crime risks, guidelines on implementing compliance programmes in the public sector, guidelines on uniform institutional solutions and rules of conduct for officials and persons belonging to the PTEF group, or statistical studies showing the scale of corruption in Poland. The publications are gradually revised.

The above explanations are also relevant for the conclusions in Section 2.3 of the report, *Implementation challenges* (indents 10–13 and 15).

With respect to Chapter IV of the report, *International cooperation*, notwithstanding the absence of instructions or postulates addressing the CBA *expressis verbis*, it is important to note that the development of international cooperation through, in particular, the building and strengthening of working contacts is among the Bureau's highest operational priorities. The Bureau continuously cooperates with foreign partners, including through contact with liaison officers accredited to diplomatic representations in Poland. In 2022, working meetings were held with the liaison officers of Austria, Italy, the United Kingdom, Germany, the USA and Romania.

In addition, the CBA is authorised to cooperate with 54 countries and 13 international organisations and is continuously involved in a number of international projects. In 2022 alone, we participated, among others, in the CRITCOR project, "Corruption Risk, Risk of Corruption?", carried out by the Hungarian National Institute of Criminology and working meetings with representatives of the Directorate A - Expenditure - Operations and Investigations of OLAF.

Partners with whom the Bureau cooperated most dynamically in 2022 include: the Lithuanian Special Investigation Service (STT; among other things: a study visit of experts to exchange experience, Regional Anti-Corruption Seminar of the Heads of Baltic Services, international workshops), the Romanian Anti-Corruption General Directorate (DGA; in particular a meeting of executives to exchange experience), Latvian Corruption Prevention and Combating Bureau (KNAB; for example a High-Level Regional Anti-Corruption Seminar), the National Anti-Corruption Bureau of Ukraine and the Ukrainian National Agency for Corruption Prevention (NABU, NAZK; notably an online meeting with the CBA Management on supporting Ukraine's aspirations for European Union membership). As part of its dynamic and forward-looking operation methods, the CBA teamed up with the Czech, Slovak, Dutch and Belgian police and Latvian KNAB.

In 2022, the CBA also organised and hosted an international conference, Law Enforcement Analysis of the Future LEAF 2022. The event was organised as part of a project entitled “Strengthening of competencies of law enforcement agencies and justice system institutions in the field of strategic and operational crime analysis that will support identification, fight and prevention of corruption and economic crime,” co-financed by the Norwegian Financial Mechanism. The conference was attended by experts from different regions of Europe, representatives of services, academia and independent experts. During the 3 days of the conference, 23 lectures were held, attended by nearly 500 participants, both on site and remotely. Topics discussed included broadly defined financial and economic analysis, advanced forensic techniques, new technologies for criminal and strategic analysis, and the current geopolitical situation in the context of the tasks facing analysts and law enforcement agencies.

The meeting was attended by guests from the United Kingdom, Lithuania, Portugal, France, Ireland, Sweden, Hungary, Italy and the Kingdom of the Netherlands. A delegation from NABU, one of the project partners, also attended the conference.

With respect to legislative activities, it should be noted that as of 8 February 2017, a number of amendments have been made to provisions concerning selected offences listed in the summary report on phase 1 of the review of Poland’s implementation of UNCAC. By the Act of 7 July 2022 Amending the Penal Code and Certain Other Acts (Journal of Laws of 2022, item 2600, as amended), Article 228 (5) (*passive bribery of a public official*) and Article 229 (4) (*active bribery of a public official*) of the Penal Code were amended. Consequently, the upper term limit for imprisonment was raised from 12 to 15 years, in both the cases. In addition, § 5a was added to Article 228 of the Penal Code which introduced aggravated form of passive bribery whereby anyone who accepts a financial benefit of great value or a promise thereof in connection with performing a public function shall be liable to imprisonment for a term of 3 to 20 years.

In turn, aggravated active bribery was introduced in a newly inserted Article 229 (4a) of the Penal Code. It stipulates for a person who gives or promises to give a financial benefit of great value to a holder of a public function in connection with performing the function being liable to imprisonment for a term of 3 to 20 years. Amended was also Article 230 (1) of the Penal Code (*passive influence peddling*) so as to specify that the requirement to dispose of public funds regards both a domestic and a foreign organisational unit. In addition, the scope of criminalisation of influence peddling has been extended to include the following objects of crime: state-owned enterprises and companies partly owned by the State Treasury, local self-government or a state legal person.

In addition, in Article 230a (1) of the Penal Code (*active influence peddling*), an editorial change was made, i.e., the legal text was shortened by referring to the objects of crime specified in Article 230 (1) of the Penal Code. Moreover, the Act of 28 October 2002 on the Liability of Collective Entities for Prohibited Acts Punishable under the Law (Journal of Laws of 2023, item 659) was also amended several times, with particular reference to Article 16, which lists the prohibited acts that underpin the liability of a collective entity. Further, Article 4a was added to the aforementioned act by way of the Act of 22 July 2022 on Amending Certain Acts to Combat Environmental Crime (Journal of Laws, item 1726). The norm excludes, for environmental crimes, making the liability of a collective entity dependent on the criminal liability of a natural person.

In addition, further analytical and conceptual work in this area is under way. The draft act amending the Act on the Liability of Collective Entities for Prohibited Acts Punishable under the Law is currently on the list of works of the Council of Ministers (UD421), and its purposes include eliminating prior sentencing of a natural person being a condition for liability of a collective entity (i.e., a precedent) and allowing proceedings against such an entity to be held independently of a procedure against a natural person acting on the entity's behalf.