

The Analysis of Organizational Pathologies

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Abstract

Reliability of information is crucial for the functioning of civil society, private and public organizations. A lot of attention was already devoted in previous issues of ICGFM Journal about the issue of reliability of information. An efficient accounting system favours the creation of the accuracy of the information. Reliability of information is also a factor in creating trust, especially when it is realized that the parties to a contract are always characterized by opportunism. The article draws attention to the problem of corruption, which interferes with the transmission of information, reduces the level of trust, disturbs the institutional balance, which increases transaction costs.

1. Diagnosis of Organizational Pathology

Corruption and fraud can be considered as organizational pathologies. For the purposes of this article, the following definitions are formulated. Z. Dobrowolski defines trust as the willingness of stakeholders to collaborate and to share of information. Corruption is defined in the Civil Law Convention on Corruption, (Strasbourg on 4 November 1999) as requesting, offering, giving or accepting, directly or indirectly, a bribe or any other undue advantage or prospect established in thereof, which distorts the proper performance of any duty or behaviour required of the recipient of the bribe, the undue advantage or the prospect thereof. F.W. Messier, Jr. defines fraud as actions taken with knowledge and intent to deceive¹⁵. Fraud is also defined as a deception deliberately practiced in order to secure unfair or unlawful gain¹⁶. It is the intentional concealment, omission, or perversion of truth, to (1) gain unlawful or unfair advantage, (2) induce another to part with some valuable item or surrender a legal right, or (3) inflict injury in some manner¹⁷. The definition of fraud applied by the International Auditing and Assurance Standards Board, and also adopted by INTOSAI is the following – an intentional act done by one or more individuals among management, those charged with governance, employees, or

¹⁵ W.F. Messier Jr., *Auditing and Assurance Services. A systematic approach*, Third edition, McGraw-Hill Irwin, New York, 2003, p. 703.

¹⁶ <http://www.thefreedictionary.com/fraud>.

¹⁷ <http://www.businessdictionary.com/definition/fraud.html>.

third parties, involving the use of deception to obtain an unjust or illegal advantage¹⁸. A similar definition has been applied by the Institute of Internal Auditors, the American Institute of Certified Public Accountants and the Association of Certified Fraud Examiners – fraud is any intentional act or omission designed to deceive others, resulting in the victim suffering a loss and/or the perpetrator achieving a gain¹⁹.

The Convention on the protection of the European Communities' financial interests²⁰ has introduced a definition of fraud as an offence violating the financial interests of European Communities (the Communities). In Article 1a of the Convention, financial abuse in respect to Community expenditures is described as any intentional act or omission relating to:

(a) expenditures:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities;
- non-disclosure of information in violation of a specific obligation, with the same effect;
- the misapplication of such funds for purposes other than those for which they were originally granted;

(b) revenues:

- the use or presentation of false, incorrect or incomplete statements or documents. which has as its effect the illegal diminution of the resources of the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities;
- non-disclosure of information in violation of a specific obligation, with the same effect;
- misapplication of a legally obtained benefit, with the same effect.

It is aptly notes that it is better to prevent than to detect corruption and fraud. The methods to prevent these pathologies include:

- implementing mechanisms for transparency and accountability in public life,

¹⁸ See: [www.issai.org/media \(734,1033\)/ISSAI_1240_E_Endorsement.pdf](http://www.issai.org/media_(734,1033)/ISSAI_1240_E_Endorsement.pdf) [Accessed on 11 January 2011], p. 241.

¹⁹ See: www.acfe.com/documents/managing-business-risk.pdf [Accessed on 12 January 2011], p.5.

²⁰ Dz. U. [Journal of Laws] of 2004, No. 273, item 2699.

- implementing and constantly improving an internal control system,
- raising public awareness of the harm corruption and fraud bring to citizens
- implementing professional ethical standards²¹.

Like any rational activity, the analysis of corruption and fraud should also be an organised activity. The multiple factors conducive to corruption and fraud require a high measure of flexibility in the adopted analysis approach. What should also be borne in mind is selectivity of tests. Such approach rests on the assumption that it is not worth “wasting” material and human resources to study issues with a small risk of irregularities consisting in a breach of specific rules. Instead, our resources should be focused on analysing these areas of activity which are of key importance to the operations of an agency and are most susceptible to irregularities.

First, it is necessary to analyse the overall activity of the organization, taking into account its operational environment and the fact that any organisation is a system of interrelated technical and social components and contains specific subsystems, such as:

- Subsystem of objectives and values. The organisation impacts on its operational environment and on the components it comprises.
- Psycho-social subsystem, i.e., incentives, values, attitudes, culture of the organisation’s members, social bonds between the organisation’s members.
- Structural subsystem, i.e., the rules for the distribution of work, authority, information, responsibility within the organisation.
- Management subsystem that comprises coordination and decision-making mechanisms.
- Technical subsystem, i.e., the technologies, skills (*know-how*), machinery, devices, buildings used by the organisation²².

For instance, an analysis of the structural subsystem helps to determine if and what discrepancies exist between the formal and actual organisational structures. The formal organisational structure laid down in the rules & regulations and organisation charts defines the distribution of authority and responsibility within an agency. Based on observation and interviews with staff members, the actual relationships within the agency should be identified.

²¹ Z. Dobrowolski, *Korupcja w państwie. Przyczyny, skutki, kierunki przeciwdziałania*, PWSZ Sulechów 2005, pp. 83-95; Z. Dobrowolski, *Oszustwa w życiu publicznym*, Wydawnictwo Organon Zielona Góra 2008, pp. 14-102

²² M. Bielski, *Organizacje: istota, struktury, procesy*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź 1992, p. 86; A.K. Koźmiński, W. Piotrowski (ed.), *Zarządzanie. Teoria i praktyka*, PWN Warszawa 2001, p. 30; Z. Dobrowolski, *Organizacja i zarządzanie. Zarys problematyki i metod*, PWSZ Sulechów 2008, pp. 12-13

This will help to derive certain conclusions not only on how far staff members are familiar and comply with the organisation's official documentation, but also on interpersonal relations (important in looking for corruption and/or fraud).

