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**Openness and Transparency of Public Finance
in Poland in the Light of
International Monetary Fund Standards**

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Introduction

The present study is to provide a diagnosis of openness and transparency of public finance in Poland. Under *openness* of public finance we mean here citizens' free access to information about activities of the State in the field of finance. The notion of *transparency* of public finance means a situation in which:

- 1) rules of managing public funds are precisely formulated,
- 2) system of collecting, processing, and releasing data relating to the condition of public finance provides a complete, reliable and understandable picture of financial situation of the State and of particular segments of the public sector, as well as the public sector impact on the economy.

The need to formulate original definitions of these two notions comes from the fact that they have not been defined in the Polish legal system so far, although references to them are made both in the Constitution and in the Public Finance Act.

It can be seen from the above definitions that providing for **transparency of the public sector** is the key issue here. **With transparency of public finance not being in place any demands for openness are, in fact, unsubstantiated.**

In order to understand better the present shape of public finance in Poland, in Chapter 1 we ventured to present a historical outline of the Polish economy transformation. Evolution of the economic system that took place at that time was the main underlying factor of the current solutions in the field of public finance. This historical perspective also makes it possible to dynamically approach the issue of transparency and openness of public finance in Poland.

In Chapter 2 of this study we present the foundation used for the evaluation of transparency and openness of public finance in Poland. It is the openness and transparency standard set by the International Monetary Fund. Apart from it, our studies also make use of openness and transparency standards, which have been either developed for the needs of research institutions (the Center on Budget and Policy Priorities in Washington), or contained in legal acts adopted by some countries (United Kingdom, New Zealand, Australia).

Chapter 3, representing the main body of this study, provides a comprehensive analysis of transparency and openness of public finance in Poland, preceded by a

concise description of the evolution and the present state of the legal system in the area of openness and transparency of public finance in Poland. This analysis, based on IBnGR public finance research findings to date, is carried out in compliance with subsequent openness and transparency rules devised by the IMF.

The above remarks make it possible to identify the areas in which the progress in construction of a transparent system of public finance has been insufficient. Therefore, in Chapter 4 we formulate conclusions and recommendations for improvement of the state of openness and transparency of public finance in Poland.

In February 2001, the International Monetary Fund published its own report evaluating the state of openness and transparency of public finance in Poland¹. The present report has been prepared independently, hence the assessments presented in both publications are somewhat different despite the application of the same standard, namely the IMF transparency code. In our opinion, the state of openness and transparency of public finance in Poland is slightly worse than that according to the IMF. This discrepancy is probably due to the employed methodology of research. The IMF assessed transparency on the basis of responses given by Polish authorities, while authors of this report based their findings on public sector research, which has been carried out for many years at the IBnGR.

Finally, we would like to gratefully acknowledge the financial support provided by the German Marshall Fund, which allowed IBnGR to work on project *Transparency of budget process for increasing public participation*, within which the present study has been prepared.

¹ Full version of the report can be found on the IMF website: <http://www.imf.org/external/np./rosc/pol/fiscal.htm>

1. The Polish Economy in 1989 – 2000

Before we elaborate on the actual topic of our study, we shall start up with a concise presentation of Poland's economic history since 1989. The economic system's evolution occurring over that period has resulted in the currently applicable solutions within public finance, including the currently binding legislation relating to the issue of openness and transparency of public finance. In our opinion, an overview of the major stages of Poland's systemic and economic transformation to date is an indispensable part of the evaluation of the present-day legal and actual status. Namely, on the one hand, we should require that the rules governing the public sector operation in Poland are compatible with the universally applicable rules and standards and, on the other hand, we must realise that approaching the ideal pattern takes up time and is largely conditioned by the pace of institutional and organisational changes in the public sector.

Poland has been building a market democracy system for more than ten years now. The "shock therapy" devised by Finance Minister Leszek Balcerowicz and applied by Tadeusz Mazowiecki's government was the first step towards a free market economy. In the early transition years of 1990 – 1991 the Polish economy recorded negative growth rates attributable not only to cuts in domestic consumption and investment, as assumed in the transition strategy, but also to the economic breakdown in post-communist countries, which at that time were the major market for Polish exports. These developments had a devastating effect on the state budget, which in 1991 closed with a huge deficit estimated at 6% of GDP. Fortunately, the extremely unfavourable macroeconomic environment was about to change for the better quite soon.

Thanks to demonopolisation, deregulation and privatisation, the Polish economy has been on the growth path since 1992. In 1994, Poland became the first post-communist country to record real GDP value exceeding the pre-1989 level. As a result of improving macroeconomic situation both the state budget and the public sector managed to improve their financial standing measured by the deficit/GDP ratio. It was the case by 1998, which can be considered the date marking the end of the first stage of transition. Economic growth based on efficiency improvement due to using up simple reserves and its positive implications for public finance reached their limits.

Public sector structure was unprepared for such a rapid economic growth (in 1992 – 1998 the average annual GDP growth rate was 5.4%) eventually becoming a barrier to growth. Public finance still remained extremely centralised, the pension system faced the problem of an ageing population, and the healthcare system proved

inefficient and woefully mismanaged. It was high time for changes to be introduced.

The second stage of the transition started on January 1st, 1999 with implementation of a package of three fundamental reforms of public finance. The first of them was the administrative system overhaul introducing two new local government levels, namely those of *poviat* (county) and *voivodship* (province), in order to increase the degree of decentralisation of public funds management. It was the second step towards decentralisation following the introduction of *gminas* (municipalities) back in 1990. Nevertheless, given the specific features of the newly-established system in which the new local government levels were predominantly funded with state budget transfers, the rise in the degree of decentralisation of public finance (as measured e.g. by the share of a local government's own incomes in the total amount of public revenue) turned out to be quite inadequate.

Until 1998 the healthcare system had been financed entirely from the state budget. In 1999 regional healthcare insurance funds, so-called Health Funds (*Kasy Chorzych*) were set up to take over the task of healthcare funding through a payroll tax (7.5% in 1999–2000, and 7.75% since 2001). This contribution is deducted from the personal income tax. The aim was to inject competition into the provision and funding of healthcare, still its enactment only resulted in escalation of public healthcare workers' protests and, according to opinion polls, in a deterioration of the quality and availability of healthcare services. The introduction of a healthcare insurance system only revealed poor financial standing and problems with health service organisation.

Another reform implemented in 1999 was that of the pension system. Prior to its introduction the system operated in line with the *pay-as-you-go* scheme involving an inter-generation agreement under which the working population funded benefits for the generation of pensioners. This system could no longer be continued in view of the ageing of the population, i.e. an unfavourable change of the working/pensioner ratio. Consequently, it was replaced with a partly capital-based system consisting of three pillars. The first of them, consuming a major share of the pension insurance contribution operates along the old principles. The second and third pillars are of a capital nature, with participation in the third one not being obligatory. Funds accumulated within the framework of capital pillars will provide the basis of future pension payments. Another new solution in the reformed system is that employees and employers cover social insurance costs in equal shares. This reform was not a success story, either, due to its poorly prepared implementing regulations and troubles faced by the Social Insurance Institution (ZUS), which resulted in serious delays involving financial difficulties.

