

Jacek Bil

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STATEMENTS AND ACTIONS OF THE STATE IN THE FIELD OF POLITICAL CORRUPTION ELIMINATION

subinspektor Jacek Bil, Ph.D.
Police School in Szczytno, POLAND

ABSTRACT

Corruption in politics is a phenomenon commonly raised by the public. Social studies indicate this type of corrupt behavior as the most harmful and the most common. A critical assessment of the actual activities of the state in the elimination of political corruption allows conclusions about the low efficiency of the state in the field of prevention and combating such crimes. The purpose of this article is to present a true picture of corruption in politics and anti-corruption measures, which the author believes, are far desirable standards for the elimination of corruption from public life.

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INTRODUCTION

In political discourse, theoretical considerations on the problem of corruption, are readily discussed topic, indicating its harmfulness and commonness. The need to fight corruption is raised frequently in the lobby, during backstage talks and by the public body as well. Is it really that politics and politicians involved in corruption, takes action in order to erase it? Are the authorities responsible for prosecuting the crime of corruption have the power to eliminate this type of crime? At this point one should add the question of whether justice is ready to issue the righteous judgments? Under this article, the author will bring the essence of corruption in politics. Eligibility of certain behaviors as corruption is not easy, and of corruption in politics in particular. This kind of corruption is confessedly mentioned as dominant, the same conclusion coming from

the public opinion polls. However the statistics of conducted and judged cases certainly do not reflect this view. The notion of absence (no judgments) concerning the political corruption should be built on the basis of a correct diagnosis, since the meeting and proving evidence of a crime political corruption is an extremely difficult task, due to numerous factors, such as; political dependence, will to manage the affairs or knowledge of the subject. There is an illegitimate view about corrupt of law enforcement and justice department, often no convictions of perpetrators of political corruption is the result of the family's ties, as well as the broader social relationships.

The result of survey under the title "Opinions on corruption and standards of public life in Poland" conducted by the Center for Public Opinion Research, clearly demonstrates the binding nature of political corrup-

tion. The survey was conducted among Poles who believe (87% of respondents), that corruption is a major problem in the country, while 30% agree that it is a very big problem.

According to respondents, the most common image of corruption is illegal behavior committed by politically exposed persons. Further literature of that report gives information that 85% of respondents are of the opinion that among high government officials and politicians, there is a practice associated with staffing relatives and friends in positions in offices, banks, etc. What is more important, over 83% of the respondents indicated that the vast majority of politicians are devoted to public activities solely for the benefits.

Hereto, almost all respondents have indicated that among the Polish political class universality of the phenomenon of nepotism is a crucial determinant of settlement work. At a similar level (80%) displayed is the use of public activity in one's own career. According to respondents standards of public life are reduced through the use of corrupt practices as a method of struggle for political influence in the party. An interesting observation is the position that the corruption of fellow party members (the promise of a good job settling) concerns the behavior associated with the favorable vote in elections within the party. On the same level are perceived cases of the use of party affiliation for improving own, financial situation and treating public activity only as a source of income.¹

CORRUPTION IN POLITICS

Politics is understood as an activity concerning the relations between social groups, nations, states, and the struggle for the conquest of state power as an instrument for regulating and shaping relations.² It is also the pursuit of social goals using state instruments. Thus

understood the policy has three variations: a real policy, the potential policy and the of policy of impact. Through real policy should be understood an actions taken by entities pursuing their goals during the governance, i.e. at the time of disposal instruments of the state which are: the possibility of establishing the law, possession of economic resources (the state budget), the availability of government administration, services, propaganda, or to influence the direction of research. It should be noted, however, that such activity is not easy, due to the fact that there is the coalition form of governance, or the pluralistic structure of local government. Potential policy is attributed to activities that can be implemented in the future, after the conquest of state power. Entities seeking to take power not grow realpolitik but one based on promises regarding the model of politics, which they will grow after the acquisition of the State instrumentation. Potential politicians in order to seek power, declare often promises that are not covered in reality, which leads to demagoguery. In the case of transformation of realpolitik in the potential, it turns out that the presented previously promises are not reflected in reality being a part of a cynical lie. Policy of impact is an action that is to achieve the objectives through informal and implicit influence on the instruments of the state. Such a policy does not include an explicit desire of entities to obtain state power, but surely affects the organs of the state. Policy impact is grown primarily by economic lobbying groups, social organizations, religious groups, the media and the opposition, but only in the case of influencing the activities of parliament, government and local authorities.³

In order to meet the indicated understanding of politics should be noted that corruption is an instrument in the hands of politicians, which is used to acquire and maintain

¹ Research report „Opinie o korupcji oraz standardach życia publicznego w Polsce”, Centrum Badań Opinii Społecznej, Warszawa 2014.