The analysis of the psycho-social subsystem should look into the organisational culture, understood as a collection of rules and values to stimulate and regulate the behaviour of the organisation members that is important for the attainment of a specific objective²³. It should be borne in mind that there are rules and values declared (e.g. a code of ethics, rules & regulations), and rules and values actually adhered to, whereas the latter are not necessarily consistent with the former.

Organisation culture depends on many external and internal factors. It is shaped by the national culture, the norms and values shared by those comprising the organisation, its ownership form, technologies used, scope of operations, age, history and size. For instance, where the autocratic management style prevails, organisational culture is centred around such values as discipline, obedience, loyalty. The partnership management style prefers open culture, autonomy and responsibility of the staff.²⁴

The person involved in analysis of fraud and corruption occurrence (named in this article as evaluator) should therefore get familiar with how the organisation's subsystems operate, because it will be helpful in defining what tactics to employ to obtain information from organization's staff.

During the planning phase of analysis, evaluator should understand and assess of risk and prepare the analysis approach for dealing with the risks identified. First, evaluator should identify how the risk potentially evolves through the organization. The techniques of analysis include:

- mapping of organization's past experience,
- interviews,
- questionnaires,
- comparison with other organizations,
- brainstorming, discussion with auditors.

²³ Z. Dobrowolski, *Organizacja i zarządzanie...*, *op.cit.*, p. 167

²⁴ A. Czermiński, M. Czerska, B. Nogalski, R. Rutka, J. Apanowicz, *Zarządzanie organizacjami*, Dom Organizatora Toruń 2001, p. 597
p. 597; Z. Dobrowolski, *Organizacja i zarządzanie...*, *op.cit.*, p. 167-174

Getting familiar with the organisation's subsystems and its operational environment allows the evaluator to determine the risk of irregularities, which informs the way how the organisation is further analysed. The following pattern can be used to determine the risk of fraud and corruption occurrence (F&C) within the organisation/agency or programs:

- Determine, if the agency/program is susceptible to fraud and/or corruption.
- Establish the symptoms of fraud and/or corruption in the operations of the agency/program.
- Find out how the agency's management acts to prevent fraud and/or corruption.

It should be noted that it is difficult to precisely define the relative weights of the above-mentioned variables in determining such risk. More in-depth research is needed to find these weights.

Susceptibility of Agency/Program to Fraud and/or Corruption

Before the methodology of testing the vulnerability of the organization/ program on the occurrence of illegal practices will be presented it is necessary to note that during the detection process, evaluators may use external and internal tip-off as a source of information. It is worth mentioning that tips were by far the most common means of detection of fraud since 2002 when Association of Certified Fraud Examiners (ACFE) began tracking the data. ACFE showed in its research that employees were the most common source of fraud tips (40,2 % of all detected cases of fraud). Tips were initial means of detection of fraud in 46,3 % all detected cases in government, 41,1 % all detected cases in public companies, 35,8 % all detected cases in private companies, and 43,2 % all detected cases in non-profit organizations. However, customers, vendors, competitors and acquaintances (i.e., non-company sources) provided at least 34% of fraud tips, which suggests that fraud reporting policies and programs should be publicized not only to employees, but also to customers, vendors and other external stakeholders²⁵.

To find out how far an agency or programme is susceptible to fraud and/or corruption, the following should be established:²⁶

- Is there a potential for the entities which spend funds to derive advantages from the malfunction of the agency/programme? What are the sanctions for irregularities as compared with the potential benefits from the malfunction of the agency/programme?

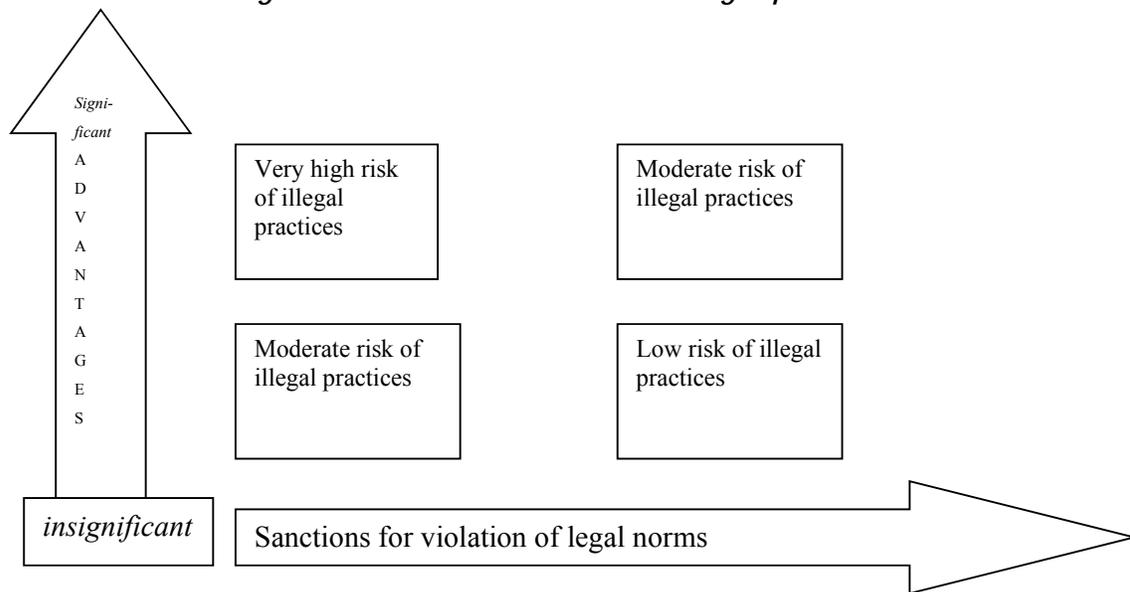
²⁵ *Report to the Nations. On occupational fraud and abuse. 2010 Global Fraud Study*, Association of Certified Fraud Examiners, 2011, pp. 16-19

²⁶ Z. Dobrowolski, *Korupcja w państwie.., op.cit., p. 92*

- Has authority been delegated to and are public tasks performed by non-public entities? If yes, is there an appropriate supervision in place over how these tasks are performed?