Both in 1999 and in 2000 the introduction of the package of three reforms caused overheating of the state budget. The new pension and healthcare systems ran a huge deficit, which was largely covered by state budget subsidies. The economic crisis in Russia of 1999 added to the adverse effect of these factors on the economy whose growth rate slowed down considerably. As a result, support of citizens for government activities has fallen dramatically and still remains frail.

Although the past ten years saw a huge progress in reforming the Polish economy, there is still a lot of work to do. Modernisation of the heavy industry is still at its early stage. Miners, steel and arms industry workers are threatened by job lose. The same is the case with the agricultural sector, which is only now entering the restructuring stage. The hard process of modernisation of the Polish economy, lacking precisely defined rules and participation of the groups concerned in the decision-making process may only add to social discontent. These factors imply the need for a better understanding and civil society participation in the public debate over the challenges of fiscal policy in Poland in the coming years. Hence, it can be concluded that under the present situation there is strong internal demand for openness and transparency of fiscal policy, being an indispensable condition for any public debate.

Apart from that, openness and transparency of public finance is a factor contributing to a better efficiency of managing public funds. It is the case because, first, free access to information about financial activities of public entities plays the role of a public oversight mechanism. Second, clear management rules in the public sector are easier to be enforced, which contributes to tightening of the so-called budgetary discipline. In an open and transparent system of public finance wasting money becomes more conspicuous, hence the scale of inefficiency should be reduced.

Nevertheless, the demand for transparency in the field of public finance is also generated abroad. The Polish economy suffers from a permanent current account deficit, which requires foreign capital inflow to close the gap between savings and investment. Of course, the Polish economy would benefit most from long-term capital inflow. However, such capital usually flows into markets representing a high level of stability, which is undoubtedly contributed to by transparency of the public finance system. It is definitely better to choose the markets where the money is safe, i.e. market operation rules are precisely formulated and the access to information is free.

Summing up, the need for transparency and openness standards in public finance is conditioned by both internal and external factors. These standards should be seen as an institutional foundation of Poland's economic growth in the nearest future.

2. Methodology of the Report

The methodology used in the Report is based on the principles of fiscal openness and transparency laid out in the *Code of Good Practices on Fiscal Transparency – Declaration of Principles* devised and acknowledged by the International Monetary Fund (IMF) in 1998². The Code is the main reference point (pattern) for the evaluation of openness and transparency in Poland.

The approval of the principles of transparency in the field of public finance was the IMF's response to the growing demand for transparency and openness standards in the world. In transition economies like Poland transparency was seen as one of many steps towards establishment of a democratic system. The code of transparency was, to some extent, also the IMF's reaction to the Asian financial crisis. If the markets in the region had been more transparent, a financial crisis would not have been so surprising and its scale would not have been so enormous as suitable measures would have been applied in time. Hence, the progress of democratisation along with the Asian crisis was the main factors having contributed to the approval of standards in the public finance sector.

The Code is based on four general rules:

- ***clarity of roles and responsibilities*** – the first rule reflects the significance of a clearly specified division between the monetary and fiscal authorities, as well as between the public and private sectors.
- ***public availability of information*** – The Code stresses the importance of the general availability of fiscal information and the fact that the provision of such information should take place in accordance with a timetable announced by the government; this part of the Code relates to implementation of the principle of openness in the field of public finance.
- ***open budget preparation, execution and reporting*** – The Code describes standards relating to the scope, availability and comprehensiveness of fiscal information in the entire budget cycle.
- ***independent assurances of integrity*** – the final rule points to the external audit institution and the independent statistical system as indispensable measures providing for transparency in the field of public finance.

Each of the above-mentioned general rules becomes subsequently transformed into several more detailed fiscal policy transparency principles. It is a characteristic feature of the Code that it does not specify the ultimate model of transparent public finance, but provides a ready set of system analysis criteria. These criteria are so universal that they are applicable to virtually any country. Furthermore, they allow depicting both the extents of transparency and the progress achieved in this field. Consequently, the

² See Annex to the present study. For updates of the Code see the IMF website: <http://www.imf.org/external/np/fad/trans/code.htm>.

static and dynamic analyses allow identifying the directions of the possible improvement of transparency.

There are also other methodological references for the present report. The Institute for Democracy in South Africa (IDASA) in co-operation with the Center on Budget and Policy Priorities (CBPP) published a report on *Transparency and Participation in Budget Process*³. This study is a good example of adjustment of the IMF Code to specific conditions of a particular state, in this case South Africa. Some principles are formulated in a more general manner than in the case of the IMF Code while other, as e.g. the issue of civil society participation in the budgetary process has been developed for a more detailed questionnaire.

The IMF Code and the study prepared jointly by the IDASA and CBPP are the two main reference points for the present study. Nevertheless, other documents were also taken into account in the course of preparing this report. These were:

- *Code on Fiscal Stability* (United Kingdom)⁴,
- *Fiscal Responsibility Act* of 1994 (New Zealand)⁵,
- *Charter of Budget Honesty Act* 1998 (Australia)⁶.

The nature of these regulations is different from that of the documents mentioned before, as the former are less extensive and comprehensive. This is why they were not used directly by the authors of this study. All the same, they implicitly determined the approach towards analysing the issue of transparency.

The present report is based on an analysis of the legal system in the field of public finance and on results of the research carried out by the IBnGR within the framework of work on the first and second editions of the report on the scope of the public sector in Poland⁷. Such an approach differs from the method suggested by the IMF Code and applied by the IDASA. In accordance with that method the research is based on a detailed questionnaire returned by state officials working in institutions involved with fiscal policy and access to information. The fact that a different approach has been chosen is due to IBnGR's experience in the field of public finance resulting from involvement in both the research and development of the system.

³ Alta Falscher, Warren Krafchik, Isaac Shapiro *Transparency and Participation in the Budget Process. South Africa: Country Report*. IDASA/IBP, December 2000. For the full text see the CBPP website: <http://internationalbudget.org>

⁴ For the full text of this act in English see the website: <http://www.hm-treasury.gov.uk/pub/html/budget98/cfs.pdf>

⁵ For the full text of this act with explanations in English see the website: <http://www.treasury.govt.nz/legislation/fra/explanation/>

⁶ For the full text of this act in English see the website: <http://scaletext.law.gov.au/html/comact/9/5802/top.htm>

⁷ The first edition of the report prepared by a team including E. Malinowska, W. Misiąg, A. Niedzielski and J. Pancewicz was published in 1999 as *Zakres sektora publicznego w Polsce* (IBnGR, Warszawa 1999). The second edition is due to be completed in July 2001.

The state of transparency in the areas specified by the IMF Code will be assessed in a descriptive way. Such an approach results from taking into account the experience of IDASA, according to which answers to the questionnaire were rarely concise. Nevertheless, at the end of each section an attempt will be made to assess the state of transparency in a three-grade scale: poor, average and good.

The present study also takes from the experience of one of its authors, which was gathered during his one-month stay at the Center on Budget and Policy Priorities (CBPP) in Washington, at the beginning of 2000. CBPP experts: Isaac Shapiro and Stefan Falk served as consultants for methodological issues. Their contribution to the present study must also be appreciated.

