

# **SUPPORT FOR DEMOCRATIC AND MARKET VALUES**

## **Country Report – Poland**

**Institute for Private Enterprise and Democracy**

**SUPPORT FOR DEMOCRATIC  
AND MARKET VALUES**

**COUNTRY REPORT – POLAND**

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## **Executive summary. Country Strategy**

In 2015, Poland experienced immense political changes. The parliamentary election in October marked the end of two terms in power for the coalition of the center-right Civic Platform (PO) and Polish People's Party (PSL). A majority in both chambers of the Polish Parliament (the Sejm and Senate) was won by the socially conservative Law and Justice (PiS).

The main objective of this report is to analyze the perception of democracy in Poland, the challenges facing the development of democracy and what actions can be taken to improve the rule of law. The report is based on the results of two roundtable discussions of thought leaders, three focus group meetings with students, internet survey, and desk research conducted by the Institute for Private Enterprise and Democracy over the past several months.

The perception of how democracy functions in Poland has been undergoing constant change since 1993, with the number of disappointed citizens oscillating between 40-70 percent and the number of satisfied citizens, oscillating between 20-50 percent. The disappointed group was always in the majority, with brief exceptions in November 2007 - June 2008; September/October 2011 and March 2014 –February 2015, in which positive opinions prevailed. The negative trend in the perception of democracy strengthened in 2016. According to a survey conducted by Millward Brown for the TVN television station, conducted on 21-22 December 2016, 57% of Poles stated that the current government weakened democracy in Poland, 23% stated that the current government strengthened democracy and 20% did not have an opinion on this issue. These results confirm the division of Polish society in their opinion about the state of democracy, however, the latest results show a strengthening of negative perceptions.

The negative perception about the state of democracy in Poland was also confirmed by an internet survey conducted by IPED. According to 49.1 % of respondents, the state of democracy in Poland was rather bad, whereas 6.9% of them stated that it was very bad. At the same time, 33.3% of respondents considered the state of democracy as rather good, whereas 4.9% of them stated that it was very good. The results obtained show a clear division of opinions with the significant domination of negative opinions. This reflects the results of the public opinion polls obtained in the last months. Strong supporters of the current government's policies represent about 1/3 of society. Nearly half of society is disappointed with government policies and 10-20% is undecided.

The negative trend in the perception of democracy in Poland is partially a response to the challenges of democracy, which are characteristic of most EU member states, such as terrorism and migration, xenophobia and populism. We can also observe challenges that are specific to Poland, such as the state capture of public media, the constitutional court crisis and threats to the independence of civil society.

The main project objective was to indicate actions that could reinforce the democratic process. During project focus group meetings and roundtable discussions, participants focused on the following issues:

#### Improving the quality of regulations

Improving the quality of the law requires introducing social dialogue and changing the current mode of adopting legislation with limited public consultation. Dialogue during the legislation process is the basis of democracy. This dialogue is missing, as the most important regulations are introduced as draft laws by the groups of parliamentarians. Good quality regulations require a well-functioning opposition, participation in parliamentary debates and critical discussions of legislative proposals. Very often, new regulations are introduced during single night sessions of Parliament. The next day they pass through the senate (upper chamber) and are signed by the president. This practice should be scaled down significantly. Business associations and NGOs can have an impact on the quality of regulations by constantly advocating the necessity of public consultation, also of draft laws, proposed by groups of parliamentarians.

The Polish Parliament adopts laws with an awareness that they will need instant amending. Deregulation and improving the quality of the law, as well as implementing better regulatory practices, have been present in Polish political life for nearly twenty years, but it has not changed the low evaluation of the regulatory framework. Vague laws provide the opportunity for multiple interpretations, which allows public administration to adopt a discretionary approach and leads to numerous misinterpretations of the law. Faulty decisions of administrative bodies resulting from the vagueness of the laws, are later annulled by administrative courts. Also, these legal discrepancies can also be exploited by corrupt individuals.

Current legislative practices do not allow social partners to have any significant influence on new legislation. Consultations with social partners must be significantly improved and given more time than is currently granted. Based on the experiences of those countries having adopted effective legislative procedures, we anticipate that it would be much more effective to consult proposed legislation during the drafting stage of lawmaking.

Demands should be consistently made for a more inclusive mode of preparing legislation that includes the participation of NGOs and social partners. Improving the quality of legislation, especially by improving the consultation process, is important for solving the challenges facing democracy in Poland. Public consultations could limit the number of low quality regulations, like the new regulations governing the Constitutional Court or changes in the public media. These regulations were simply not publicly consulted and no estimation was made of their negative impact.

#### The education of society

The education of society should focus on both economic and civic education. In our opinion, the main problem is the level of economic education of a significant part of Polish society, who do not see the inconsistency between high social spending and future economic growth as well as the creation of new jobs. The economic education of society may be a very difficult process. Publishing articles about the economy, home budgets, and financial problems at a basic level in the popular press is recommended. Convincing popular newspapers and magazines that this is necessary is crucial. The economic education of society could result in scaling down populism. Educated people better understand that additional social services and a lower retirement age require higher taxes or an

increased budget deficit, both of which in the long run would reduce economic growth and could increase unemployment. Therefore, the standard of living would be lower for the whole population.

The economic education of society should also stress the role of the state in the economy and the limits of public expenditures. It should also stress that we cannot simultaneously have large social spending and low taxes. Also, the state cannot force a budget deficit, because it will lead to an economic crisis, as experienced in Greece and Venezuela.

Another important issue is civic education. Polish society is not significantly educated about democracy and its functioning. Problems with political education were mentioned by participants of the first roundtable discussion. Therefore, it is relatively easy to convince the population that the majority that won the election have all the power, and the opposition, together with the segment of society that did not vote for PiS, do not have the right to express their view and be heard. Considering the division of Polish society presented in the report, the supporters of the ruling majority do not take into account the rights of the political opposition, who have their political identity and are represented in Parliament. The lack of a culture of dialogue and openness results in a lack of understanding of the rights of the minority, who did not vote for the governing party.

#### Work with youth

Work with youth requires introducing ideological pluralism to schools. Pluralism can be defined in a number of ways. In our opinion, pluralism means that members of diverse political, religious and social groups maintain participation in the development of their traditions and special interests while cooperatively working toward the public benefit and cooperatively participating in public life. The school system should be more oriented toward the promotion of direct intergroup contact and increased political and cultural tolerance among students. Education should include the promotion of group experiences based on working together, sharing ideas and listening. The teacher or instructor should be neutral. Students should be guided through activities and become more fully attuned to themselves and others in their group.

The importance of pluralism in working with young people was particularly emphasized during the meetings with students. As presented on page 6, the image of democracy presented in schools was overly influenced by the personal views of the teacher. More pluralism in schools would help to combat xenophobia among the younger generation. It would help also to protect minority rights and could convince young people to consider the point of view of political opponents.

#### A judiciary system based directly on the Constitution

Changes in the operation of the Constitutional Court presented in the report could result in a regulatory system that would not be in line with the Polish constitution. According to roundtable participants, one of the most important activities of business and NGOs is motivating courts to act strictly according to the Constitution of the Republic of Poland in order to avoid juridical chaos. Judges could face a situation in which Constitutional Court verdicts would be uncertain. In such a situation, they could rely directly on the Constitution, not on the verdict of the Constitutional Court. Considering the current situation, fears could arise that the Constitutional Tribunal will not be able to properly support ordinary court judges when ruling on cases concerning consistency with the Constitution. Judges should rely more on their own decisions. Such an action could scale down the negative results of the Constitutional Court crisis.