Based on the results of three-year (anonymised) surveys of several hundreds of university students, including extramural students, which included employees of the private and public sectors, a matrix of the risk of illegal practices has been developed. The answers provided by respondents suggested that the more severe the sanction for a breach of rules relative to the expected advantages is, the lesser the temptation to breach these rules. In parallel, the less severe the sanctions relative to the expected advantages from breaching the rules, the more people declare they would be inclined to breach these rules. Obviously, this research has to continue and extend to a broader group of respondents. Nonetheless, the following matrix can be used for an initial diagnosis whether or not the agency/programme is susceptible to irregularities.

Figure 1. Matrix of the risk of illegal practices



Source: Developed by Z. Dobrowolski

a) Organisational Structure and Workplace

In diagnosing the susceptibility of an organisation and its staff to corruption and fraud, it seems appropriate to note the following issues. The functioning of a public agency or private organization depends on many factors, one of which is its organisational structure, which can be defined as the entirety of the defined functional and hierarchical dependencies between the

system's components, grouped within organisational units,²⁷ or the entirety of relationships bonding its constitutive parts. The evaluation should focus on any potential discrepancies between the assumptions of the organisational structure and its actual functioning. These differences usually arise from mistakes in the process of establishing the formal structure or transformations within the agency itself, most often under the influence of changes in the environment. Organisational chart named "organigram", is a graphic representation of the organisational structure. This structure should be compared to the actually binding one, called the "sociogram". By comparing these two structures, the following information can be obtained:

- extent to which the formal organisational structure is respected,
- actual leadership,
- informal links, including any instances of nepotism or cronyism.²⁸

Evaluator should pay attention to the regularity of construction of workplaces, which requires the consistency between that three elements.²⁹

- tasks for which the workplace has been established and the resulting duties of the staff member who occupies the workplace,
- authorisations and equipment necessary for the performance of the tasks,
- extent of responsibility of staff members.

It is also worth analysing if there is a practice of establishing workplaces specifically for certain individuals. If a workplace is established that allows to employ a specific individual, this can be a sign of nepotism, or political or environmental patronage. Someone close to the offender is being "settled in" regardless of their qualifications (this applies not only to recruitment, but also to unwarranted, e.g., unduly quick, promotion). However, it should be remembered that establishing a new workplace for a specific person can be justified. This involves the recruitment of a high-class specialist who should be given autonomy of action within their workplace.³⁰

²⁷ Z. Dobrowolski, *Organizacja i zarządzanie. Zarys problematyki i metod*, PWSZ Sulechów 2008, p. 123; J.A.F. Stoner, Ch. Wankel, *Kierowanie*, PWE Warszawa 1992, p. 208

²⁸ Z. Dobrowolski, *Organizacja i zarządzanie...op.cit.*, p. 64-65; Z. Mikołajczyk, *Techniki organizatorskie w rozwiązywaniu problemów zarządzania*, PWN Warszawa 1998, pp. 227-230; Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, p. 86

²⁹ W. Kieżun, *Sprawne zarządzanie organizacją.*, SGH Warszawa 1997, p. 282

³⁰ W. Kieżun, *Sprawne zarządzanie organizacją.*, *op.cit.*, p. 283

Evaluator should also pay attention to the following issues:³¹

- Is the recruitment process conducted in such a way as to ensure that the best candidate for the workplace is employed?
- Are the entity's staff members provided with equal opportunities to develop their professional skills?
- Are transparent and intelligible rules in place for the assessment and remuneration of staff members?
- Has the written scope of responsibilities of individual staff members been dispensed with, and if yes – then why? Absence of a written scope of responsibilities supports diluted responsibility.
- Are specific duties, tasks assigned (in whole or in part) to several organisational units? Such situation can potentially lead to competence disputes or diluted responsibility.
- Is a case handled by a single staff member despite that the organisational chart and the scope of responsibilities say that it should be handled by several persons?
- Have there been instances of cases being handled by unauthorised persons, including those lacking relevant knowledge and qualifications?
- Have there been instances of staff members performing tasks that give rise to a conflict of interest?
- Have there been instances of cases being handled by a specific staff member despite that, according to the adopted organisational rules, the case should be handled by collegial bodies? What was the reason for such practices?
- Have there been instances of cases that should be handled by specific persons being handled by collegial bodies? What was the reason for such practices?
- How staff members are motivated to diligently perform the duties assigned to them?
- Do the persons responsible for irregularities bear appropriate liability? If not, then why not?

b) Decision-making Process, Functioning of Internal Control System

In addition to the final decision-maker, several entities participate in the decision-making process on its different stages and to a different extent. As a result, the contribution of the final decision-maker in the decision-making process can prove to be small.³² Important role is played by these entities participating in decision-making which draw conclusions based on the information analysed and send these conclusions further without the underlying data. On the