3. Openness and Transparency of Public Finance in Poland

In this chapter we shall present an analysis and assessment of observance of particular rules of the IMF Code in Poland. This assessment will be preceded by a short presentation of changes occurring in the legal system of the public finance sector in Poland between the late 1980s and the present day.

3.1. Legal System of Public Finance in Poland – History and the Present Status

After 1989, the first comprehensive law relating to public finance was passed in 1991 at the very beginning of transition to a market economy system. Like its predecessor, it was called the Budget Law. Its main objective was to adjust the budget institutions operating under the centrally planned economy to the new economic regime. Such an approach implied temporary nature of the Budget Law. Between 1991 and 1997 many amendments of this act were introduced, but instead of improving the operation of the public finance system they only made it excessively complicated and incoherent, which had a detrimental effect on its efficiency and transparency.

In 1997, the new Constitution was introduced in Poland. It contains a chapter relating to public finance in which Parliament (*Sejm*) was made obliged to pass a new, comprehensive legal act regulating this area. Additionally, 1998 saw adoption of a package of new laws reforming the social insurance, healthcare, and local administration systems. It was high time a new law providing for a comprehensive regulation of the system of public finance had been passed.

On January 1st, 1999 the Budget Law, which had been effective since 1991, was replaced with the Public Finance Act. It was assumed to be a modern and comprehensive legal act regulating not only the issues related to the state budget, but also to the public finance sector as a whole. Replacement of the traditional name of the *Budget Law* with that of the *Public Finance Act* was to be the symbolic reflection of this fact.

However, the Public Finance Act passed in November 1998 is neither as comprehensive nor as modern as was announced. Although the general principles of public finance have been formulated properly, and in these terms it undoubtedly marks a progress in comparison to the Budget Act, the translation of these principles into detailed provisions already gives rise to serious reservations⁸. Some of them, namely those relating directly to the analysed problem of openness and transparency of public finance will be discussed later in this report.

The system of legal acts regulating the organisation and operation of the public finance sector consists of:

- 1) **the Constitution**, which defines, *inter alia*, the general principles of the budget economy, foundations of the system of public revenues and the central bank status, as well as sets constitutional limit to national public debt at 60% of GDP;
- 2) **the Public Finance Act**, which is, in a way a public finance constitution. Unfortunately, its status of an ordinary law allows other legal acts of the same rank to amend or to exclude its provisions, thus making it practically possible to circumvent some of its regulations;
- 3) **other laws** – regulating either specific issues relating to the public sector (e.g. revenues of local governments, provisions of the tax law, public procurement, remuneration in the general government sector, the principles of granting warranties and guarantees, the principles of granting public aid and the conditions of its accessibility), or the system, organisation, and finance of particular public sector institutions;
- 4) **regulations issued** under the provisions of the above-mentioned laws.

Although Poland has developed a quite firm framework for public finance, it should be remembered that this system is relatively new and still undergoing the stage of implementation. The Constitution was introduced in 1997 and the Public Finance Act was passed in 1999.

Furthermore, it should be realised that the system of public finance in Poland has not reached its ultimate shape yet. In the coming years we should expect changes in the tax system, going towards its general simplification and reduction of tax rates, as such steps are indispensable for attainment of a fast rate of economic growth being the primary goal. The coming years may also see changes in the model of financing local governments, as inadequate degree of financial sovereignty is seen as a barrier to the decentralisation process.

The legal framework, i.e. the institutional system, can be appropriately evaluated only after a couple of years. Unfortunately, in the case of Poland a modern system of public finance is still being developed and modified. Therefore, it is difficult to talk about any law enforcement practices in the field of public finance, which considerably limits the scope for a reliable analysis. Nevertheless, the experience linked to the operation of the new system will be taken into account wherever it is possible.

⁸ See e.g. Z. Gilowska, W. Misiąg, Funkcjonowanie ustawy o finansach publicznych. Postulaty *de lege ferenda*, „Przegląd Sejmowy” No. 5(34)/99.

3.2. Basic Regulations in the Field of Openness and Transparency

In Poland there are no separate regulations, in the sense of a separate legal act, relating to the issue of transparency, as in the case in the United Kingdom, Australia or New Zealand. Such regulations are a part of other legal acts, especially the Constitution and the Public Finance Act. This, however, should not be seen as a drawback, as thanks to such a position the relevant regulation enjoys high status in the Polish law system.

Nevertheless, it should be pointed out that Polish law regulations pertaining to openness and transparency of public finance are extremely dispersed. Apart from the above-mentioned legal acts being of fundamental significance for public finance they can be found in:

- the law of April 8th, 1998 on principles of exercising State Treasury powers, and in the regulation issued under its provisions defining the procedure of collecting and publishing data on State Treasury assets;
- the law of June 30th, 2000 on conditions of admissibility and supervision of public aid for entrepreneurs, containing provisions relating to information obligations imposed on entities providing public aid and supervising its provision;
- laws establishing particular government agencies, containing regulations which define (in each case in a somewhat different manner) the procedure of planning and reporting of the established institutions,

and in many other laws.

We shall start the overview of openness and transparency standards with the most important legal act, the Constitution of 1997, which in article 61 states that

1. A citizen shall have the right to obtain information on the activities of organs of public authority as well as persons discharging public functions. Such right shall also include receipt of information on the activities of self-governing economic or professional organs and other persons or organisational units relating to the field in which they perform the duties of public authorities and manage communal assets or property of the State Treasury.
2. The right to obtain information shall ensure access to documents and entry to sittings of collective organs of public authority formed by universal elections, with the opportunity to make sound and visual recordings.
3. Limitations upon the rights referred to in paras. 1 and 2 above, may be imposed by statute solely to protect freedoms and rights of other persons and economic subjects, public order, security or important economic interests of the State.
4. The procedure for the provision of information, referred to in paras. 1 and 2 above shall be specified by statute, and regarding the Sejm and the Senate by their rules of procedure.

Attention should be paid to two issues:

- 1) The Constitution defines a very broad scope of citizens' access to documents relating to public authorities' activities, allowing for only statutorily determined cases of limitations to this access;
- 2) only the **procedure** of making information available, not the scope of this information has been left for regulation by ordinary laws

Section I of the Public Finance Act, entitled "General principles of public finance" contains Chapter 2, consisting of 6 articles and devoted exclusively to the issue of transparency.

Article 11 contains, in par. 1, the key statement for the entire regulation: ***The information about public finance is publicly available.*** The openness of public finance is to involve:

- access to budget debates on both the central government and local governments level (at the stage of both budget preparation and reporting);
- public availability of information on the level of subsidies from the state budget and from local budgets;
- data relating to the public sector, announced by the Minister of Finance;
- insight into annual reports of public entities.

In the same article, in par. 4, it is stated that all public sector entities apply the same principles of accounting, which is a necessary condition for carrying out comprehensive analyses of public finance. In practice, this requirement is not fulfilled, which can be easily concluded by analysing differences in the method of recording the same balance-sheet items in various government agencies and specific purpose funds (e.g. the value of leased State Treasury assets or receivables on account of loans granted within the framework of statutory activities).

Article 12 imposes on the Minister of Finance an obligation to state in an official way (on a semi-annual basis) the figures on the level of the public sector debt, the level of liabilities on account of government warranties and guarantees and on their ratios to gross domestic product. This article also sets the timetable for making such announcements.