² *Nowy Leksykon PWN*, Warszawa 1988, p.1350.

³ P. Opara, *Pojęcie polityki*, [in:] *Podstawowe kategorie polityki*, ed. P. Opara, D. Radziszewska-Szczepanik, A. Żukowski, Olsztyn 2005, p. 45-47.

power. Politicians delivering the position of having to take the fight against corruption does not articulate that view to actually respond to the action but rather to direct the attention of potential voters at each other and the group that they represent. Starting in the late nineties, the mission statement of all politicians became the elimination of corruption. Since then, the group party shall make a declaration to fight corruption. Pervasive anti-corruption activity caused the need to strengthen political projects. Such activities are undertaken within the framework of the election campaign, or as a cumulative government action, showing the public opinion, the great care of the government for the safety of society that is plagued by corruption. The result of the political publicizing of the importance of corruption, are rankings of public opinion surveys shows unprecedented growth rates in the perception of the phenomenon during the pre-election fever.

Another aspect which comes to political corruption is the financing of political parties. This activity consists in distributing money in politics, which affects political competition. Money represents superior value for politicians who seek to acquire and maintain power. These dependencies lead to corrupt behavior, because with the money you can get the favor of a politician who has the authority to award contracts, jobs, controlling the flow of information and finally to make the right decision.⁴

One of the important problems related to the functioning of democracy is inequality in access to political activity, determined by financial inequalities. Controversy regarding public finances are often the result of corrupt practices.⁵

⁴ K. H. Nassmacher, *Analiza porównawcza finansowania partii politycznych w ustabilizowanych demokracjach*, [in:] *Kulisy finansowania polityki*, ed. M. Walecki, Warszawa 2002, p. 11.

⁵ K. Sobolewska-Myslik, *Partie i systemy partyjne na świecie*, Warszawa 2010, p. 155.

Efficient use of ideologies, passwords and permissions causes financial inflows. Money helps in exercising power and put at the forefront politicians who have them. Lack of money in politics creates a financial barrier that could prevent access to power. Politicians associating with the coalition government and the opposition, compete in maintaining or takeover. One of the means of influencing public opinion is advertising, through which parties seek to dominate the political rivals.

The amount of expenditure incurred for the political purposes significantly reflects in the outcome of political competition. The costs of doing politics also assume new parties, civic committees, as well as individuals and corporations. Such situations lead to corruption where not only politicians get involved but also administrators of the funds.⁶

The canvass requires more financial resources, i.e., covering the costs of access to the media. Traditional election campaign boils down to having money on printed propaganda (posters, leaflets), organizing public rallies and attracting people ready to conduct individual agitation.

Involvement in the campaign of radio and television looks a bit different. In most countries, these are public institutions and the use of their services depends on state authority (eg. granted time for the issuance of electoral program). In the case of commercial institutions, individual groups access to this kind of media can be dependent on the political sympathies of their respective owners. Television is a modern means of communication, which plays a crucial importance for the results of election campaigns.⁷

In the system of democratic countries politics, political parties perform the essential functions that involve, i.a., the participation in

⁶ Ibidem, p. 12.

⁷ M. Sobolewski, *Partie i systemy partyjne świata kapitalistycznego*, Warszawa 1977, p. 388.

the process of separating the candidates who want to take a seat in parliament or in the sphere of government or the state administration. Politicians predisposed to occupy designated positions or holding lucrative state functions are interested in active participation in the conduct electoral campaigns. In public debates relate to important political conflicts that reflect the public perception of social problems. Proclaimed by politicians postulates are outlined by reference to the current society of social problems and proposed by the political actors to resolve to attract as many voters as possible.⁸

The competition between political parties creates a platform between the demands of society and the government. Since the election campaigns are useful and lead to the achievement of solutions to social problems, begs the question about the source of their funding.