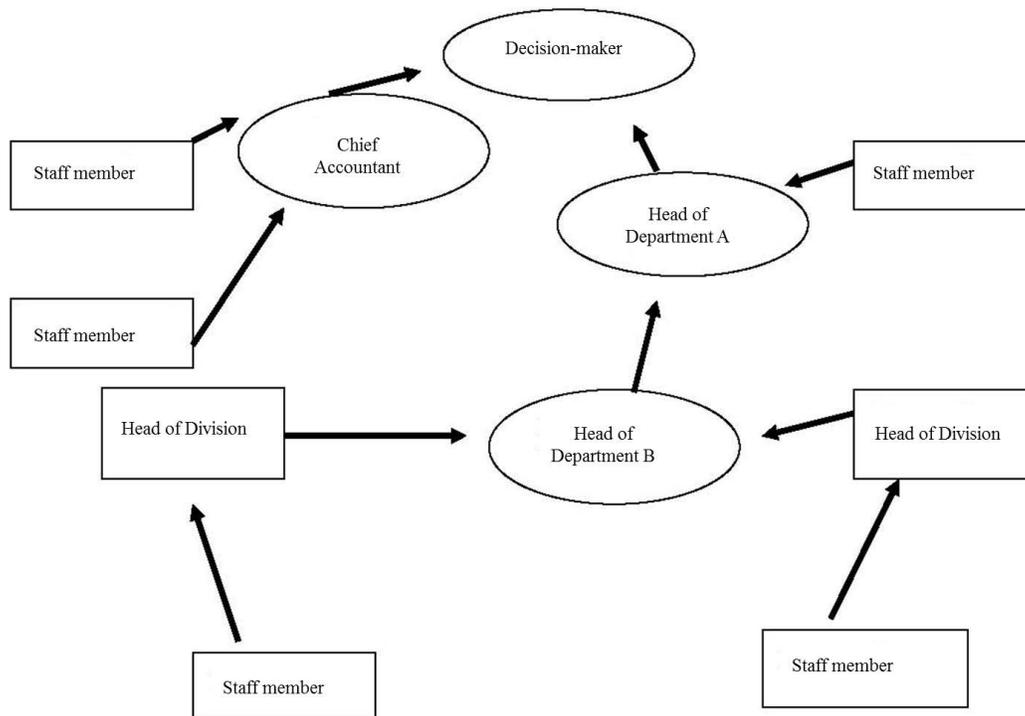
³¹ *NIK wobec korupcji. Założenia strategiczne*, Kontrola Państwowa nr 1, NIK Warszawa 2003; Z. Dobrowolski, *Korupcja w państwie. Przyczyny, skutki, kierunki przeciwdziałania*, PWSZ Sulechów 2005; Z. Dobrowolski, *Oszustwa w życiu publicznym*, Wydawnictwo Organon Zielona Góra 2008, pp. 34-49

³² Z. Dobrowolski, *Prakseologiczne uwarunkowania sprawowania władzy na szczeblu lokalnym* [in:] W. Sługocki (ed.) *Polityka regionalna w Polsce jako przestrzeń aktywności samorządu terytorialnego*, DW Elipsa Warszawa 2009, pp. 165-175; L. Habuda (ed.), *Proces decyzyjny w administracji publicznej*, Wydawnictwo UW Wrocław 2000, pp. 11-41, 77-94; H.A. Simon, *Podjęmowanie decyzji kierowniczych. Nowe nurty*, Warszawa 1982, p. 373

latter stages of the decision-making process, these conclusions can be accepted or rejected. The underlying information can be examined on rare occasions and only based on a sample. This is due to, among other things, the complexity of the problem, limited amount of time, significant number of entities participating in information processing.³³

The number of these entities (i.e. information processing stations) and the place occupied by them affect how influence is distributed within the organisation. Consequently, if the final decision-maker, i.e., the one who takes the formal decision, wants to preserve their dominant position within the organisation, they have to ensure due operation of the information processing stations.³⁴ Reliability of information affects the proper performance of the decision-making process.³⁵

Figure 2. Example of information flow in a decision-making process



Source: Developed by Z. Dobrowolski

³³ L. Habuda (ed.), *Proces decyzyjny w administracji publicznej, op.cit.*, pp. 11-41, 77-94; Z. Dobrowolski, *Prakseologiczne uwarunkowania sprawowania władzy na szczeblu lokalnym, op.cit.*, pp. 165-175

³⁴ Z. Dobrowolski, *Prakseologiczne uwarunkowania sprawowania władzy na szczeblu lokalnym, op.cit.*, pp. 165-175

³⁵ *Ibidem*, and W. Kieżun, *Sprawne zarządzanie organizacją, op.cit.*, p. 238

Any decision should be rational, because this is the *sine qua non* for other attributes of performance, such as: effectiveness, economy, efficiency.³⁶ In practice, some risks are inherent in rational decision-making, and these can result from: multiple entities participating in the collection and transfer of information, potential for these entities to pursue their own objectives which are not necessarily consistent with the objectives of the final decision-maker or the organisation as a whole, difficult or impossible verification of information, inability to exactly predict future conditions that may be different from the conditions considered when the decision is taken. The choice does not necessarily involve a single objective, but multiple objectives at once, which inclines the decision-maker to take a compromise decision.³⁷ Given that a decision may arise from gradual adjustment of the decision-making process to changing conditions, several stages can be distinguished in this process, whereas the degree of decomposition of the decision-making process depends on the complexity of the problem to be solved. These stages include the following:

- decision initiation stage, i.e., inserting assumptions to the programme;
- decision content formulation stage, i.e., presentation of proposals for solutions;
- solution implementation stage;
- and decision evaluation stage.³⁸

On the first stage, the problem is structured, in other words, one of the many problems that need solving are being selected. Various entities are involved in this process. The initiative to turn the decision-maker's attention to a specific problem can originate from internal entities, such as heads of certain departments of a city council, or external ones, such as civil-society organisations, media, interest groups, for instance persons interested in acquiring certain council property.³⁹

³⁶ T. Kotarbiński, *Traktat o dobrej robocie*, Ossolineum Wrocław 1975, p. 134; Z. Dobrowolski, *Prakseologiczne uwarunkowania sprawowania władzy na szczeblu lokalnym*, *op.cit.*, p. 165-175; L. Habuda (ed.), *Proces decyzyjny w administracji publicznej*, *op.cit.*, pp. 11-41, 77-94

³⁷ T. Pszczołowski, *Zasady sprawnego działania. Wstęp do prakseologii*, edition V, Wydawnictwo Wiedza Powszechna Warszawa 1976, p. 93; . Dobrowolski, *Prakseologiczne uwarunkowania sprawowania władzy na szczeblu lokalnym*, *op.cit.*, pp. 165-175; L. Habuda (ed.), *Proces decyzyjny w administracji publicznej*, *op.cit.*, p. 11-41, 77-94