Article 13 entitles the Minister of Finance to specify the system of classification for public revenues, expenditures and result financing titles. The system should describe the kind of activities (sections and chapters) and the kind of revenue, expenditure and result financing titles (paragraphs).

Article 14 defines the principles of accounting which should be taken into account by the Minister of Finance while issuing an ordinance regulating the principles of accounting for public sector entities.

Article 15 describes distribution of tasks between the Central Statistical Office (GUS)

and the Ministry of Finance in the field of organisation of the public sector reporting system. Generally, the Ministry of Finance is responsible for a major share of these tasks, while GUS is only commissioned with the task of preparing annual information on budgets of local government entities.

Article 16 makes the Minister of Finance responsible for releasing aggregate data on financial operations in the public sector and in the state budget. The Minister of Finance also publishes lists of entities, which have been granted guarantees, and the list of entities having benefited from writing off. Annual information containing these data should be published by 30 September of the following year.

Among other major legal acts relating to public finance we should mention the law on public procurement, which regulates the extremely significant issue of public purchase procedures. The solution adopted in Poland is based on the Model Law on Procurement of Goods, Construction and Services, prepared by the United Nations Commission on International Trade Law – UNCITRAL with technical assistance provided by OECD/SIGMA. The law introduces a highly decentralised system of public procurement, with the central Office of Public Procurement being responsible for development of legal rules and regulations and for overseeing the system.

In the present study we only make reference to fundamental legal acts pertaining to public finance, which directly regulate the issue of openness and transparency. Nevertheless, it should be remembered that other legal acts also have their impact on the shape of the Polish system of public finance. Still, in order to reduce the volume of this text we only focused on presentation of the most significant regulations.

3.3. Evaluation of the State of Transparency of Public Finance in Poland

In the present section we shall present a short analysis of the Polish system of public finance, seen from the point of view of transparency and openness principles defined by the IMF. Four parts of the analysis will be distinguished, corresponding with particular areas dealt with by the Code. At the beginning of each part the main provisions of the Code relating to a given area will be introduced as a reference for analysing the state of transparency. This way we shall avoid a detailed examination of particular rules of the Code, at the same time providing for clarity of the study.

Apart from discussing the IMF Code rules we shall also address the issue of public participation in the budget process. Our interest in this issue has its roots in the report on transparency of public finance in the Republic of South Africa, prepared by the already mentioned IDASA institute⁹. The problem of participation is separated from the issue of availability of information, as it involves evaluation of chances for co-

⁹ For the full text of the report see the website: <http://www.internationalbudget.org/resources/library/transparencymfinal.pdf>

authoring the budget through a public debate. In the case of South Africa, the time between presenting the budget by government and its approval by Parliament is only about two weeks, which explains for the stress put on that problem. In Poland that issue is of a different nature and we shall address it at the end of the analysis of the state of transparency.

3.3.1. Clarity of Roles and Responsibilities

The first area of the IMF Code is focused on the following issues:

- definition of the public sector, which should cover the state budget and local governments' budgets, with all the extra budgetary operations of these institutions;
- clear rules and procedures should determine government involvement in the private sector;
- the responsibilities of different levels of government should be well defined;
- mechanisms for co-ordination and management of government activities should be established.

In accordance with the IMF Code, the methodology of national accounts is the main reference point for defining appropriate scope of the public sector. Between 1991 and 1998, i.e. at the time when the public sector organisation was regulated by the Budget Law, aggregate public sector accounts, presented in government documents¹⁰, covered only part of general government sector, i.e. of the public sector defined in accordance with national accounts. These aggregate accounts contained only data concerning the state budget, *gminas*' budgets and part of their extrabudgetary operations relating to different budgetary entities and specific purpose funds.

But extrabudgetary operations in the sense of national accounts do not correspond exclusively with extra budgetary activities in the Polish system of public finance, but they also cover operations of non-profit institutions financed from public funds. Such an approach indicated the need for extending the sector by higher education establishments, cultural institutions, government agencies and many other entities. With these entities not taken into account, every year an amount of approximately PLN 5 billion was spent outside the public sector reporting system and outside the budget economy regime. During the Budget Law being effective, the public sector definition was quite inflexible, either. It was devised as a list of entities, hence it could cover the newly-established public institutions only by way of its amendment. Consequently, the public sector expansion found no reflection whatsoever in budget reporting.

After the Public Finance Act had been introduced in 1999, the situation improved substantially. In November 2000, on the occasion of amending the Public Finance Act

¹⁰ Aggregate data on public sector revenues and expenditures (in the limited scope, as mentioned above) were contained – as a forecast – in the budget substantiation document and in the descriptive part of the report on state budget execution, submitted to the Sejm.

the public sector definition contained in article 5 of this Act was changed once again¹¹, and eventually adjusted to SNA (System of National Accounts) standards. The new definition covers virtually all public institutions which prior to 1999 remained outside the public sector.

Despite having a good definition of the public sector in the legal system, one cannot claim that the requirement for the public sector being clearly distinguished from the rest of the economy has been fulfilled. At least three reasons can be given for supporting this thesis:

1. First, the definition of the public finance sector contained in article 5 is of no relevance for the legal system of public finance, since:
 - the public finance sector notion has not been used in **any other** act except the Public Finance Act;
 - in the Public Finance Act there are only three, by the way not very precisely formulated, provisions relating to bookkeeping and to the obligation of applying budgetary classification.

Consequently, in virtually any law regulating the issues of public finance the scope of the public finance sector is defined “locally” for the needs of a given law, and each time in a slightly different way.
2. Second, there is no register of public sector entities which would simply enumerate all units making up that sector. Compilation of such a register would emphasise the difference between the public and private sectors, with all the positive implications of that fact (application of single tendering procedures, budgetary discipline, etc.).
3. Finally, third, the statutory extension of the scope of *the public finance sector* has not found reflection in budget reporting. Public sector revenues and expenditures statistics still do not cover data relating to all entities and institutions listed in article 5 of the Public Finance Act.

Eventually, we must conclude that the Public Finance Act has not resulted in an actual extension of the scope of the public finance sector, and the contents of article 5 remain

¹¹ According to the currently binding definition, the public finance sector covers:

- 1) public authority and government administration agencies, state control and law protection agencies, courts and tribunals, as well as local government entities, their bodies and unions,
- 2) budgetary entities, budgetary enterprises and subsidiary plants of budgetary entities,
- 3) specific purpose funds,
- 4) public universities,
- 5) research and development units,
- 6) independent public healthcare establishments,
- 7) cultural institutions run by central or local governments,
- 8) Social Insurance Institution (ZUS), Farmers’ Social Insurance Fund (KRUS) and funds managed by them,
- 9) Health Funds (health insurance funds) and the National Union of Health Funds,
- 10) the Polish Academy of Sciences and organisational units set up by it,
- 11) State or local government legal persons established under separate legislation in order to perform public tasks except enterprises, banks and commercial law companies.

only a declaration of some intent, which has not been finding confirmation in practical legislative moves so far.