#### Actions of civil society

In response to PiS' actions relating to the Constitutional Court and public media, at the end of 2015 a group of citizens formed a new grassroots civic movement called the Committee for the Defense of Democracy (KOD). Within just a few months KOD became recognizable in Poland and other (EU) member states due to its tenacious efforts to develop democratic attitudes. It is the biggest civic movement since the "Solidarity" movement of the 1980s. KOD's objective is to unite people in a peaceful, open and non-discriminatory way, promoting attachment to democratic values and institutions.

KOD, with support from the liberal media and opposition parties, quickly organized mass protests in Warsaw and other major cities in 2016. During the roundtable discussion, participants recommended continuation of the last actions of KOD, including marches defending the Constitutional Tribunal, social campaigns against tightening the abortion law, against propaganda in public media. In the past year, the Committee has become the face of the Polish citizens' opposition. According to the TNS poll from 2016, 1.5 million Poles, equivalent to 5 percent of the population, have taken part in at least one KOD-organized event. KOD's main goal is to strengthen civil society in Poland as a civic mass movement.

Civic engagement is also supported by such actions as participatory budgets, urban movements and citizens' actions, like, e.g. the protests of the medical community and private media actions, like e.g. revealing the real estate privatization scandal in Warsaw. Local grassroots initiatives, such as participatory budgets and the urban movement, reacting to controversial decisions taken by local governments, especially play a critical role in promoting democratic processes on the local level and raising the interest of citizens. Citizens' activism visible in urban movements and participatory budget initiatives provide important evidence of the institutional development of civil society in Poland, illustrating increased collaboration and the creation of umbrella structures, which could protect democracy.

#### Dialogue with EU Institutions

Strong support for democracy is also the basis of the interests of the Venice Commission, European Parliament and European Commission in the situation in Poland. The majority of Poles (52%) still do not perceive the EU as a system centralizing too much power at the expense of national administration. During the last year (from November 2015), this perception increased by 7 percentage points. EU membership is supported by 81 percent of Poles and only 10 percent are against it. This shows that EU membership may play a significant role in the support of democratic processes in Poland. EU interest in the state of democracy in Poland is beneficial for democratic processes.

# Support for democratic and market values. Country Report – Poland.

## 1. Introduction

The term democracy comes from the Greek language and means "rule by the people". In the modern world, democracy is a form of government, where a constitution guarantees basic personal and political rights, fair and free elections, and independent courts of law. Also, in our opinion, an independent court system is critical to ensure the balance of power and proper functioning of the checks and balances enshrined in the Constitution.

In 2015, Poland experienced immense political changes. The Parliamentary election in October marked the end of two terms in power for the coalition of the center-right Civic Platform (PO) and Polish People's Party (PSL). A majority in both chambers of the Polish Parliament (Sejm and Senate) was won by the socially conservative Law and Justice (PiS).<sup>1</sup> This marked the first time since Poland's transformation that a government was established without requiring a coalition. PiS, which won 235 of 460 seats, formed Poland's first single-party government since 1989 with only 37.5% of votes in the general elections vs. the 62.5% split among the opposition parties. Using this opportunity, with a minority electoral mandate, the new government immediately embarked on an ambitious plan for institutional and constitutional reforms in the judiciary, media, and educational systems, as well as in policies toward the European Union (EU).

During 2016, PiS, with a parliamentary majority and a supportive president, tightened its control over state institutions, especially over the Constitutional Court and public media. Far-reaching changes have been introduced in the judiciary, civil service<sup>2</sup>, education, additional financial support to children, and the pension system.<sup>3</sup> Changes in the electoral system in local governments were also proposed,<sup>4</sup> as well as a new division of the Warsaw metropolitan area, which could change the support to the Civic Platform party ruling in Warsaw.<sup>5</sup> All these changes resulted in strong tensions in Polish society. PiS does not have a sufficient majority to change the Constitution, however changes in the Constitutional Court, in public media and thus in the proper functioning of institutional checks

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<sup>1</sup> Law and Justice (PiS), a socially conservative, Eurosceptic and nationalist party, strongly rightwing on social issues. Its economic approach can be described as leftist. It emphasizes the need to tackle inequality and propagates strong welfare policies. It introduced universal monthly cash payments equivalent to \$ 130 for all parents who have more than one child towards the upkeep of each subsequent child until he or she reaches age 18.

<sup>2</sup> PiS changed the law on the recruitment of senior civil servants, lifting the ban on political party membership and terminating the contracts of all senior officials within 30 days.

<sup>3</sup> The government lowered the retirement age to 65 years for men and 60 for women.

<sup>4</sup> PiS proposed changes to the electoral system for local government, prohibiting popular politicians to stand in local elections for more than two terms.

<sup>5</sup> PiS proposed to include municipalities the Warsaw metropolitan area that strongly supported their party.



and balances pose a challenge to liberal democracy, which was functioning in Poland during the last 20 years, since the adoption of the Constitution of 1997. The main objective of this report is to analyze the perception of democracy in Poland, the challenges facing the development of democracy and what actions can be taken to improve the rule of law.

## **2. Methodology**

The report, prepared by the Institute for Private Enterprise and Democracy and sponsored by the Center for International Private Enterprises (Washington D.C.), is based on the results of two roundtable discussions, three focus group meetings with students, an internet survey and desk research. Two roundtable discussions with economic experts, entrepreneurs, representatives of NGOs, business associations and business leaders were organized on October 18 and February 10 on the premises of the Polish Chamber of Commerce in Warsaw. The first meeting brought together 16 participants. The discussion was divided into 3 main blocks: 1/ what is the trajectory of Polish democracy. What is the possible impact on citizens 2/ what is the future of economic development in Poland. What will happen if the government enforces its economic promises, made during the election; 3/ what can we do, as a business community to scale down negative trends. The second meeting, which totaled 20 participants, was focused on a presentation of a draft report entitled *Support for democratic and market values* and a discussion of the possible solutions and improvements.

Three focus group meetings with local students were conducted on November 10 in Sopot and on December 14-15 in Warsaw. The focus group meeting in Sopot gathered 9 economics students; the focus group in Warsaw at the School of Journalism gathered 14 students and the focus group at the University of Warsaw gathered 8 students. The questions discussed during those meetings included students' interest in public life, opinions on Poland's democratic trajectory, their opinions about elections, public media, equal treatment of citizens, quality of services and regulations, the functioning of regulatory institutions, the EU, the development of civil society and the functioning of the labor market. A significant part of the discussion was devoted to possible actions, which could improve democratic development in Poland.<sup>6</sup>

The internet survey was conducted by the Institute for Private Enterprise and Democracy in the autumn of 2016. The research questionnaire included questions about the state of democracy in Poland and neighboring countries, as well as about possible actions supporting democratic processes. We received 109 responses. Research participants were mainly people aged 40 to 59 (44.1%), 25 to 39 (25.5%), with higher education (88.1%), from large cities above 100,000 inhabitants (54.5%) and medium-sized cities of 30,000 – 100,000 inhabitants (24.8%); employed in the private sector (32%) and entrepreneurs (28.2%), as well as those employed in NGOs (16.5%). The survey allowed us to examine Poland's democratic trajectory, as well as perceptions of the main characteristics of democracy, such as media, the judiciary system, the election system, and the quality of regulations.

Desk research was focused on the available public opinion polls, which contained information about the perception of democracy and the superiority of democracy to other systems. We also analyzed data on the main challenges to democratic processes, such as migration, terrorism and populism in Poland and the EU. An important source of information was an analysis of the regulations introduced during 2015 and 2016, especially those relating to public media, the Constitutional Court, civil

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<sup>6</sup> Focus group questions are presented in the Appendix.

service, judiciary system and pension system. We also used strategic documents, e.g. *Strategy of Responsible Growth*, published by the Ministry of Development. All mentioned sources allowed us to present the country report, which definitely is not to be understood as a comprehensive monograph on the state of Polish democracy, but which presents the main challenges facing Poland today and in the coming years.