³⁸ Z. Dobrowolski, *Prakseologiczne uwarunkowania sprawowania władzy na szczeblu lokalnym*, *op.cit.*, pp. 165-175; L. Habuda (ed.), *Proces decyzyjny w administracji publicznej*, *op.cit.*, pp. 11-41, 77-94

³⁹ Z. Dobrowolski, *Prakseologiczne uwarunkowania sprawowania władzy na szczeblu lokalnym*, *op.cit.*, p. 165-175; L. Habuda (ed.), *Proces decyzyjny w administracji publicznej*, *op.cit.*, pp. 11-41, 77-94

On the second stage of the decision-making process, i.e., the stage when the proposal for how to solve the problem is put forward, the entities to participate in preparing a proposal for how to deal with the problem have to be assigned, and one of the many options for how to solve the problem has to be chosen. The relationship between the entities participating in the decision-making process can be consensual, which means that the decision is taken through negotiation with various entities, or non-consensual, where the decision-maker imposes his solution on other entities.⁴⁰

The next stage of the decision-making process, i.e. decision implementation, involves primarily executors rather than decision-makers. The size of the administrative machinery, the multiple and complex public tasks, and the high cost of full control of the implementation process force the decision-maker to allow executors some defined scope of discretionary powers. This, in turn, gives rise to the risk of “administrative drift”, i.e., the actual outcomes being different from the intended ones. It should be noted that also on this stage of the decision-making process, interest groups can play a significant role. They can influence the decision executors.⁴¹

The final stage of the decision-making process evaluates the decision taken and the effects of its implementation. The decision-maker should have current and reliable knowledge of the intended and unintended effects of his decision. This knowledge is essential, because there is a risk of decisions to be modified or specific measures not being taken in future. On this stage, interest groups can influence the process of information generation and distribution. For instance, essentially sporadic mistakes in the decision implementation can be exaggerated, and positive effects of the measures can be ignored.⁴²

In making a decision, the decision-makers can pay no attention to public interest. In such instances, the decision-making powers will be used to pretend that rational measures are taken. For instance, SAI audit revealed that a company partially owned by a municipal authority acquired, appraised and sold a real property in such a way that only a specific person could buy it.⁴³

⁴⁰ *Ibidem*

⁴¹ *Ibidem*

⁴² *Ibidem*

⁴³ NIK audit no. S/08/002

It is also worth noting that the culture of a society may affect the way in which tasks are performed by agencies. The culture of a society defined in the internalised meaning⁴⁴ affects the organisational culture, and therefore how public interest is pursued.⁴⁵ The impact of social attitudes on how the government and its agencies function (including on the organisational culture⁴⁶) was emphasised by, among others, the World Bank.⁴⁷

The course taken by the agency, the type of tasks it performs, is the result of action of multiple socio-political, and economic/technical factors.⁴⁸ The manager's decisions are influenced by expectations of dispositional nature formulated by decision-makers, legal, economic, social, political settings, the mass media, civil-society organisations, informal pressure groups. Also the organisational culture can influence the agency's activities. One additional variable should be added to the above-mentioned considerations – personality of the managers, their response to incentives arising from the variable.

Certainly, even more variables can be identified, but this is not the purpose of this study. Instead, it should be noted that the general course the agency has taken as a result of the decisions taken by its head should be seen as resulting from the optimisation of managerial behaviours at the given setting of variables.⁴⁹ Figure 3 presents a model of relativism of managerial decisions. Considering the above, the following should be identified:⁵⁰

- With a focus on the entities participating in the decision-making process, the following should be established: Were conclusions from information analysis derived properly? Were the conclusions modified on the stage of transferring them to the decision-maker? If yes, by whom? Who and to what extent verifies whether information is processed accurately in the decision-making process? The evaluator should therefore establish who has drafted the decision and based on what information.

⁴⁴ i.e., consisting in the assimilation of normative patterns and models or values, which is manifest in how individuals behave.

⁴⁵ A. Czermiński, M. Czerska, B. Nogalski, R. Rutka, J. Apanowicz, *Zarządzanie organizacjami*, Dom Organizatora Toruń 2001, pp. 585-608; Z. Dobrowolski, *Organizacja i zarządzanie. Zarys problematyki i metod*, *op.cit.*, pp. 167-171

⁴⁶ Which comprises assumptions, norms and values and artefacts, i.e. artificial creations of culture – myths (job security, insecurity, etc.), ceremonies, etc., see Z. Dobrowolski, *Organizacja i zarządzanie. Zarys problematyki i metod*, *op.cit.*, pp. 167-171

⁴⁷ Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, pp. 17-18

⁴⁸ Z. Dobrowolski, *Organizacja i zarządzanie. Zarys problematyki i metod*, *op.cit.*, p. 166; W. Kieżun, *Sprawne zarządzanie organizacją*, *op.cit.*, p. 162

⁴⁹ Z. Dobrowolski, *Organizacja i zarządzanie. Zarys problematyki i metod*, *op.cit.*, pp. 164-165; W. Kieżun, *Sprawne zarządzanie organizacją*, *op.cit.*, pp. 161-165

⁵⁰ Z. Dobrowolski, *Korupcja w państwie...*, *op.cit.*, pp. 86-90; *Zagrożenie korupcją w świetle badań kontrolnych NIK*, Najwyższa Izba Kontroli Warszawa 2000 (reproduced typescript)