What is the financing of political parties? The term covers many meanings and is the result of processes occurring in politics. Using the criterion of the desirability of providing funds, developed the view that the funding policy relates primarily to the financial aspects of the activities of political parties. Regulations concerning the granting by the State funds transferred to the political parties should provide or maintain fair competition between the established parties and newly emerging.⁹

Political scandals are often associated with the financing of politics. Money is an intrinsic aspect of the functioning of political life. Material values play a special role in the process of organizing a campaign, but also in maintaining the functioning of political parties. Communities of interest having considerable material values are interested in specific legislative solutions and conducting targeted government policies. As mentioned before, spending on election campaigns are signifi-

cant and rich interest groups interested in specific legislative solutions, and targeted government policies are ready to bear such costs. Financial incentives wins politicians favour to taking bribes, leading to a decisions contrary to the rules of economic and political strategy of the state. These behaviors occur in many countries, where the cost of political campaigns lead to conclude specific kind of agreements. Such situations noted within the American political system, where contracts for the exchange of benefits (between politicians and pressure groups) occurred. In France and Italy contemporary political parties are deprived of the ideological objectives and are being dominate by politicians - businessmen, seeking to pursue their own, not state goals.¹⁰

Democratic political systems should use the method of financing policy, which would be free of corrupt behavior. The legislation of individual states variously delimit legal and illegal sources of funding policy. Doubtful seem to be even lawful payments to electoral campaigns carried out by wealthy interest groups, because the problem arises with respect to privilege the rich to the poorer. Groups that make such payments can also expect special treatment during the execution of the individual administrative matters relating to the granting of a license or apply for the work assignment in the execution of a public contract. This situation causes the conviction of incorrect functioning of the state. The electoral system can not create a situation in which the politician is forced to fulfill the interests of the voters who sponsor an election campaigns.¹¹

Money in politics not only serve to put pressure on politicians, but also create targeted offers to voters to encourage them to do-

⁸ K. H. Nassmacher, op. cit., p.13.

⁹ Ibidem, p. 16.

¹⁰ P. Rose-Ackerman, *Korupcja i rządy. Przyczyny, skutki i drogi reform*, Warszawa 2001, p. 251.

¹¹ Ibidem, p. 252-253.

nate appropriate electoral votes.¹² In such cases, the system of political corruption lies in the acceptance by politicians, illicit sponsorship campaign, and then use the thus obtained money to buy the votes of individual voters.¹³

The prevailing social discontent, very often is the result of problems related to the illegal financing of the policy. The changing style of conducting campaign is not the only cause, or an appealing premise for the development of political corruption, but it certainly is a significant aspect of this kind of behavior. The importance of television, newspapers and advertisements for the implementation of professional election campaign provokes discussions about the origin of the money to cover them. Professional policy tools¹⁴ have become necessary and costly components of the campaign. In this regard, an increase in spending on election campaigns has been recorded¹⁵, although it should be noted that there is a high probability that these indications are dumped and do not show the real numbers.

Political groupings unable to obtain planned funds with voluntary membership fees, seek other sources of funding. In a privileged position in this regard are the ruling parties and their candidates, who impose taxes on the people that achieve the benefits of access to public funds. In the post-communist countries we can distinguish two categories of applicants entities such compulsory fees, which are the companies implementing government procurement and per-

sons exercising public functions, assigned to them based on the outcome of elections or as a result of their appointment.¹⁶

The specified method of obtaining funds to political parties does not apply only to young democracies, but is practiced also in mature democracies. Described tax policy is a practice based on a system of inflows, which forms the key to staffing in government structures. The first regulations concerning donations to election campaigns were introduced in the United States in 1867, and yet in 1878, about 75% of the funds raised by the Republican Congressional Committee came from people working in federal offices. In the countries of Central - Eastern Europe taxation for the party is posted in the financial statements, together with other income from membership fees and donations. The parties require continuing payments from members who have been elected or appointed to serve public office. Such fees are paid by the majority of deputies and senators, hundreds of party members in positions of government, members of supervisory boards as well as thousands of local councilors.