Government involvement in the economy is another issue for discussion suggested by the IMF Code. Poland, as a country in transition from a centrally planned economy where the State owned almost all means of production has made great progress in reducing government's share in the economy. However, many state-owned firms are still engaged in regular business activities. They are not regarded as public sector firms, but as the appointment of members of their Supervisory Boards lies within the powers of the Minister of Treasury, being the majority shareholder, they are sensitive to political pressure, hence they do not operate in a stable, growth-oriented environment. Politically motivated Supervisory Boards also pose a barrier to the restructuring process, as they simply do not make unpopular decisions.

Quasi-fiscal operations are one of the most dangerous ways of government involvement in the economy. They mean transfer of public funds and, more generally, State Treasury expenditure, without any reflection of that in budget reporting. It is a method of omitting expenditure limits and budgetary discipline.

The biggest quasi-fiscal operation in recent years was related to the process of restructuring of Poland's major banks (PKO BP, BGŻ and the so-called "nine" banks having spun off the NBP) initiated in 1993. It involved issue of bonds which re-capitalised banks and were to compensate for the losses suffered by them as a result of composition proceedings associated with non-performing loans.

As a matter of fact, this operation, which covered:

- 1) granting subsidies to banks,
- 2) granting by banks a loan to the State Treasury in an amount equal to that of the received subsidies,
- 3) issuing Treasury bonds confirming the assumption of liabilities vis-a-vis banks,

found no reflection in the state budget, as the issue of bonds was not associated with any cash flow, and only with State Treasury liabilities. In the case of budget reporting on a cash basis, and not accrual basis, such operations only result in a debt increase and, at the same time, in braking the link between the formally recorded budget deficit and the amount of the public debt.

Among the more recent examples of quasi-fiscal operations we can mention:

- 1) ZUS borrowing from the private sector, despite having state guarantees for the pension system; the credit for ZUS was a method of cutting budget expenditure through not granting the due subsidy to the Social Insurance Fund,
- 2) treating the funds allocated in 1999 for payment of annual awards for employees of self-financing healthcare establishments, which in 1998 operated as public budgetary entities, as a loan for Health Funds, and not as a state budget expenditure,
- 3) financing of purchases of arms for the Ministry of National Defence with a loan obtained from the Industrial Restructuring Agency S.A.,

- 4) privatisation costs incurred by the Privatisation Agency not being covered by budget expenditures; these costs are covered in the following way: the Agency transfers to state budget accounts the amount obtained from sales of State Treasury assets less the Agency's commission.

Although quasi-fiscal operations do not have a decisive effect on the financial standing of the public sector, their detrimental impact on financial discipline must not be neglected.

The issue of division of the competence of power between different levels of government and within them is relatively well-regulated in Polish law. The Constitution provides for a tripartition of power (into an executive, judiciary and legislative branch), according to which all these branches maintain full independence. Nevertheless the model of tripartition of power applied in Poland is not classical as the executive branch (both the President and the Council of Ministers) have a legislative initiative¹². The division of power is also clear within the executive branch and between different levels of government (central *versus* local).

Nevertheless, attention should be paid to several important exceptions to the principle of power division into the legislative, executive and judiciary branch.

1. Some decisions relating to budget execution can be made by the budget-executing body (at both the central and local government levels) only upon receiving a *positive opinion* (practically meaning *a consent*) of an appropriate commission of a decision-making body (the Sejm, *gmina* or *poviat* council, *voivodship* assembly). This concerns, *inter alia*, using of the budgetary reserves.
2. In some cases (delay in approval of the budget by the legislative body of the local government), the regional clearing chamber, in fact being a government administration agency, may *decide* the budget of local governments.
3. Proceedings in breach of public finance discipline cases take place not before court but before an investigating board whose members are appointed by government administration agencies or by the President of the Republic of Poland. Furthermore, a disciplinary prosecutor appointed by the same body that appoints members of the investigating board prosecutes breaches of public finance discipline cases!

The rule of tripartition of power and of power division between central and local levels of government and state administration is also being broken by the binding system of public finance. The most striking examples here include:

- 1) budgetary subordination of common courts of law and military courts to government administration agencies, with common courts of law and military courts being financed from the Ministry of Justice budget and the Ministry of National Defence budget, respectively; it also means that courts (except the Supreme Court and the Supreme Administrative Court) do not participate directly

¹² This solution was intended to improve the efficiency of government operation. However, the practice indicates that the executive abuses this privilege.

- in the process of drafting the state budget at the government level,
- 2) establishment of a financial system for *poviats* and *voivodships*, in which more than 90% of their revenues come from the state budget,
 - 3) unclear system of financing such services as local police forces and fire brigades – in terms of their organisation and operation such services are subordinate to government administration agencies, but are financed from *poviats*' budgets.

The division between fiscal and monetary authorities is clearly specified in Poland. National Bank of Poland (Narodowy Bank Polski - NBP), overseeing the activities of the banking system, enjoys an independent status. It is undoubtedly one of the reasons for the good condition of this sector, its stability and positive assessment by foreign investors. This sector was the first in the Polish economy to become exposed to foreign capital inflow, which enforced creation of a transparent market. These conclusions are also applicable to the stock market in Poland.

In the remaining fields of this area the requirements of the IMF Code are practically fulfilled. The budget procedure and the duration of its particular stages are regulated by the Constitution. The Budget Act provides a legal foundation for making expenditures. Taxes are levied under the authority of law¹³. Rights and obligations of taxpayers are clearly specified. There are ethical standards of behaviour for public servants.

Consequently, the state of transparency in this area of the Code can be described as **good**. The Public Finance Act together with the Constitution provides foundations for a proper operation of the system of public finance. Serious doubts emerge in the case of relationships between the central government and local governments, especially with regard to the financial aspect of this relationship. Nevertheless, although the moment of financing puts the state budget in a privileged position, the principles of the system have been clearly defined, as is demanded by the Code. Furthermore, the model of financing local governments in Poland may be subject to changes in the nearest future, which lowers the rank of this argument for the negative assessment of the system.

Trying to sum up the balance of transparency in the analysed area, we shall point out the relatively high involvement of the government in the economy, being the consequence of the unfinished process of ownership changes, as the main shortcoming. It is particularly apparent in the non-financial sector (heavy industry), and on the insurance market (PZU). Nevertheless, in the nearest future the continued privatisation process should eliminate this factor as well. Therefore, we shall advocate a positive assessment in this area.

3.3.2. Public Availability of Information

The second area of the IMF Code is focused on:

¹³ A local community may self-levy taxes by way of a referendum. However, such a possibility seems to be inconsistent with the Constitution.

- quality of the published fiscal information,
- government commitment to the timely publication of fiscal information.

Availability of fiscal information is not only related to government activities. Growth of demand for this kind of information is an important factor responsible for supply adjustments, i.e. government activities in this field. This remark is particularly true for Poland. In the case of Poland the financial market was an element enforcing introduction of a clearly specified system of fiscal information. Fast development of the banking sector and of the stock exchange attracted foreign investors, who assessing the investment risk, had to have access to at least basic information on the financial standing of the public sector. The media market is another factor, external to government activities, being responsible for the public availability of fiscal information. If this market still remains at an early stage of development, even a good information policy of the government is bound to be unsuccessful. With subsequent stages of the media market development each kind of information becomes more and more available. This is also the case with fiscal information. In Poland, such a process could have been seen.