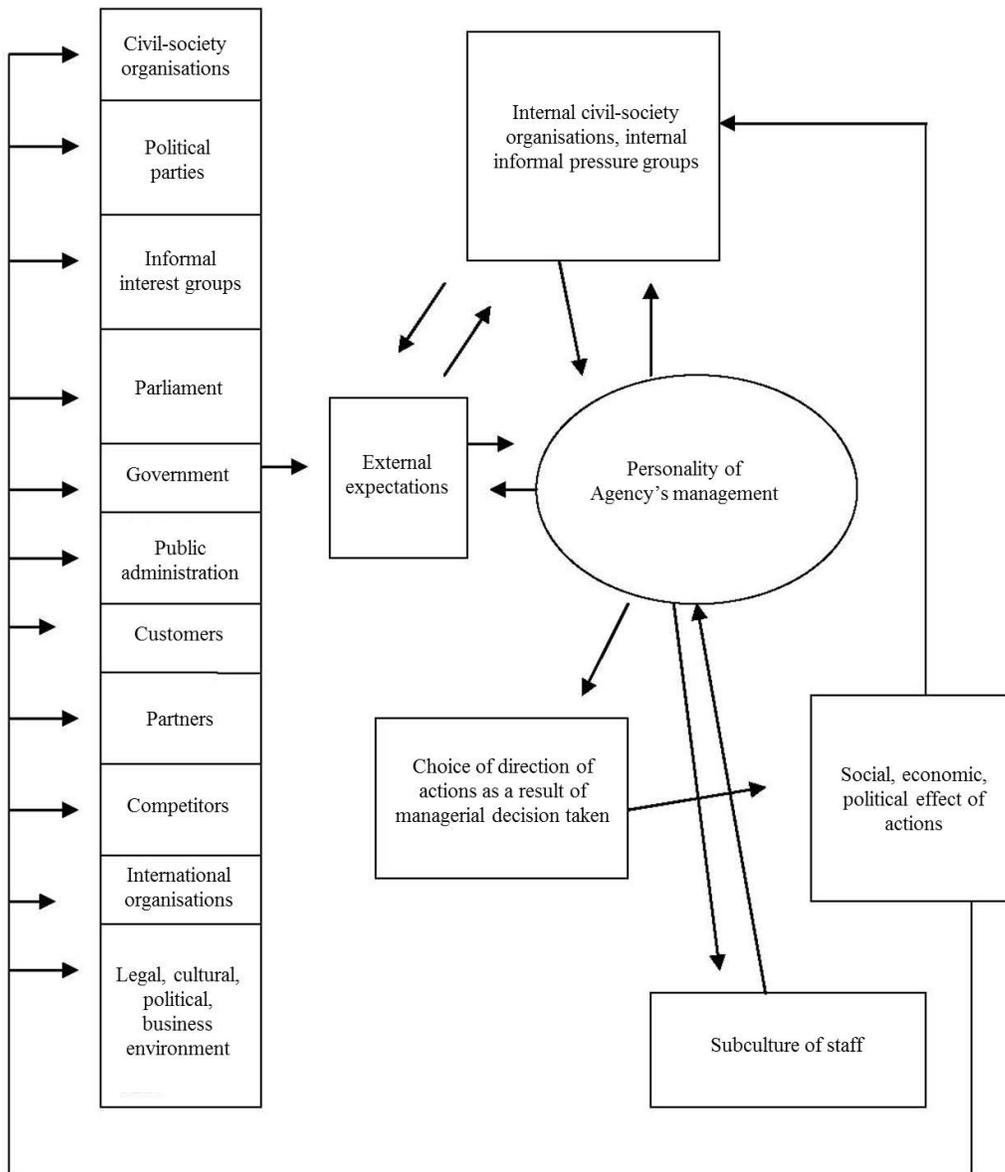
- Was the applicable procedure for agreeing the final decision ignored, and if yes – why?
- Was the applicable procedure for seeking opinion or expert study prior to taking the final decision ignored, and if yes – why?
- Was there a situation where the decision taken was inconsistent with the opinions submitted on the stage when the case was handled? If yes – why?
- Was the case handled at the time and place designed for this purpose?
- Are decisions being taken on a discretionary basis, and if yes – is the decision-making procedure intelligible and are all stakeholders bound by the same criteria by which to take a decision?
- Are the decision-making criteria known to the stakeholders, is there a possibility of getting familiar with these criteria, or else only some entities have access to them? If yes – why?
- Are cases handled according to verifiable criteria or else according to the decision-maker's subjective judgement?
- Is it possible to establish and verify the reasons why the case was decided on in a certain way in a situation where the case was decided on according to the decision-maker's subjective judgement?
- Had the addressees of the decision been informed about how the case was decided on, and if yes – how? Did the decision-maker present to the stakeholders the reasons underlying the decision? It should be remembered that any decision should be substantiated in such a way as to allow for its verification. This applies not only when the decision is likely to be appealed against, but also in the case of decisions favourable to the applicants. Transparency of the decision-making process supports the fight against corruption and fraud.

To identify whether the parties to proceedings conducted by public entities are treated equally, the following should be established, among other things:⁵¹

- Are the requirements the same for all those who seek the same business to be resolved? In other words, is there a situation where some people are requested to submit many documents while others are not required to do so?
- What is the order of dealing with cases? Are there instances of unreasonable speeding up of some cases, handling them out of turn, or delaying the handling of others? Why were cases handled out of turn? Why was case handling delayed? It is worth bearing in mind that if the handling of a case is delayed, this can be aimed at disrupting the entity's operations or even eliminating it from participation in certain projects.
- Were there cases of different resolution of identical cases? If yes – why?
- In addition, considering the above questions, it should be identified whether the decision-making procedure offers to all stakeholders the same criteria for resolving the case; and whether the decision-making criteria are known to all the stakeholders and if there is a possibility to get familiar with these criteria.