### **3. Perception of Democracy in Poland**

The perception of how democracy functions in Poland has been changing constantly since 1993, with the number of disappointed citizens oscillating between 40-70 percent and the number of satisfied citizens, oscillating between 20-50 percent. The disappointed group was always in the majority, with brief exceptions in November 2007 - June 2008; September/October 2011 and March 2014 – February 2015, in which positive opinions prevailed.<sup>7</sup> Besides the perception of how democracy functions, another important factor was the number of Poles convinced of the superiority of democracy to other systems of government. The number of persons convinced about the superiority of democracy has always been very high, between 60-70 percent in 1993-2013, with the number of those disagreeing oscillating between 10-20 percent.<sup>8</sup> However, during the last 25 years, a significant part of our society has been disappointed with democracy. According to a survey conducted by SW Research, a positive opinion about the state of democracy in Poland was expressed by 51% of participants, while 47%<sup>9</sup> were disappointed with the way democracy functioned in our country.

The most positive opinion about the state of democracy in Poland was expressed during a public opinion poll in March 2014.<sup>10</sup> Since March 2014, the number of those disappointed in how democracy is functioning in Poland has been constantly growing. In January 2016, 50 percent of respondents were disappointed with the functioning of democracy and 40 percent were satisfied.<sup>11</sup> This negative trend strengthened in 2016. According to a survey conducted by Millward Brown for the TVN television station conducted on 21-22 December 2016, 57% of Poles stated that the current government weakened democracy in Poland, 23% stated that the current government strengthened democracy, and 20% did not have an opinion on this issue.<sup>12</sup> These results confirm the division of Polish society in their opinions about the state of democracy, however the latest results show a strengthening of negative perceptions.

The negative perception about the state of democracy in Poland was also confirmed by the internet survey conducted by IPED. The results are presented below.

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<sup>7</sup> CEBOS, Komunikat z badan, luty 2016, p. 9.

<sup>8</sup> CEBOS, Komunikat z badan, wrzesień 2013, p. 1.

<sup>9</sup> Survey conducted on 24.05-3.06.2013 in Poland with 1618 participants (the positive opinion combined the opinions of very good 2%; good 14%; rather good 35%. Negative opinions combined the opinions of bad 31%; very bad 16%. 2% of participants did not have an opinion.

<sup>10</sup> CEBOS, Komunikat z badan, luty 2016, p.9. In March 2014, the number of persons disappointed with the functioning of democracy in Poland reached 40% and the number of satisfied – 50%.

<sup>11</sup> <sup>11</sup> CEBOS, Komunikat z badan, luty 2016, p. 9.

<sup>12</sup> Millward Brown survey for TNV 24 conducted on 2016 participants.

**Opinion on the state of democracy in Poland**

Rather good	33.3%
Neither good nor bad	17.6%
Rather bad	49.1%

Source: IPED

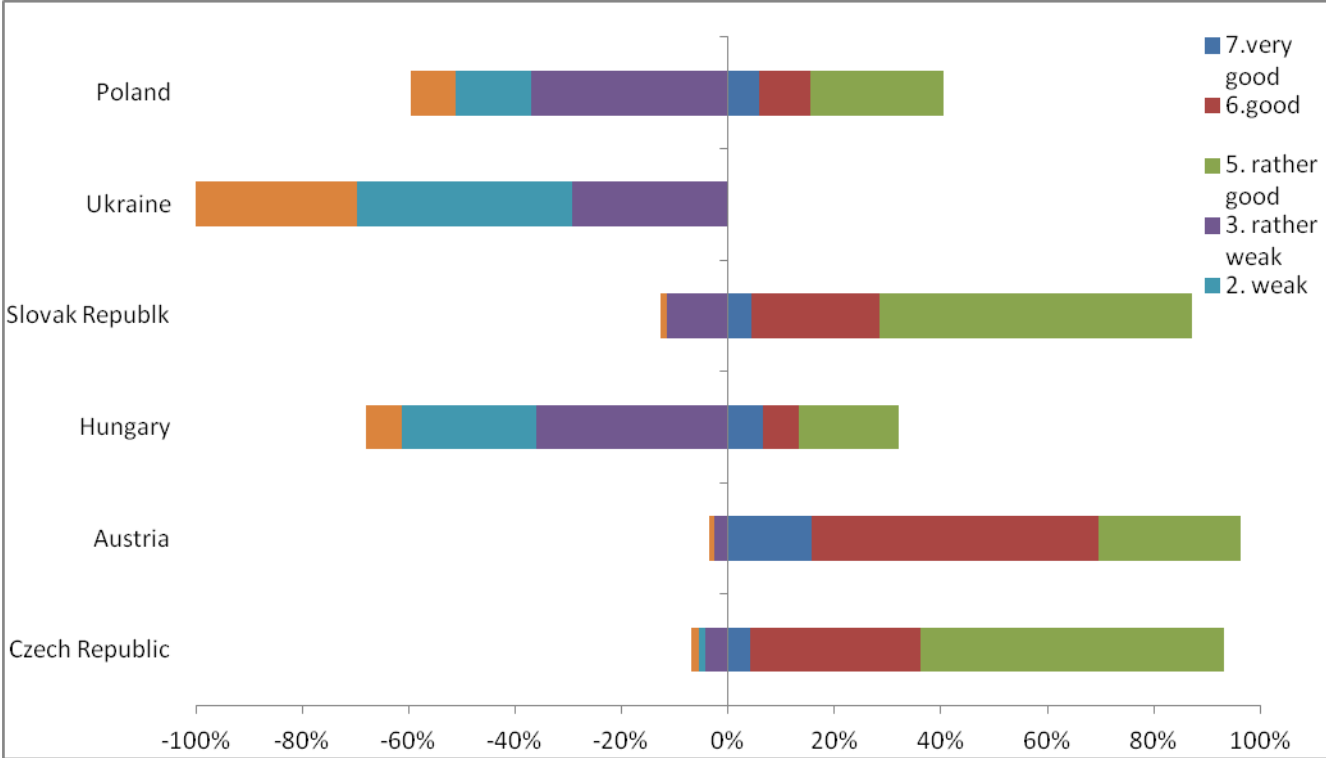
According to survey respondents, the state of democracy in Poland was rather bad, whereas 6.9% of them stated that it was very bad. At the same time, 33.3% of respondents considered the state of democracy as rather good, whereas 4.9% of them stated that it was very good. The results obtained show a clear division of opinions with the significant domination of negative opinions. Divided opinions on the state of democracy are visible even among the research respondents, i.e. people with higher education and mainly city inhabitants. This reflects the results of the public opinion polls obtained in the last months. Strong supporters of current government policies represent about 1/3 of society. Nearly half of society is disappointed with government policies and 10-20% is undecided. The problem is mostly due to the Polish election law, which allows a political party that did not obtain a majority of votes to come to power. The electoral law is in conflict with the proportional election rule governing the lower chamber of Parliament, written expressly in the constitution, and we foresee that this situation will create serious future problems with the proper representation of the political preferences of Polish society. At present, nearly no one is aware of this. Using this tenuous situation, the ruling party forces political decisions which are not in line with the expectations of the majority of the voters, which leads to constant stalemates.

The state of Polish democracy was also discussed with young people during 3 focus groups. Participants of the focus group in Warsaw (22 persons) think that the current situation is dangerous for the democratic process. Participants of the focus group in Sopot (9 persons) think that the state of democracy in Poland is neither worse nor better than in other countries. Those who do not see any threats think that in comparison to other EU countries, our situation is better. According to that group, “the people are better protected. Our authorities do not let in immigrants representing other cultures and religions and therefore the people are safer. The risk of terrorist attacks is definitely lower. The situation in Germany, France or Switzerland, where the influx of Muslim immigrants is bigger, is much worse.” In Poland, people are uncertain about the external situation, though the internal situation is stable. Young people, who do not notice any threats to the democratic processes, think that the favorable situation in Poland is an effect of lower pressure to be politically correct, which limits the scope of discussions in the EU or USA. The ruling party is the one that has won the election. The students of economics especially emphasized that they do not see any costs of the current situation. However, the same group mentioned that their retirement allowance would be very low, which shows that their opinion about the costs was not consistent. Students probably focus mostly on short term costs.