Nevertheless, government activities still remain the main factor responsible for public availability of fiscal information. In Poland, the Constitution and the Public Finance Act precisely define the required scope and dates of publishing particular kinds of information. These rules are usually applicable to both the annual budgets, semi-annual reports on its execution and the annual information on the public sector debt including warranties and guarantees of the government. Furthermore, the information on the state budget and its debt is presented on a monthly basis.

Attention should be paid, however to the fact that basic budget documents are, in fact, not published in the sense of their availability for the broad public. This refers, in particular, to such documents as:

- state budget provisions – officially available only in a form of comments released by the Ministry of Finance,
- the budget bill substantiation document and the report on state budget execution – submitted to the Sejm and available exclusively at the Parliamentary Library,
- complete figures on state budget execution – unpublished, available only (on not formally determined principles) at the Ministry of Finance.

Lack of regulations imposing on the Council of Ministers an obligation to work out and publish widely available documents containing comments on the state budget and its execution is a major shortcoming of the Polish legal system.

In Poland, execution of the budget is reported on a cash basis. Additionally, *Quarterly Information on State Budget Payables and Receivables (Informacja kwartalna o zobowiązaniach i należnościach budżetu państwa)* is published. The Budget Law covers virtually the entire public sector, defined in compliance with the system of national accounts, excluding certain independent public entities (public universities, agencies), although it is required to publicly disclose in the budget the level of subsidies to such institutions. There is also an obligation to provide, *ex post*,

information about the consolidated public sector. Information about the previous budgets is available not only from government sources, but also through publications of the Central Statistical Office, enjoying status of an independent institution. The budget also contains forecasts of main economic and fiscal aggregates for the following two years.

Nevertheless, construction of the Budget Law and the budget itself is a weak point of the Polish system of public finance. Although the Budget Law covers e.g. financial plans of all state-run specific purpose funds, as well as of the so-called extra budgetary economy institutions (formerly referred to as *budget enterprises*), the actual state budget is not a full plan of State revenues and expenditures, but only a *collective financial plan of public budgetary entities*. As a consequence of that, persons accused of mismanagement of e.g. government agencies' funds or foreign aid funds, which are also covered by the Budget Law, in a separate financial plan, not being part of the actual budget, are not subject to prosecution.

Treasury assets' reporting also leaves much to be desired. For some time such documents have been published on a regular (annual) basis by the Ministry of Treasury, which should be seen as a marked progress in the field of openness of public finance. In the context of the on-going privatisation process, serious reservations may arise over the considerable lag in publishing reports by the Ministry of Treasury, being as long as one year since the accounting period concerned.

It should also be clearly emphasised that reports published by the Ministry of Treasury provide a general description of State Treasury assets and appraisals of the value of these assets are more or less accurate estimates. In Poland there is still no integrated accounting system that would allow for a presentation of a balance of State Treasury assets and liabilities.

Improvement of transparency of public finance and extension of the scope of publicly available information on public finance should be contributed to by the law of 2000 on admissibility and supervision of public aid, sorting out the procedures of providing public aid and imposing on public administration bodies specific reporting obligations. In Poland's terms, characterised by considerable fragmentation of the power to provide public aid between different government institutions and shortage of information about aid provided by particular institutions, this law seems to be extremely important. But it seems to be too early to be able to analyse and assess the practical consequences of its enactment.

On the basis of the above analysis it would be possible to conclude that, with some reservations, the state of transparency in the field of *public availability of information* is sufficient. Nevertheless, in view of practical aspects of the public information system operation this mark should be lowered. This is due to two elements. First, the information policy of the government is assessed as unsatisfactory. This issue is particularly significant in the context of Poland's accession to the European Union. Given the shortage of information concerning costs and benefits resulting from integration, doubts about the accession are expressed in subsequent public opinion polls. This remark refers, in particular, to the rural population who may potentially

benefit most from advantages offered by the common market (the Common Agricultural Policy – CAP).

The still existing pattern of releasing information by the public administration is the other element adversely affecting the assessment of the state of transparency in the given area. Paradoxically, the already quoted article 61 of the Constitution of the Republic of Poland makes such an approach possible. While the first three paragraphs of this article do not give rise to any doubts, the last item often provides grounds for refusing information. In accordance with that paragraph, the procedure of releasing information is specified under the authority of law, and a relevant act has not been passed yet. Moreover, the experience gathered by the IBnGR in the course of preparing the report on *The Scope of the Public Sector in Poland* points to frequent cases of denying access to information by public entities under the pretext of protecting state or statistical secrets.

Generally, we can assess the state of transparency in this field as **average**. This assessment results from the fact that while legal regulations provide for fulfilment of minimum requirements as to availability of fiscal information, the actual operation of public entities in this field leaves much to be desired.

3.3.3. Open Budget Preparation, Execution and Reporting

The third area of the IMF Code is focused on:

- issues to be contained in the annual budget;
- budget execution rules;
- quality and scope of financial data relating to the budget and dates of their publication.

At any stage of the budget cycle, covering preparation of the budget, its execution and reporting, getting access to fiscal information is not a major problem, although the official formulation of the procedure of access to this information can hardly be seen as satisfactory.

The legal system is very precise as regards specification of duties concerning **preparation** of various reporting documents, at the same time making the procedures of public access to them unclear. The Constitution and the Public Finance Act precisely define the scope and the timetable of providing particular kinds of information over the budget cycle. Under the provisions of the Public Finance Act the government should provide Parliament with detailed reports on execution of the state budget on a semi-annual basis. At the same time, the Minister of Finance is obliged to present monthly estimates of a more general nature. Local governments should submit to the Minister of Finance and the Central Statistical Office quarterly reports on execution of their budgets. For each of the mentioned reports publishing dates have been statutorily set¹⁴.

¹⁴ The annual report on state budget execution should be submitted to the Sejm within five months since the end of the budget year. Semi-annual reports are usually filed with a

The legal system also imposes a clearly formulated budget execution regime. In the annual budget quantitative restrictions are imposed on the amount of loans, debt, warranties and guarantees. The Public Finance Act also imposes restrictions under which shifts of funds within the budget causing a rise in expenditure in any classification scale by more than 5% are not allowed. A process of monitoring of particular figures accompanies imposition of these fiscal principles.

With the public debt exceeding 50% of GDP, strict contingency procedures provided for by the Public Finance Act are launched. They are devised in a rather peculiar way. Readers of the Public Finance Act could draw a conclusion that the high level of public debt in Poland is mostly to be blamed on local authorities, while the share of local governments in public debt generation actually does not exceed 5%.

The Public Finance Act, together with appropriate implementing regulations, also define technical standards for execution of the budget, i.e. the accounting base for transactions, the system of budget classification meeting the requirements of the IMF Code, and basic principles of budget accounting. In this place we should also mention the law on public procurement and the law on setting wages in the general government sector, which also create the legal regime for implementation of the budget.