⁵¹ Z. Dobrowolski, *Korupcja w państwie.., op.cit., p. 88; Zagrożenie korupcją w świetle badań kontrolnych NIK*, Najwyższa Izba Kontroli Warszawa 2000 (reproduced typescript);

Figure 3. Relativism of managerial decision



Source: Developed by Z. Dobrowolski⁵²

Information technology is used nowadays in the decision-making process. With the development of IT, including increasing use of the Internet, there can be attempts to steal or purposefully alter the data held. With this in mind, answers to the following questions should be sought:

- Are there solutions in place to secure the data in the IT system against theft, alteration or destruction? What is the effectiveness of these solutions?
- How is access to the password allowing for bank transfers protected? Are bank transfers

⁵² Based on: Z. Dobrowolski, *Organizacja i zarządzanie. Zarys problematyki i metod, op.cit.*, p. 166; W. Kieżun, *Sprawne zarządzanie organizacją, op.cit.*, p. 164

carried out by authorised individuals? (the date of transfer should be checked and compared to the employee time sheet. For instance, transfers made by the chief accountant can be compared to the timesheet certifying her presence at work).

- Is software modification preceded by appropriate training to prevent chaos and alteration of information?

The risks related to the use of IT systems are discussed in a subsequent part of this study.

Weakness of the internal control system – manifest, e.g., in poor organisational capacity and staffing of audit or internal-control units, and in their mainly ad-hoc, rather than planned activity, can be conducive to corruption and fraud. The audit should identify the following:⁵³

- Does the agency have an internal-control unit, and if yes – who do internal controllers report to, and to what extent? Is there a situation where internal controllers report to a mid-level manager whose activities they are due to control? If such situation exists, how this affects the reliability of performance of tasks by internal auditors? Are there mechanisms in place to allow them to perform their duties diligently?
- Is there a relationship between the internal controller and their supervisor that affects the impartiality of the control procedure? (for instance, resulting from nepotism or cronyism)
- Is the capacity of the internal-audit unit, including its staffing, adequate for the size of the agency and for the scope of its tasks?
- How are control plans developed? Are control activities conducted on a systematic, or rather *ad-hoc* basis?
- Does internal control, as part of verification of regularity of the decision-making process, address already resolved cases, especially those which are resolved favourably to the applicant?
- Are the results of internal control used by senior or mid-level management, and to what extent?

The research carried out by Certified Fraud Examiners found that the main weaknesses of the internal control system include, among others:

- inadequate supervision,
- failure to apply ethical rules among managers,
- inadequate control of the agency's activities,
- lack of training on combating fraud, on proper functioning of the internal control system,
- inadequate distribution of powers,
- incorrect reporting,

⁵³ *Zagrożenie korupcją w świetle badań kontrolnych Najwyższej Izby Kontroli przeprowadzonych w roku 2004*, NIK Warszawa 2005, p. 7; Z. Dobrowolski, *Korupcja w państwie.., op.cit.*, p. 89; *Zagrożenie korupcją w świetle badań kontrolnych NIK*, Najwyższa Izba Kontroli Warszawa 2000 (reproduced typescript)

- failure to apply the applicable procedures,
- lack of a system to prevent irregularities in the organisation.⁵⁴

It should be noted that in 80.6 % of all entities at which fraud was detected, the internal control system was modified in order to eliminate this practice. However, 19.4% of such entities failed to take measures to strengthen the internal control system despite that fraud had been detected.⁵⁵ More in-depth research is needed to identify why appropriate measures have not been taken. Out of all entities which took corrective measures in response to fraud being detected in their activities, 16.4% conducted training of their staffs on combating fraud, and 14.8% included the managers in such training. 61.2 % of the entities introduced what is called the “many eyes” rule, and 8.7% introduced professional ethical standards. In 7.9% of these entities, an irregularity reporting system (“hot line system”) was introduced, whereas in 12.3% – audit units have been established.⁵⁶

In studying the problems of internal control it should be borne in mind that an internal control system involves procedures, policies, rules, mechanisms adopted by an entity, which provide reasonable assurance that the entity’s objectives will be achieved.⁵⁷ The International Organization of Supreme Audit Institutions (INTOSAI) considers audit to be an internal or external institutional verification, whereas internal control means functional verification. INTOSAI defines internal control as measures whereby the entity’s management seeks assurance from internal sources that the processes it is responsible for minimise the risk of fraud, error, or uneconomic or ineffective practices.⁵⁸ Internal control is also defined as an integral component of the business’s or agency’s management that provides reasonable assurance that the following objectives are achieved: effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations.⁵⁹

⁵⁴ Z. Mladenovic, *The Role of SAI In Fighting F&C*, Slovenian Court of Audit, Ljubana 2011 (typescript), p. 106

⁵⁵ *Ibidem*

⁵⁶ *Ibidem*

⁵⁷ *Glosariusz terminów dotyczących kontroli i audytu w administracji publicznej [Glossary of Terms Related to Audit in Public Administration]*, NIK, Kancelaria Prezesa Rady Ministrów, Ministerstwo Finansów, Ministerstwo Spraw Wewnętrznych i Administracji, Warszawa 2005, p. 38

⁵⁸ *Standardy kontroli INTOSAI*, NIK Warszawa 2000, pp. 73-77

⁵⁹ D. Walker, *Standards for Internal Control in the Federal Government*, GAO Washington D.C. 1999; Z. Dobrowolski, *Organizacja i zarządzanie, op.cit.*, p. 251

It should be also borne in mind that audit carried out by an internal auditor comprises all measures whereby the manager obtains objective and independent evaluation of the entity's financial management in terms of legality, sound management, efficacy, integrity, transparency and disclosure. Internal audit covers, in particular: checking supporting documents and entries in the books of account (financial audit), evaluation of the system of obtaining and managing public resources and of managing public property (system audit), assessment of efficiency and soundness of financial management (performance audit).⁶⁰

In analysing whether operations are properly documented and reported on, the following should be identified, among other things:⁶¹

- Have the documenting and reporting rules been laid down, and how is the system of control of compliance with these rules organised? What is the effectiveness of this system? What measures have been taken to eliminate the potential for forging or altering documents?
- Are all essential acts, taken as part of a specific activity, documented? Who verifies the documents produced, and to what extent?
- How are the rules for storing and securing documentation, raw materials, merchandise, products against unauthorised access defined; are these rules adhered to?
- Is documentation complete?
- Are translations of foreign-language documents verified? How?
- In the case of organisational changes, are documents, merchandise, products transferred in compliance with applicable regulations?

c) Supervision in Companies

To prevent corruption and fraud in companies, e.g., limited-liability companies partially owned by local authorities, an effective supervision system has to be applied. In these companies, the activities of supervisory boards should be analysed.