**4. Polish Democracy in Comparison to Central and Eastern European Countries**

The internet survey also asked about the state of democracy in neighboring countries. The results are shown in the chart below.

**The comparison of the state of democracy in Poland and neighboring countries**



Source: IPED

Respondents evaluated the state of democracy in Poland’s southern neighboring countries and in Austria. Mostly positive opinions were expressed about the state of democracy in Austria (82.2% positive opinions and only 3.1% negative opinions), and also about the Czech (69.1% positive opinions and 5.1% negative opinions) and Slovak Republics (62.9% positive opinions and 9.2% negative opinions). The state of democracy in Poland (33.3% positive opinions and 49.1% negative opinions) and Hungary (53.1% negative opinions and 25% positive opinions) was evaluated as significantly worse. The worst opinions were given in regard to Ukrainian democracy (91.7% negative opinions, 0% positive opinions).

**5. Main Challenges to Democracy**

The negative trend in the perception of democracy in Poland is partially a response to the challenges of democracy, which are characteristic of most EU member states, like terrorism and migration, xenophobia and populism. We can also observe challenges specific to Poland, such as the state capture of public media, the Constitutional Court crisis and threats to the independence of civil society.

**a. Migration, terrorism and xenophobia**

These challenges are clearly visible on the basis of the November 2016 Eurobarometer poll, in which migration remains the most important concern in 26 EU member states (up from 20 in the spring of 2016), reaching its highest scores in Estonia (70%), Hungary (65%) and Malta (65%). It is also the most important issue for Poland, however, of significantly lower concern (50% - 14<sup>th</sup> place in the

EU).<sup>13</sup> Terrorism is an important issue for nearly 1/3 of EU citizens. It was mentioned in second place in 21 EU countries, including the Czech Republic (47%), Malta (45%), Latvia (45%), Lithuania (44%) and Poland (43% - 5<sup>th</sup> place in the ranking).<sup>14</sup> However, it is important to mention that both issues have lost ground since spring 2016. At a 45% average, immigration has lost a further three percentage points following a ten-point decrease between autumn 2015 and spring 2016. Mentioned by close to a third of EU citizens, terrorism has lost seven percentage points since spring 2016, after a sharp 14-point rise registered between autumn 2015 and spring 2016.<sup>15</sup> Both issues – migration and terrorism – peaked in autumn and spring, during the main waves of migration and terrorist attacks in Paris.

Migration, terrorism and xenophobia are strongly related issues in Poland. Polish society's opposition to migration from the Middle East is related to the threat of terrorist attacks from Muslim migrants. Poland has significant migration from Ukraine, but very low migration from Africa and the Middle East. Very low migration from Muslim countries explains the lower position of this issue in comparison to other EU countries. Migrants in Poland are mostly Ukrainians, who are not associated with terrorist attacks. Until 2015, the majority of Poles accepted migrants from countries in conflict zones.<sup>16</sup> In 2015, in relation to the terrorist attacks in western Europe, we could observe a growing number of Poles who opposed migrants, especially those from Muslim countries. Although Poland did not join Hungary and Slovakia in the December 2015 lawsuit at the European Court of Justice against the EU plan to relocate 120 000 refugees throughout the bloc under a mandatory quota scheme, the anti-refugee campaign was especially visible in the public media. A ruling party leader claimed that refugees were bringing "various parasites and protozoa" to Europe, including dysentery and cholera.<sup>17</sup> After the March 2016 terrorist attacks in Brussels, the new Prime Minister, Beata Szydło, announced that Poland would not accept any refugees under the plan. In May 2016, the ruling party leader, Jarosław Kaczyński, made it clear that Poland will not be accepting a single refugee "because there is no mechanism that would ensure safety".<sup>18</sup> Growing fears of terrorist attacks combined with an anti-migration campaign resulted in declining support for asylum seekers from Muslim countries. In April 2016, only 33% of Poles accepted migration from countries in the conflict zones.<sup>19</sup> Growing xenophobia is also visible among young people. The focus group meeting conducted in Sopot on November 5, 2016 showed that students (of business) strongly support the policy of protecting Poland against migration from Muslim countries.<sup>20</sup> Two other focus group meetings, conducted in Warsaw on December 14 and 15, 2016 with students of journalism and foreign affairs, confirmed that xenophobic attitudes, although not characteristic of the participants, could be observed among their colleagues. Growing xenophobia provides citizens a misleading sense of security, but simultaneously, threatens democratic values.

Xenophobia poses a challenge to the education system in Poland. Participants of the focus groups confirmed a lack of pluralism in school, including during civic education classes. The image of democracy presented in schools was overly influenced by the personal views of the teacher. A culture of dialogue and openness to other cultures is still missing in schools. Patriotism is perceived superficially as fighting for the homeland and promoting catchy slogans. School systems provide

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<sup>13</sup> Eurobarometer, Autumn 2016, p. 6.

<sup>14</sup> Eurobarometer, Autumn 2016, p. 6.

<sup>15</sup> Eurobarometer, Autumn 2016, p.4.

<sup>16</sup> According to a CBOS survey in September 2015 - 56% of Poles accepted migrants from conflict countries.

<sup>17</sup> Gazeta Wyborcza, 13.10.2015.

<sup>18</sup> Independent, May 9, 2016.

<sup>19</sup> CBOS survey, Komunikat z badan no. 69 2016.

<sup>20</sup> Focus group meeting with 9 students of Department of Economy of Gdansk University, November 10, 2016.

basic information about institutions, but not about the practical operation of democracy. Not enough time is ensured to instill attitudes of citizenship. On the basis of the knowledge gained in school, it seems that citizenship is viewed as being limited to voting and paying taxes. School programs on democracy and citizenship should be extended. Also, the active and skillful conceptualization, analysis and evaluation of information gathered from observations, experiences, reflection, reasoning, or communication should be included in the educational process in the form of critical thinking.

Poland remains an ethnically homogeneous country. Over 96 percent of Poles declared their nationality as Polish. Despite this, growing xenophobia resulted in violence towards representatives of ethnic minorities. A lack of pluralism in school results in growing confidence that Poles are superior to other groups. In September 2016, the number of xenophobic attacks in Poland rose to dozens per week from the formerly recorded dozens per month, according to the anti-fascist organization "Nigdy Wiecej" ("Never Again").<sup>21</sup> Xenophobic riots erupted in Poland on December 31, 2016, after a Pole was allegedly killed by men of Arab descent. City authorities in Elk, in northeast Poland, requested extra police forces to be dispatched to secure public order after mass disturbances rocked its streets on January 1, 2017. A few hundred local residents gathered in front of the Prince Kebab diner to light candles in a vigil for 21-year-old Daniel, a local resident, who was stabbed to death in a brawl involving the foreign employees of the diner. It was feared that the incident in Elk could set off a wave of similar attacks against foreign businesses. At the beginning of January, vandals daubed anti-Muslim graffiti on a Superkebab shop in the city of Lublin, which is owned by Indian citizens.<sup>22</sup> A growing number of attacks on representatives of different cultures shows the lack of tolerance, which is a critical value in a democratic society.