In Poland the planning horizon is limited to the medium-term perspective, i.e. three to five years. Virtually no long-term objectives are formally defined. The reason for such an approach is relatively simple and results from restrictions of a technical nature. The new system has been operating in Poland for about ten years and statistics consistent with international standards for some eight years. In this situation, the application of econometric methods for estimating the figures for ten-year and longer periods is impossible. Only in the case of demographic aggregates modelling in such a long perspective is allowed. In view of the above limitation, a separate document containing a declaration of only medium-term objectives and priorities of the fiscal policy is attached to the annual budget. Presented strategies are supported with forecasts of main budgetary and macroeconomic aggregates for the coming budget year and for the following two years. Forecasts' assumptions are always quoted, which improves the worthiness of the presented estimates. The only reservation here may relate to the fact that risks, such as possible development scenarios, are not formally taken into account. The document only presents remarks concerning possible changes in the macroeconomic environment, without attempts to estimate their possible consequences.

Policy objectives are focused on the state budget rather than on the entire public sector. State budget deficit is presented in the annual budget as, in fact, the main item of the State's financial standing. Such an approach can be seen as a drawback of the Public Finance Act, which clearly defines the public sector, but does not change the old philosophy of viewing public finance from the point of view of the state budget.

more than two-month lag. Estimate figures on budget execution in particular months of the year are made available to the public about the twentieth day of the following month.

Consequently, it can be said that the Act is of a declarative nature, and that it does not pursue an approach in which the entire public sector is a subject of fiscal policy. Another drawback in this field is the fact that the consequences of implemented government programmes find no reflection in subsequent budgets. Financial charges resulting from these programmes are not the sums making the budget more rigid, and their implementation usually depends on the amount of available funds. In other words, these programmes are launched conditionally, i.e. when necessary funds are found.

Summing up, we assess the state of transparency in the area of *Open Budget Preparation, Execution, and Reporting* as **good**. It must be stressed that we do it “on credit”, assuming that the provisions of the law on admissibility and overseeing of public aid will be working efficiently. Despite some imperfections associated with permanent perception of the state budget as the subject of public finance, the budget cycle in Poland is subject to clear legal regulations at each of its stages. In a longer perspective, these regulations should also bring about the way of viewing public finance with fiscal policy being oriented towards the entire public sector.

3.3.4. Independent Assurances of Integrity

The fourth area of the IMF Code is focused on:

- the status of a national audit body,
- public scrutiny over macroeconomic forecasts,
- the status of a national statistical office,
- standards securing appropriate quality of reporting and statistical data.

This area reveals one of the weakest points of Poland’s system of public finance. The Supreme Chamber of Control (Najwyższa Izba Kontroli - NIK) has been operating in Poland for more than 80 years. It verifies the activity of the central and local governments, as well as of other public organisations and institutions using both legal criteria and criteria associated with the issue of economic efficiency. NIK’s independence is constitutionally guaranteed (Chapter IX; articles 202-206). Seemingly Poland has an audit body fulfilling IMF Code requirements, since the NIK reports its findings concerning execution of the state budget to the legislature, and upon these reports the annual activities of the government are either approved or rejected.

However, the NIK is *not* an audit body in the sense of the IMF code. It is the case, first of all, because the NIK does not carry out formal audit of the accounts of the state budget, i.e. it does not verify financial operations on budgetary accounts.

It is the lack of audit, which allows for carrying out financial operations able to conceal the purpose of expenditure or even, in extreme cases, not to reveal some spending at all. Generally, it means that the Sejm receiving a report on execution of the budget is unable to assess the reliability of the submitted documents. This involves a serious threat of an abuse by the body executing the state budget and, at the same time, causes a situation in which the legislature makes a decision on giving (or not giving) the vote of acceptance to the government upon unreliable data.

In the case of the Central Statistical Office (Główny Urząd Statystyczny - GUS) there is full conformity with the requirements included in the IMF Code. It is due to the fact that the Office is statutorily independent (under the law on official statistics), and that a programme of statistical research is presented on an annual basis in an official document. This document also sets out detailed requirements for public entities how to collect and process the statistical data. Statistical methods applied by the GUS are consistent with international standards, and their detailed description is subject to publishing. The GUS methodology of calculating the value of gross domestic product provided for by the law, by the way not very clear for the public at large, also conforms with standards defined by the UN in *The United Nations Fundamental Principles of Official Statistics*¹⁵.

Public scrutiny over macroeconomic forecasts presented by the government is the final issue to be dealt with here. These forecasts are of major significance for drafting annual budgets and their reliability is a condition for an appropriate implementation of the budget. While in the previous cases one could unequivocally evaluate the state of transparency in the two analysed sub-areas, in this case it is rather impossible.

Let us start with the positive aspects. The Ministry of Finance arranges, on an annual basis, a conference at which it presents macroeconomic assumptions adopted for preparing the budget. Representatives of independent research institutions take part in the conference, at the same time presenting their projections.

These are, however, the only positive aspects. There are also many negative ones. First, the instruments applied by the Ministry of Finance for the analysis are not presented to the public. Second, there is no formal regulation which would order carrying out the mentioned conferences and, by the same token, taking into account the forecasts presented there by independent centres. Lack of precise legal regulations is the main weak point in this case.

Summing up the above remarks, the state of transparency in the area of *independent assurances of integrity* can be assessed as **average**. On the one hand, this is due to lack of a national audit body and, on the other hand, to the organisation of public statistics being fully compatible with IMF requirements. Finally, public scrutiny over forecasts cannot be assessed unequivocally, which additionally justifies giving that mark.

3.3.5. Participation

The issue of participation, so strongly emphasised by IDASA, is also important in the case of Poland, but in a somewhat different meaning. In South Africa the legislature has only limited possibilities of influencing government decisions in the course of the

¹⁵ For the full text adopted by the Statistical Commission at a special session held on 11-14 April 1994 in New York see the UN website: <http://www.un.org/Depts/unsd/statcom/1994docs/e1994.htm>.

budgeting process. First, the budget debate takes only two weeks. Second, Parliament is not entitled to introduce any changes to the budget – it can only either approve or reject it in its shape proposed by the government. Furthermore, Parliament has no research office of its own, which would allow it to prepare independent assessments of government's proposals. In the case of Poland the situation is totally different. Parliament may introduce changes to the budget with only one reservation - the deficit limit in the given budget year must not be increased. Public debate over the budget may take almost five months, which gives the legislature time for learning the analyses prepared by its own research office or by independent experts. In this context, the scope for civil society participation in the budgetary process is significantly larger.

However, the issue of civil society participation is also very important, although it concentrates on a different issue. As has been already mentioned, in the upcoming years Poland will be still undergoing the process of modernisation. It will be probably very costly for some social groups, especially those living on agriculture and heavy industry. In other sectors of the economy the adjustment process associated with implementation of European Union can also cause temporary problems. The threats mentioned here require extensive consultations involving the government and the society in order not only to improve the government's policy, but also to increase the degree of understanding of the challenges facing Poland. Without a public debate on restructuring and joining the European Union social acceptance for these objectives may not be obtained, which may result in resignation from implementation of these priorities and, in a long run, may lead to economic stagnation.

Hence, it turns out that the problem of social in public debate concerning fiscal policy challenges in the coming period is of considerable significance. The quality of this debate may determine the pace of implementation of fiscal policy priorities, this way setting a major area of government activities in the next couple of years.

4. Conclusions and Recommendations

Summing up the picture of transparency of the Polish system of public finance it can be concluded that the overall assessment ranges between “average” and “good“. It is the effect of two “good” marks in the fields of: *clarity of roles and responsibilities* and *open budget preparation, execution and reporting*, as well as two “average” marks in the fields of: *public availability of information* and *independent assurances of integrity*.