Another way of obtaining funds by political parties are donations made by wealthy individuals and corporations. Political parties conducting electoral campaigns are not particularly involved in initiatives at the local level and in attracting new members. Funding for electoral struggles are obtained so willingly of rich businessmen, bankers and traders. The rivalry of political parties during an election campaigns, leads to an increase of its operating costs, which in turn triggers the need to seek new sources of funding¹⁷.

The practices mentioned above, tinged with corruption, lead to introducing a new legislation in many former communist countries

¹² The comportment indicated fulfill criteria of a prohibited act, according to the Polish Criminal Code, article 250a – electoral corruption or vote-buying.

¹³ P. Rose-Ackerman, *Korupcja i rządy...*, op. cit. p. 259.

¹⁴ Professional tools used in election campaigns include use of individual experts to public opinion polls, television programs and film production.

¹⁵ Wzrost wydatków na mass media oraz kampanię wyborczą odnotowano przy okazji wyborów prezydenckich w Polsce w 2001 roku.

¹⁶ M. Walecki, *Pieniądz a polityka w Europie Środkowo-Wschodniej*, [in:] *Kulisy finansowania polityki*, ed. M. Walecki, Warszawa 2002, p. 61-63.

¹⁷ Ibidem, p. 65.

in order to reduce or eliminate some of the sources of financing of political parties.

Two basic prohibitions of political financing in post-communist countries refer to state-owned companies and foreign sponsors. In many countries, a ban on sponsorship in politics refer to all entities that are government-owned corporations, local authorities and trade unions. Accepting contributions from anonymous donors is also prohibited or the maximum amount of such donation is strictly determined.

As previously outlined, the financing of political parties is also based on the support of major private sponsors. Sponsors, in turn, seek the ability to make such payments the tool of influence policy. Thus, individual donations from wealthy businessmen and institutions are primary sources of financing policy (although not all are disclosed). In the background there are government grants and membership fees.

In summary, we can distinguish three types of political corruption: first, it is an administrative corruption, referring to people occupying high public positions, secondly it is a corruption of illegal lobbying, third is an electoral corruption.

The due performance of the elections is an extremely important aspect. The practice of previous years shows that many times people have not availed themselves of the opportunity to make their own decisions as a basis for building a consolidated democracy. Disturbing practice, when votes are cast for a particular candidate in exchange for accepting financial benefits, has become a repetitive part of the election. Please note that this is a behavior fulfilling the features of a prohibited act designated by the legislature in the Art. 250a of the Act of 6 June 1997 Penal Code (Journal of Laws No. 88, item. 553, as amended). Pursuant to this provision commits an offense of electoral corruption whoever being entitled to vote shall adopt a financial benefit or the benefit sought. The offense is

also committed by those who provide benefits to the person entitled to vote. Disturbing is the fact that the voters gave their votes in exchange for a bottle of vodka, groceries or some slight amount of cash with a value of 20-50 pln, which proves progressive pauperization of society and the lack of awareness of decisions. It should also be noted that relied on simple methods to provide the benefits were not the only forms of financial benefits, there was also the methods of corruption involving the proposal or taking actions related to the redemption of the administrative proceedings, or dealing in a way convenient for offering the benefit in return for giving "proper voice of the election"

Electoral corruption is not only the aspect of the local elections, in which there is "petty corruption". It is also the aspect of the people who hold prominent political positions. Irregularities in the election apply not only to the electoral procedure itself, but are also acts of preparing lists of candidates or voters without eligible persons, the destruction, damaging, hiding, altering or counterfeiting electoral documentation or irregularities in the adoption or the calculation of votes, as well as the abuse accompanying drawing up lists of signatures of citizens.¹⁸

Administrative corruption relating those in high political positions is virtually coincident with the administrative corruption on the lower-level. The difference, however, lies at the level of matters dealt. The mechanism of corruption usually refers to bribery or venality, in which officials take or demand benefits in exchange for appropriate settlement of the case for the other side. This may involve acquiring a lucrative position to obtain the proper judgment or administrative decision.

A similar situation occurs in the case of illegal lobbying, when interested in securing or retaining their own business entities, bribe

¹⁸ W. Jasiński, *Osoby na eksponowanych stanowiskach politycznych. Przeciwdziałanie korupcji i praniu pieniędzy*, Warszawa 2012, p. 195.