### **b. Populism**

Growing populism is also a significant challenge for the whole EU. The number of voters, willing to support the parties like the National Front in France, Five Star Movement in Italy, Pongemos in Spain, Freedom Party of Austria, Party for Freedom in the Netherlands or AfD in Germany is constantly growing. In Poland, populism brought the Law and Justice to power. People voted for the ruling party after a campaign in which the winning party promised 500 PLN for every child; a return to the previous retirement age (60 years for women and 65 for men); free pharmaceuticals for seniors 75 +; assistance to persons, who took out bank loans in Swiss francs;<sup>23</sup> very costly promises, which could ruin the state budget.<sup>24</sup> Growing populism was one of the main issues discussed by IPED's staff with economic experts, NGOs and academicians during the roundtable discussion on October 18, 2016.

Growing populism poses a big risk for the economy. Significant costs suggested as the main elements of the Law and Justice program, like the 500 PLN for a second child per month and reduction of the retirement age, create the need to increase taxes. The participants expect further growth in taxes and other costs for SME's, aimed at collecting funds for the flagship social projects. Simultaneously, trying to reduce the informal market, the government is introducing new solutions which are expensive for the businesses, e.g. uniform control file and increased administrative costs from the

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<sup>21</sup> Warsaw Voice, September 19, 2016.

<sup>22</sup> <https://www.rt.com/news/372463-polish-kebab-killing-riot/>.

<sup>23</sup> Significant part of bank mortgage credits in Poland were taken in Swiss francs. In 2015, these persons were in trouble, as the Swiss franc exchange rate increase significantly.

<sup>24</sup> Part of the promises, e.g. 500 PLN, not for every child but from the second one on, selected drugs for seniors and a return to previous retirement age were introduced in 2016.

beginning of 2017. Increasing the costs of running businesses may restrict operation and development of SME's.

Representatives of big businesses are also afraid of growing taxes and administrative fees. This group of businesses may be considered by the authorities as a source of financing to fulfill their election promises. It is not true that big businesses are in a better situation. There are many regulations governing big businesses, but not SMEs, e.g. the law on cross-border transactions affects only big businesses and they may experience unfavorable changes. This may result in transferring the increased costs of running a business on customers by increasing the prices of products or services or limiting employment expenses.

The representatives of both big and small businesses pointed out the possibility of moving their businesses to neighboring countries or to the United Kingdom, where businessmen are treated better and the costs of running a business are lower than in Poland. In spite of the announced positive changes for the business sector,<sup>25</sup> one may expect further barriers for the operation of SMEs. One of the first signs of this is a prohibitive fee for an official interpretation of fiscal law.<sup>26</sup> The participants are afraid that buying society's support may continue, though it seems that the peak support is rather over and a maximum level in this area has been reached.

According to the students participating in the focus group meetings, the results of growing populism will be visible in a few years, e.g. in the future pension scheme. The economics students pointed out that their future pensions may be very low, e.g. 400 PLN. The threats are growing. The current ruling majority has created a new situation by showing that at least a part of the election promises can be fulfilled. This may force other politicians to make similar promises, which will prove very costly for the Polish economy. As a result, additional state budget expenditures would be increased. Such spending would require new taxes or an increased deficit. All these measures may have a negative impact on the amount of money at the disposal of the companies. Companies could be forced to scale down investment and limit the employment.

### **c. Constitutional Court crisis**

Poland is experiencing a Constitutional Court crisis in connection with the election of new judges in an unconstitutional way by the previous Parliament, the election of too many judges by the new Parliament and the lack of acceptance of the legally elected members by the Polish president. Also, the so called "improvement of Constitutional Court regulations" and the decision not to publish court rulings, which called certain parts of the new laws unconstitutional, deepened the crisis.

The new government decided to annul the previous government's appointment of five judges to the 15-member body. Earlier, these judges were unable to assume their posts because the Law and Justice-backed president questioned the legality of their appointment and did not take their oaths of office.<sup>27</sup> Following the problems with the election of these judges, the PiS-controlled Parliament also passed eight separate pieces of legislation on the role and functioning of the Constitutional Court,

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<sup>25</sup> The Ministry of Development in Poland proposed a new „Constitution for Business”, which decreases the administrative barriers relating to business documentation.

<sup>26</sup> The Ministry of Finance imposed a high price on interpretations of fiscal regulations. Companies need this official interpretation to be sure that they are paying taxes in line with regulations.

<sup>27</sup> The President did not accept their oaths because they were nominated by the opposition party (PO).

the majority of which appear to have been designed to minimize the ability of the court to hold the government accountable, and to maximize the influence of the government's own appointees. According to the amendments, the court is to make decisions by two-thirds votes instead of a simple majority, as it was previously done, even though Article 190 (5) of the Polish Constitution only requires a majority of votes. Also, now the judges have to adjudicate cases as they arrive, and not in order of importance. As a result, PiS has changed the way the Constitutional Court operates, including the order in which cases are heard and how the chief judge is chosen. It has also put forward its own judges instead of those approved by the previous Parliament. As a result, the most serious constitutional crisis to affect the country since the collapse of communism in 1989 began almost immediately after Law and Justice took office in November 2015.

The violation of the Constitution could result in a systematic threat to the rule of law in Poland. The Constitutional Court crisis was observed by the Venice Commission, which suggested recommendations to solve the crisis.<sup>28</sup> However, only selected changes were adopted. According to the opposition, the current situation of the Constitutional Court has blocked the work of this Court, until it was represented by judges nominated by the Law and Justice Party. This practically deprives the Court of the ability to protect the country against populist autocracy.

Changes implemented by the new Polish government influenced the work of the Tribunal by means of legislative amendments. In December 2016, the term of Chairman Rzepliński, who strongly opposed the legislative actions of PiS, ended. Therefore, PiS took practical steps aimed at ensuring that the Constitutional Court Act was in accordance with the will of the current political majority. The new Chairman of the Tribunal was elected on the basis of a questionable procedure. Later, the new Chairman delegated her powers to another judge, who was elected on a legal basis that had been found unconstitutional by the Court. The Vice-President of the Constitutional Court was given mandatory leave. The election of three judges was challenged seven years after the election. All these actions are alarming in that it systematically made it impossible for the Constitutional Court to carry out the role assigned to it by the Polish Constitution, the role of guarding the Polish Constitution.

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<sup>28</sup> These recommendations were focused on changes of the new regulations, introduced by PiS, relating to the operations of the Constitutional Court. The Commission considers it necessary that Poland's Constitutional Tribunal is able to fully ensure an effective constitutional review of legislative acts. In particular the Commission recommends that Polish authorities:

- implement fully the judgments of the Constitutional Tribunal of 3 and 9 December 2015. These require that the three judges who were lawfully nominated in October 2015 by the previous government can assume their functions as judge in the Constitutional Tribunal, and that the three judges nominated by the new legislature without a valid legal basis are not to assume the post of judge without being validly elected;
- publish and implement fully the judgment of 9 March 2016 of the Constitutional Tribunal, as well as all subsequent judgments and ensure that the publication of future judgments is automatic and does not depend on any decision of the executive or legislative powers;
- ensure that any reform of the Law on the Constitutional Tribunal respects the judgments of the Constitutional Tribunal, including the judgments of 3 and 9 December 2015 and the judgment of 9 March 2016, and takes the opinion of the Venice Commission fully into account; ensure that the effectiveness of the Constitutional Tribunal as a guarantor of the Constitution is not undermined by requirements, whether separately or through their combined effect;
- ensure that the Constitutional Tribunal can review the compatibility of the new law adopted on 22 July 2016 on the Constitutional Tribunal before its entry into force and publish and implement fully the judgment of the Tribunal in that respect;
- refrain from actions and public statements which could undermine the legitimacy and efficiency of the Constitutional Tribunal.
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Participants of the roundtable discussions hosted by IPED expect that the Constitutional Court crisis will allow the government to introduce regulations that would not respect citizens' rights. The participants are concerned about the plans of further increasing the control of the Ministry of Justice over the courts, as well as the plans to implement such drastic laws as the extended confiscation law allowing the take-over of a business without a court sentence.<sup>29</sup> This poses a huge risk for running a business, because the law may be abused and understood by the authorities in a different way than in the other countries where such a law has been adopted.