Lack of an independent audit institution seems to be the major shortcoming of the Polish system of public finance in the context of openness and transparency. Such an institution has already been proposed in the *Draft Law on Public Finance* prepared in 1998 by Zyta Gilowska, Andrzej Mierzwa and Wojciecha Misiąg¹⁶. Restrictions

¹⁶ Z. Gilowska, A. Mierzwa, W. Misiąg, *Projekt ustawy o finansach publicznych*, IBnGR, Warszawa 1998, report commissioned by the Ministry of Finance, available at the

imposed on access to information by public entities are another deficiency, not involved directly with the shape of the legal system in the field of public finance, but rather with practical aspects of its operation. The drawbacks mentioned here should set potential directions for upgrading the existing system.

Nevertheless, a vast majority of minimum requirements set by the IMF Code are, at least partly, fulfilled, which should be seen as a success on the way towards building a transparent system of public finance in Poland. The progress that has been achieved in this field over the last ten years indicates that a further improvement of the state of transparency can be expected soon. However, further changes are necessary. Over the recent years the Gdańsk Institute for Market Economics commented on that issue on many occasions, not only pointing out the drawbacks and deficiencies of the present system, but also formulating practical recommendations as to necessary legislative changes.

It seems that the problem of transparency is so important that it deserves permanent monitoring of progress in this field. It is a contribution to further studies of this problem and, possibly, to future research.

Appendix: Code of Good Practices on Fiscal Transparency - Declaration on Principles

I. Clarity of Roles and Responsibilities

1.1 The government sector should be clearly distinguished from the rest of the economy, and policy and management roles within government should be well defined.

1.1.1 The boundary between the government sector and the rest of the economy should be clearly defined and widely understood. The government sector should correspond to the general government, which comprises the central government and lower levels of government, including extrabudgetary operations.

1.1.2 Government involvement in the rest of the economy (e.g., through regulation and equity ownership) should be conducted in an open and public manner on the basis of clear rules and procedures, which are applied in a nondiscriminatory way.

1.1.3 The allocation of responsibilities between different levels of government, and between the executive branch, the legislative branch, and the judiciary, should be clearly defined.

1.1.4 Clear mechanisms for the coordination and management of budgetary and extrabudgetary activities should be established, and well-defined arrangements vis-à-vis other government entities (e.g., the central bank, and state-controlled financial and nonfinancial enterprises) should be specified.

1.2 There should be a clear legal and administrative framework for fiscal management.

1.2.1 Fiscal management should be governed by comprehensive laws and administrative rules applying to budgetary and extrabudgetary activities. Any commitment or expenditure of government funds should have a legal authority.

1.2.2 Taxes, duties, fees, and charges should have an explicit legal basis. Tax laws and regulations should be easily accessible and understandable, and clear criteria should guide any administrative discretion in their application.

1.2.3 Ethical standards of behaviour for public servants should be clear and well

publicized.

II. Public Availability of Information

2.1 The public should be provided with full information on the past, current, and projected fiscal activity of government.

2.1.1 The annual budget should cover all central government operations in detail and should also provide information on central government extrabudgetary operations. In addition, sufficient information should be provided on the revenue and expenditure of lower levels of government to allow a consolidated financial position for the general government should be presented.

2.1.2 Information comparable to that in the annual budget should be provided for the outturns of the two preceding fiscal years, together with forecasts of key budget aggregates for the two years following the budget.

2.1.3 Statements should be published with the annual budget giving a description of the nature and fiscal significance of contingent liabilities, tax expenditures, and quasi-fiscal activities.

2.1.4 The central government should regularly publish information on the level and composition of its debt and financial assets.

2.2 A public commitment should be made to the timely publication of fiscal information.

2.2.1 Specific commitments should be made to the publication of fiscal information (e.g., in a budget law).

2.2.2 Advance release date calendars for fiscal reporting to the public should be announced.

III. Open Budget Preparation, Execution, and Reporting

3.1 Budget documentation should specify fiscal policy objectives, the macroeconomic framework, the policy basis for the budget, and identifiable major fiscal risks.

3.1.1 A statement of fiscal policy objectives and an assessment of sustainable fiscal policy should provide the framework for the annual budget.

3.1.2 Any fiscal rules that have been adopted (e.g., a balanced budget requirement and borrowing limits for lower levels of government) should be clearly specified.

3.1.3 The annual budget should be presented within a comprehensive and consistent quantitative macroeconomic framework, and the economic assumptions and key parameters (e.g., effective tax rates) underlying budget estimates should be provided.

3.1.4 Existing commitments should be distinguished from new policies included in the annual budget.

3.1.5 Major risks to the annual budget should be identified and quantified where possible, including variations in economic assumptions and the uncertain costs of specific expenditure commitments (e.g., financial restructuring).

3.2 Budget estimates should be classified and presented in a way that facilitates policy analysis and promotes accountability.

3.2.1 Government transactions should be on a gross basis, distinguishing revenue, expenditure, and financing, and classifying expenditures on an economic and functional basis. In addition, expenditure should be classified by administrative category. Data on extrabudgetary operations should be similarly classified. Budget data should be presented in a way that allows international comparisons.

3.2.2 A statement of objectives to be achieved by major budget programs (e.g., improvement in relevant social indicators) should be provided.

3.2.3 The overall balance of the general government should be a standard summary indicator of the government's financial position. It should be supplemented by other fiscal indicators (e.g., operational balance, structural balance, and primary balance) when economic circumstances make it inappropriate to base judgements about fiscal policy stance on the overall deficit alone.

3.2.4 The annual budget and final accounts should include a statement of the accounting basis (i.e., cash or accrual) and standards used in the preparation and presentation of budget data.

3.3 Procedures for the execution and monitoring of approved expenditures should be clearly specified.

3.3.1 A comprehensive, integrated accounting system should be established. It should provide a reliable basis for assessing payments arrears.

3.3.2 Procedures for procurement and employment should be standardized and accessible to all interested parties.

3.3.3 Budget execution should be internally audited, and audit procedures should be open to review.

3.4 Fiscal reporting should be timely, comprehensive, and reliable, and should identify deviations from the budget.

3.4.1 During the year, there should be regular, timely reporting of budget and extrabudgetary outturns, which should be compared with original estimates. In the absence of detailed information on lower levels of government, available indicators of their financial position (e.g., bank borrowing and bond issues) should be provided.

3.4.2 Timely, comprehensive, and audited final accounts of budget operations, together with full information on extrabudgetary accounts, should be presented to the legislature.

3.4.3 Results achieved relative to the objectives of major budget programs should be reported to the legislature.

IV. Independent Assurances of Integrity

4.1 The integrity of fiscal information should be subject to public and independent scrutiny.

4.1.1 A national audit body, or equivalent organization, should be appointed by the legislature, with the responsibility to provide timely reports to the legislature and public on the financial integrity of government accounts.

4.1.2 Macroeconomic forecasts (including underlying assumptions) should be available for scrutiny by independent experts.

4.1.3 The integrity of fiscal statistics should be enhanced by providing the national statistics office with institutional independence.