Based, among other things, on the rules & regulations of supervisory boards and minutes of their meetings, the following should be identified:

- Have supervisory board members who represent the State Treasury been appointed in compliance with specific legal regulations?
- Have supervisory board members who represent local authorities at the company passed the examination in accordance with the legislation on commercialisation and privatisation? If not – why not?

⁶⁰ See *Glosariusz terminów dotyczących kontroli i audytu w administracji publicznej [Glossary of Terms Related to Audit in Public Administration]*, NIK, Kancelaria Prezesa Rady Ministrów, Ministerstwo Finansów, Ministerstwo Spraw Wewnętrznych i Administracji, Warszawa 2005, p. 12

⁶¹ Z. Dobrowolski, *Korupcja w państwie...*, op.cit., pp. 88-89; *Zagrożenie korupcją w świetle badań kontrolnych NIK*, Najwyższa Izba Kontroli Warszawa 2000 (reproduced typescript);

- How the rules & regulations of the company's supervisory board define its supervisory powers over the company's management-board members?
- Has the supervisory board conducted ad-hoc audits of the company's business? How? How information was obtained? Are supervisory measures limited only to reviewing the findings of the audit of company's financial statements prepared by an independent auditor?

The findings of audits of financial statements conducted by independent auditors are a valuable source of information. However, reviewing these finding does not relieve the evaluator from the duty to independently analyse specific issues. Polish SAI audits found cases where supporting documents were unreliable despite that the independent auditor issued a favourable opinion on financial statements and did not question the reliability of the supporting documents, or the functioning of the company's internal control system. It was also found that members of the supervisory board of one company partially owned by a local authority failed to take effective measures to elucidate an issue even though they received information from the company's chief accountant that the President of the Management Board could commit an offence.⁶²

d) Unequal Access to Information

Evaluation into the risk of corruption and fraud should be conducted in two areas. First, the making of regulations and the potential for this process being appropriated by interest groups,⁶³ second, the conduct of tendering procedures. In order to find out whether there is a scope for fraud and/or corruptive mechanisms arising from unequal access to information, the following should be identified, among other things:⁶⁴

- What was the part played by the entities interested in specific regulations in working out these regulations?
- Have legal regulations been properly promulgated?
- Was there a practice in the agency's activities of providing selective access to information, issuing instructions to ensure advantages to selected entities?
- Does the entity inform about its operations? If yes – how? Is the information reliable?
- Were the applicable legal regulations on timely announcement of notices complied with?
- Were the notices reliable?

⁶² NIK audits no. S/08/002 and no. I/09/008

⁶³ This problem is addressed by the theory of public choice

⁶⁴ Z. Dobrowolski, *Korupcja w państwie...*, op.cit., pp. 89-90; *Zagrożenie korupcją w świetle badań kontrolnych NIK*, Najwyższa Izba Kontroli Warszawa 2000 (reproduced typescript);

In dealing with some matters, public authorities not always inform all stakeholders about the available opportunities. The information can be deliberately distorted to eliminate “unwanted” entities from participating in the procedure. Those editing the content of tendering notices can aim to mislead potential “unwanted” investors. For instance, posting a notice of a tendering procedure for a contract to build a landfill for municipal waste, where in fact what is meant is a hazardous waste landfill, may to a significant degree alter the course of the future procedure, because the tendering may be ignored by the entities interested in the construction of a storage-place for hazardous waste.

Another example is the notice of a tendering procedure for the sale of municipal real properties. Publishing in local newspapers a notice that the plot of land to be sold is partially overgrown with trees is, from the point of view of the entities interested in buying it, a totally different information from the notice that the plot is a historical park. Especially when municipal real property is to be sold, it should be investigated whether the tendering notice had any information about the requirement for potential investor to submit a development concept for the real property offered for sale. Such requirement can be aimed at eliminating “unwanted” bidders from the tendering procedure, especially in circumstances where one of the bidders was able to submit such concept already prior to the announcement of the tendering procedure.

e) Lack of Anti-corruption Solutions

One corruption-facilitating mechanism identified by the Supreme Audit Office is the absence of anti-corruption solutions.⁶⁵ In order to investigate whether or not anti-corruption measures are taken by a specific agency, the following issues have to be noted:

- What is the level of understanding of corruption-facilitating mechanisms among the auditee’s managers and staff?
- Are measures in place to prevent an official from handling a case that he or those close to him may be interested in?
- How managers or staff of the public agency are prevented from performing tasks inconsistent with their public function? (For instance, an employee of a Town Municipal Office participating in a procedure to issue a building permit develops a construction design as an architect in private time. Another example: One of the appointed Contract Award Committee members is a person who two years earlier acted as site engineer for a contractor bidding for a public contract and failed to disclose this fact in the statement – form ZP-11). What measures are taken against those who are involved in a conflict of interest?

⁶⁵ *Zagrożenie korupcją w świetle badań kontrolnych Najwyższej Izby Kontroli przeprowadzonych w roku 2004*, NIK Warszawa 2005, p. 7

- What is the process of verification of asset disclosure statements for those required to provide such statements?
- What measures are taken against those who fail to provide asset disclosure statements or provide fraudulent asset disclosure statements?

2. Conclusion

It is difficult to describe the diagnosis of organizational pathology in a single article. Therefore the article focuses on selected issues related to the analysis of corruption and or fraud. The analysis should be carried out further to determine the symptoms of corruption or fraud, and to find out how the agency's management prevent irregularities. The issue of combating corruption, fraud, money laundering, should be the subject of subsequent articles. Combating these pathologies, such as providing reliable accounting, aims to improve public life.

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