The situation with the Constitutional Court also worries the young people participating in IPED's focus group meetings, who notice its threat to democracy. This group was brought up in a spirit of treating the law as the basis of all civil rights. The participants emphasized that the situation regarding the Constitutional Tribunal is complicated and changes in the field of its operation may have negative results, even though the discussion in this area was disrupted by other changes and actions. The students find it difficult to monitor all the changes regarding the Constitutional Tribunal and probably stopped following the new laws regulating its operation.<sup>30</sup>

In spite of these concerns, students are not afraid of changing the political system. They believe that as long as the current parliamentary majority do not introduce any changes to the Constitution, there is no real danger of having an autocratic system imposed in Poland. Young people participating in the focus meetings are ready to tolerate the current government as long as they do not make any Constitutional changes.

#### **d. State capture of public media**

As part of the post-communist transformation of the media, Poland has experienced the privatization of the press sector, the transformation of state radio and television into public broadcasting organizations, licensing of private broadcasters and an influx of foreign capital into the media market. Public media (public television and radio) operated under the supervision of the National Broadcasting Council (NBC) on the basis of the Regulation on the National Broadcasting system, (dated 1992<sup>31</sup>). The NBC has also a constitutional obligation to protect the freedom of speech.<sup>32</sup> In December 2015, the Polish Parliament adopted regulations allowing the government (Ministry of Treasury) to hire and fire broadcasting chiefs - a role previously in the hands of the NBC.<sup>33</sup> The new law allowed the government to immediately fire all executives of TVP and Polskie Radio broadcasters and replace them with appointees chosen by the government. The NBC lost its crucial role in supervising public media and kept only its constitutional power to "protect the freedom of speech". A few months later, in June 2016, the ruling party introduced the Law on the National Media Council.<sup>34</sup> This Council, consisting of 3 members elected by Parliament, controlled by the ruling Law

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<sup>29</sup> Proposed new law allows the confiscation of the company at the request of the prosecutor prior to a court sentence.

<sup>30</sup> Participants of the focus group mentioned that in one moment they stopped following the new regulations on the operation of the Constitutional Court.

<sup>31</sup> Ustawa z 29 grudnia 1992 o radiofonii i telewizji, z późniejszymi zmianami.

<sup>32</sup> Konstytucja RP art. 213.

<sup>33</sup> Modeled on similar regimes in other European countries, the independent commission was responsible for hiring top staff, overseeing public media and ensuring its credibility.

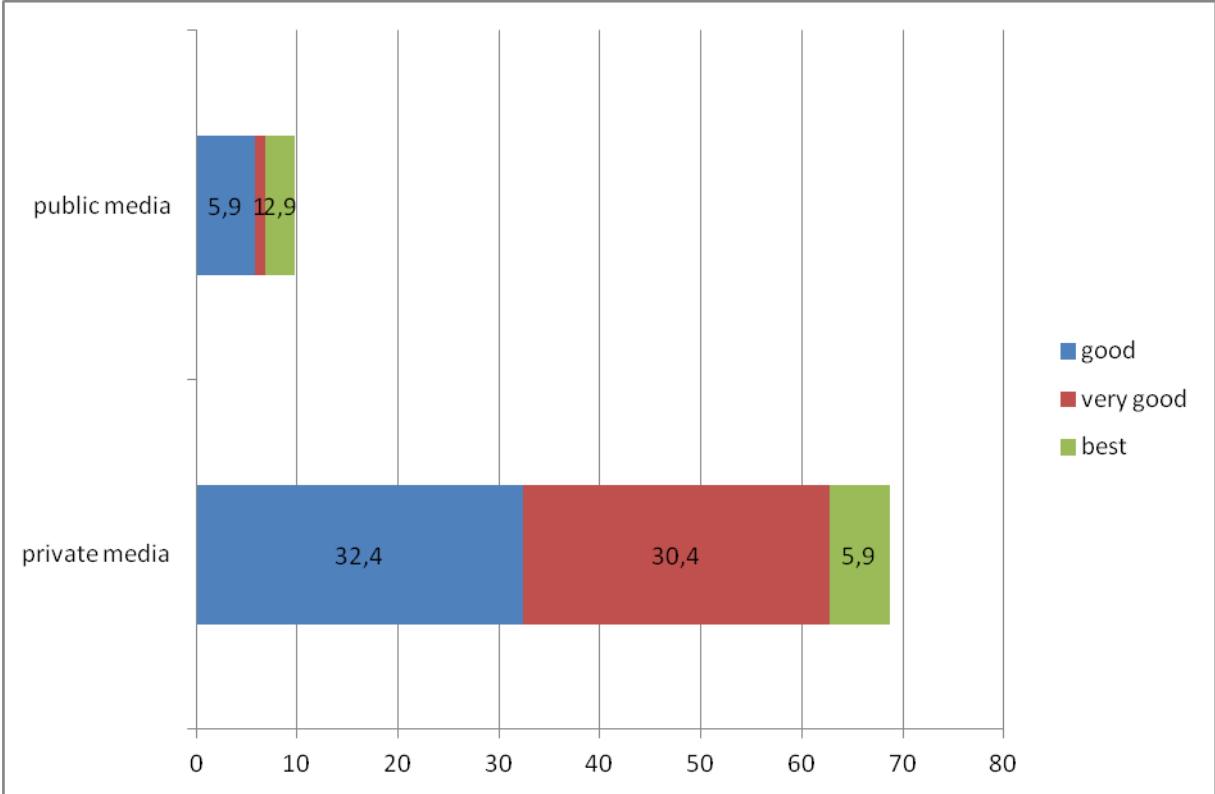
<sup>34</sup> Ustawa o Radzie mediów narodowych 22.06.2016. Dz.U. 2016 poz. 929.

and Justice party, and two representatives appointed by the President of Poland<sup>35</sup>, took control of the public media. This allowed the public media to be transformed into an organization presenting the official point of view of the Polish government. As a result, the quality of information and analyses has decreased. Internet research conducted by IPED shows that the public media are evaluated significantly lower in comparison to private media.

The chart below shows the summary of positive opinion on public and private media

**Evaluation of private and public media.**

Upper graph – private media; Lower graph – public media



Source: IPED

Public media received a 5.9 percent good opinions, 1 percent very good and 2.9 percent “best” opinion (totaling 9.8 percent positive opinions). Private media obtained respectively 32.4 percent, 30.4 and 5.9 percent (a total of 68.7 percent positive opinions). The presented chart shows that public media received very low grading from survey participants. The functioning of public media was also reported as a big concern by participants of the focus group meetings and during roundtable discussions. Youth do not like the way public media mixes clear propaganda and facts. Since it is very difficult to separate the truth from propaganda, they do not watch public television. Experts expect the further indoctrination of society by public media supporting the current authorities. However, according to the participants, Poland does not face any real risk of the authorities taking control of

<sup>35</sup> The President appoints 2 members from among the candidates nominated by the main opposition parties in the Polish Parliament.

the private media as is happening in Hungary. The private media are operating properly and ensuring access to information. However, the public media enhances division in Polish society.

Polish society is divided in their opinions about politics, a phenomenon also visible among participants of the mentioned focus groups. The participants of the meetings confirmed that they are interested in public affairs. They discuss this subject with their parents, brothers and sisters and friends. Only a few would rather listen to the others' opinions than express their own opinions. Politics are currently an important subject. Young people taking part in the meetings emphasized that discussions on public affairs divide participants. In their experience, different opinions often divide families, are the cause of emotional reactions, and the current political situation is frustrating. Some people prefer to avoid political discussions in order to avoid conflict. Some participants admitted that their perception of politics is too idealistic and apparently the conflict makes them doubt the sense of any deeper involvement. The possible results of the implemented changes are doubted as well. Public media preserves the division of Polish society instead of working on building bridges between conflicting groups. Besides, public media is the single source of information for a large part of Poland, especially in small villages and towns. With such a dependence on public media, Poles will not have access to non-biased information.