MPs (Members of Parliament) to bring about the adoption of the legislation under which they will be able to carry out certain activities, or take advantage of the tax collection system.

DIFFICULTIES IN ELIMINATION OF POLITICAL CORRUPTION

Political corruption is an extremely dangerous criminal phenomenon, involving very often criminal groups linked to politicians. As a result of corrupt behavior, the democratic system of the state can get seriously imbalanced (concerning the level of security, the economy, the rule of law and in the end the public's trust in their government).

Polish legislation does not lack legal solutions to effectively combat the crime of political corruption. It should however be borne in mind that the so-called offensive methods of fighting corruption require authorization for the use of specific techniques, by entities not associated with law enforcement. Corruption is a difficult crime to prove. The laws clearly state that the offenses of corruption are being committed by both sides of the dealings, both providing and receiving benefits (often by a proxy). For this reason, obtaining reliable information about the crime is significantly impeded. Law enforcement authorities shall take appropriate measures in order to obtain information about an offense without the testimony of participants in such acts. One way to confirm information about the crime of corruption is operational control, which consists of a secret control of the content of communications, controlling the shipment and use of technical means providing an implicit information and evidence, their preservation, and in particular, the content of telephone conversations and other information transmitted via telecommunications network.¹⁹

¹⁹ art. 19 ustawy o Policji z dnia 6 kwietnia 1990 roku, Dz. U. 1990r., Nr 30, poz. 179.

In cases of corrupt nature, law enforcement agencies are authorized to perform operational and exploratory activities, involving the making implicit acceptance or giving of financial benefits. Obtaining evidence also may include proposal of acceptance or giving a financial advantage.²⁰

In both cases mentioned above, the authority designated to prosecute the crime of corruption must obtain permission to use these methods with the prosecutor's office, in the case of operational control of the court of law. The independence of these entities should not raise any suspicion of bias in determining the application of such measures. Experience shows, however, that it is a view that requires caution. Please note that the world of politics also extends to final decisions concerning cushy sinecures also in these offices. Serious cases of corruption repeatedly relate to just such people. As a result of formulating a request allowing the application of respective institutions, may lead to disclosure of such activities, resulting in inefficient use of such measure, or refusal for using them.

The activities discussed so far, relate to the operational and exploratory area, but it must be borne in mind that the problems with the implementation of corruption cases apply equally to proceedings. Conducted proceedings in many cases are redeemed (mostly due to a lack of reasonable suspicion of committing a crime), and the participants of corruption have extensive knowledge about the course of action.

There have been several cases of prosecutors who took the role of advocate of the corrupted person in the course of the proceedings. There are, however, few cases. These situations (in the opinion of the author of the text) also apply to judicial decisions. There are also judgments of corruptive cases,

²⁰ art. 19a ustawy o Policji z dnia 6 kwietnia 1990 roku, Dz. U. 1990r., Nr 30, poz. 179.

which allow a wide range of acquittals as to the perpetrators of the crime of corruption. In this regard, the alleged errors committed by law enforcement during the collection of evidence are raised repeatedly. Furthermore, there are also known sentences in which the person who committed the offense of passive corruption (adopted financial benefit) is acquitted, and convictions are addressed to officers pursuing the matter.

SUMMARY

Monitoring of court decisions in cases involving political corruption leaves no doubt: these things do not exist or are marginal fraction of cases adjudicated by the courts of law. Most investigations of corruption are conducted towards officials (and services employees). These are matters relating to bribery and venality, as well as the failure or abuse of power, committed by individuals not associated with the world of politics.

Politics is not only all about the supreme state authorities, it is also a local area. Difficulties associated with the corruption cases involve touching "sensitive" interpersonal relationships. Of course it is unfair judgment that the prosecution are dependent on the relationship between entities concerned. From the practice of conducting such cases by the author of this text we can conclude that the activities of law enforcement agencies in matters of political corruption (at level of local politics) is colored additionally with problems associated with violations of the existing "or-

der". It should also be noted that the competent authorities to deal with matters related to political corruption are the central offices of the fight against corruption. Such offices exist in almost all countries (the situation in federations, for instance in Germany, is quite opposite). In Poland in 2006 was established the Central Anticorruption Bureau, which has the appropriate tools to fight political corruption, among other things, is entitled to control expenditure of political parties.

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