#### **e. Threats to the Development of civil society**

Poland has a strong history of grass roots movements. The Solidarity movement changed the course of history, toppling the communist regime. Polish civil society may face state control over most of its operation and funding. This may limit their operations and their positive impact on the regulatory framework and services to citizens, e.g. educational, health and social care services. In November, the Polish Prime Minister announced the introduction of a bill to create a "Civil Society Department." Acting as an arm of the government, the department would be set up to oversee and centralize the public funding of charities—or, in her words, "bring order to the whole sphere of NGOs."<sup>36</sup> One possible result will be the difficult access to funding and closure of some NGOs, especially those serving minority communities, such as those representing different political opinions, serving refugees, LGBT people, or those working on women's issues or taking a position different from that of the ruling party. The move could allow the Polish government to put pressure on NGOs who have criticized ministers or other government officials. This may result in political corruption in existing NGOs, which would not have access to sufficient funding. Public money, including money from EU funds, is the main source of money for many NGOs, so it is easy for the government to realize its aims by exerting financial pressure. NGOs may be forced to present a point of view very close to that presented by the current government or to cease operations altogether. This would weaken public debate in Poland. Total state control over NGO funding may result in a lack of access not only to EU grants but also to grants that Poland receives from other countries in Europe, such as Norway or Switzerland.

The proposed changes of the regulations are combined with a campaign in public television that portrays NGOs as acting against Polish interests. "NGOs are being framed as the enemies of Poland because we take foreign money and criticize the government,"<sup>37</sup> said Piotr Godzisz of Lambda, an NGO that monitors and records hate crimes against Poland's LGBT community. At the same time, the government stopped funding Poland's Women's Rights Centre, which provides support for victims of

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<sup>36</sup> Global Government Forum, Nov. 30, 2016.

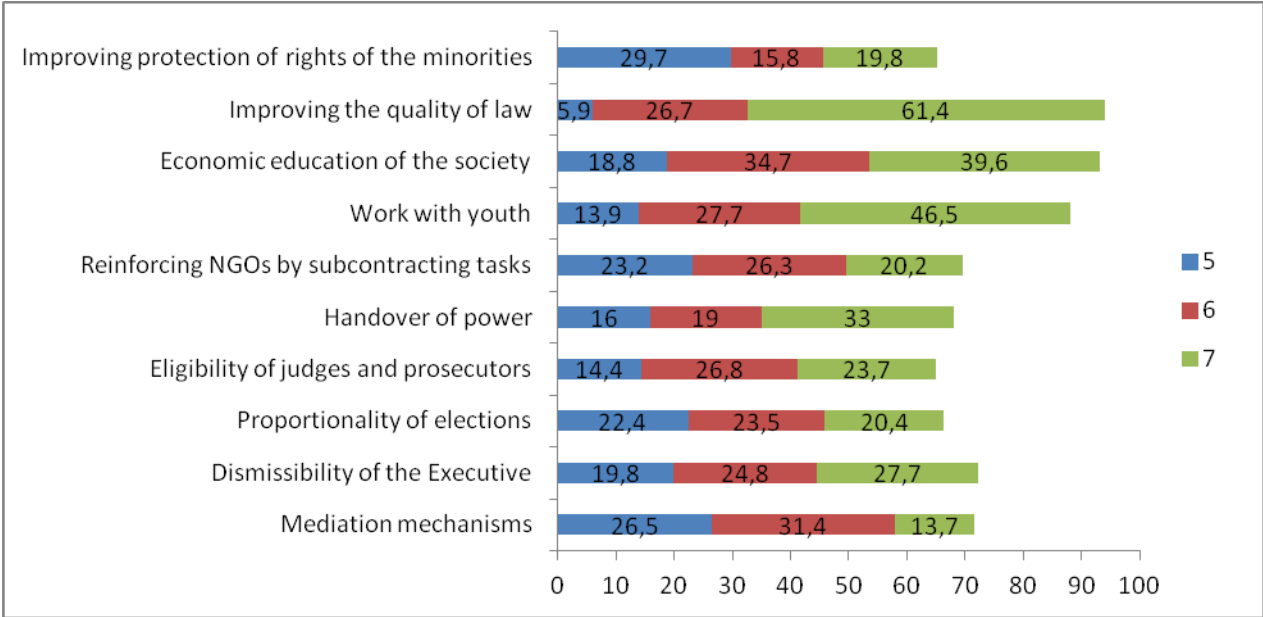
<sup>37</sup> The Guardian, November 29, 2016.

domestic abuse, arguing that it “offered help only to women”.<sup>38</sup> This situation looks very similar to the situation in Hungary or Russia, where NGOs, are treated like foreign agents. Only NGOs which support the government’s point of view are acceptable. In such a situation, public debate is practically non-existent, as only one point of view is presented to the public.

**6. Recommendations**

The participants of the internet survey, roundtables, and focus groups were asked to indicate actions that could reinforce the democratic process. The results of the Internet research, described on page 3, are shown in the chart below.

**Chart: Actions reinforcing democratic processes (the highest ranks are 7 (very good), 6 (good) and 5 (rather good) in a 7-point scale)**



Source: IPED study based on questionnaire research (figures refer to the percentage of people selecting a given score)

The participants ranked as highest actions improving the quality of law, economic education of the society and work with youth.

a. Improving the quality of regulations

Improving the quality of the law requires introducing social dialogue and changing the current mode of legislation with limited public consultation. Dialogue during the legislation process is the basis of democracy. This dialogue is missing, as the most important regulations are introduced as draft laws

<sup>38</sup> The Guardian, November 29, 2016.

by the groups of parliamentarians.<sup>39</sup> Good quality regulations require a well-functioning opposition, participation in parliamentary debates and critical discussions of legislative proposals. Very often, new regulations are introduced during single night sessions of Parliament. The next day, they pass through the Senate (upper chamber) and are signed by the president. This practice should be scaled down significantly. Business associations and NGOs can have an impact on the quality of regulations by constantly advocating the necessity of public consultations as well as the draft laws proposed by groups of parliamentarians.<sup>40</sup>

The Polish Parliament adopts laws, aware that they need instant amending. Deregulation and the improvement of the quality of laws, as well as the implementation of better regulation practices,<sup>41</sup> have been present in Polish political life for nearly twenty years, but this has not changed the low evaluation of the regulatory framework. Vague laws provide the opportunity for multiple interpretations, which allow the public administration to take a discretionary approach and leads to numerous misinterpretations of the law. Faulty decisions of the administrative bodies, which are the consequence of vague laws, are later annulled by Administrative Courts. Also, these discrepancies in the law could be exploited by corrupt individuals.

Current legislative practices do not allow social partners to have any significant influence on new legislation. Consultations with social partners require significant improvement and more time than is provided for this at present. Based on the experience of those countries which have adopted efficient legislative procedures, we anticipate that it would be much more effective to consult with the legislature during the stage of drafting laws.

A proper mode of legislation should be consistently demanded at various levels of government with the participation of NGOs and social partners.<sup>42</sup> Improving the quality of legislation, especially by improving the consultation process, is important for solving the challenges facing democracy in Poland. Public consultation could limit the scale of low quality regulations, like the new regulations on the Constitutional Court or changes in the public media.

Simultaneously, NGOs should increase their competence in participating in the legislative process. Due to a lack of funding, NGOs' capacity to assess pending legislation is limited. They need to train their own experts and strengthen their capacity through education, technical advice, an exchange of experiences, research, and access to policy advice. Part of the EU funds should be used for better NGO access to training their own experts in these fields. These programs could be oriented toward the development of the capacities of individual members, the governance of the organization, the norms and practices which rule public management as a whole, and the political, social and economic context.

The quality of the regulations also requires acting in line with a clear strategic vision for the country. The Ministry of Development elaborated a Strategy of Responsible Development and a set of regulations, which could improve the conditions for business activity in Poland. However, current legislation practices are not in line with this strategy. Also, the elaborated strategy places too strong

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<sup>39</sup> This procedure does not require public consultations. A new bill can be proposed by a group of 15 MPs and a Parliamentary Commission.

<sup>40</sup> Public consultation should be conducted according to the best practices elaborated by the Ministry of Administration in Poland in 2013, see [https://mac.gov.pl/files/7\\_zasad\\_30-04.pdf](https://mac.gov.pl/files/7_zasad_30-04.pdf).

<sup>41</sup> A set of legislative practices, especially relating to public consultations and an assessment of the impact of regulations, proposed by the EU.

<sup>42</sup> Social partners in Poland are trade unions and employers' associations.

emphasis on the role of the state, with too many decisions left to the discretion of the government. Government cannot decide which industries should develop. These decisions should be left in the hands of businesses. In our opinion, government decisions regarding business cannot be made without consultation with business associations and representatives. The participants of the roundtable meetings emphasized that the vision and strategy of the country's development should be improved and legislation should be consistent with this strategy. New legislation should be strongly related to the strategy and entrepreneurs should know what they can expect from the government. Currently businesses are not able to operate properly in such unstable and unpredictable conditions. The inability to plan any activity will strangle economic development even more than an increase in taxes. One of the participants stated that as a country and a society, we live from one great idea to another and the previous one is always erased - chaos is the one who rules. Creating vision and strategy should take place with the participation of different groups. A clear vision could help combat populism, because it could envisage the relationship between economic development and the distribution of wealth. This vision could show that economic growth requires savings and government spending on social programs cannot be continued without such savings. The strategy requires the presentation of the sources of financing of the planned investment program. Currently, there is a visible lack of consistency in public life, where some of the government officials and the official governmental strategy is oriented toward economic growth and large scale investment,<sup>43</sup> while simultaneously, large social spending is planned.

#### b. The education of society

The education of the society should be focused on both economic and civic education. In our opinion, the main problem is the level of economic education of a significant part of Polish society, which does not see the inconsistency between large social spending and future economic growth, as well as the creation of new jobs. The economic education of society may be a very difficult process. Publishing articles about the economy, home budgets, and financial problems at a basic level in the popular press is recommended. Convincing popular newspapers and magazines that this is necessary is crucial. The economic education of society may result in scaling down populism. Educated people better understand that additional social services and a lower retirement age require higher taxes or an increased budget deficit, both of which in the long run could reduce economic growth and increase unemployment. Therefore, the standard of living would be lower for the whole population.

The economic education of society was a key element of the discussion during the second roundtable in Warsaw on February 10, 2017. Economic education should begin in schools, as current lessons on entrepreneurship do not meet their objectives. According to the students participating in the abovementioned focus groups, schools do not have teachers specializing in entrepreneurship and economics, whereas these lessons generally provided by teachers treating this as an obligation, an additional and not very important issue. As a result, young people do not obtain an economic education at all. Therefore, the quality of the teachers of entrepreneurship should be improved.

The Ministry of Finance in Poland is planning to introduce the subject of economy and finance in public schools. It would broaden the current subject of entrepreneurship, enriching it with issues on banking, retirement, the tax system, and home finance. This could be a very good idea, but its impact on economic education depends on the quality of the teachers. The schools should treat the topic as one of the most important ones and hire economic experts as teachers.

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<sup>43</sup> Polish Strategy of Responsible Development foresees 1.5 billion PLN in investments in the next 5 years.

The economic education of society should also stress the role of the state in the economy and the limits of public expenditures. It should also stress that we cannot simultaneously have large social spending and low taxes. Also, the state cannot force a budget deficit, as it will lead to an economic crisis, as has occurred in Greece and Venezuela.

According to the participants of the first roundtable meeting, transparency and improved access to public information could help in the education of citizens. Detailed information, especially information on who is in charge of political actions, who took responsibility for it, could prevent the manipulative activities of the authorities. Transparency and reliable information may “open the eyes” of the average citizen. At present, there is not enough reliable information in the media about the consequences of the populist actions on the economy, the state budget and the average citizen. Such information is missing in the private media and the public media are not reliable. The opposition is not doing much to reveal the manipulation of the current authorities. The opposition parties have no counter-proposals for the Polish people. The economic sector should participate in the elaboration of the economic programs of the political parties.

Another important issue is civic education. Polish society is not significantly educated in democracy and its functioning. Therefore, it is relatively easy to convince the population that the majority which won the election have all the power, and the opposition, together with that part of society which did not vote for the ruling party do not have the right to express their views and be heard. Considering the division of Polish society presented in this report, the supporters of the ruling majority do not take into account the rights of the political opposition, who have their political identity and are represented in Parliament. The lack of a culture of dialogue and openness results in a lack of understanding for the rights of Poles, who did not vote for the governing party.

Participants of the roundtable discussion and focus group meetings confirmed that business associations and NGOs should stress the importance of political education especially in regards to the rights of the election winner. Constantly emphasizing the importance of elections, repeated by the ruling party, should be opposed, with information that the election winner is also limited by the Constitution, balance of power and democratic institutions. Democracy cannot be perceived only through the prism of elections as the authorities see it. People who did not vote or were voting for the opposition parties should have their rights too. This message should be constantly repeated.

#### c. Work with youth

Work with youth requires introducing ideological pluralism to schools. Pluralism can be defined in a number of ways. In our opinion, pluralism means that the members of diverse political, religious and social groups maintain participation in the development of their traditions and special interests while cooperatively working toward the public benefit and cooperatively participating in public life. The school system should be more oriented toward the promotion of direct intergroup contact and increased political and cultural tolerance among students. Education should include the promotion of the group experience based on working together, sharing ideas and listening. The teacher or Instructor should be neutral. Students should be guided through activities and become more fully attuned to themselves and others in their group.

The importance of pluralism in working with young people was particularly emphasized during the meetings with students. As it was presented on page 6, the image of democracy presented in schools was overly influenced by the personal views of the teacher. More pluralism in schools would help to combat xenophobia among the younger generation. It would also help to protect minority rights and could convince young people to consider the point of view of political opponents.

#### d. Judiciary system based directly on the Constitution

Changes in the system of the operations of the Constitutional Court presented in the report may result in a regulatory system which would not be in line with the Polish Constitution. According to roundtable participants, one of the most important activities of businesses and NGOs is motivating courts to act strictly according to the Constitution of the Republic of Poland in order to avoid juridical chaos. Judges may face a situation wherein Constitutional Court verdicts would be doubted.<sup>44</sup> In this situation, they could rely directly on Constitution, not on a Constitutional Court verdict. Considering the current situation, one could fear that the Constitutional Tribunal will not be able to properly support ordinary court judges while ruling on cases concerning consistency with the Constitution. Judges should rely more on their own decisions. Such an action could scale down the negative results of the Constitutional Court crisis.

#### e. Actions of civil society

Responding to PiS' actions against the Constitutional Court and public media, citizens formed a new grassroots civic movement at the end of 2015 called the Committee for the Defense of Democracy (KOD). Within just a few months, KOD became recognizable in Poland and other EU member states due to its tenacious effort to develop democratic attitudes. It is the biggest civic movement since the "Solidarity" movement of the 1980s. KOD's objective is to unite people in a peaceful, open and non-discriminatory way, promoting attachment to democratic values and institutions.

KOD, with support from the liberal media and opposition parties, quickly organized mass protests in Warsaw and other major cities in 2016. During the roundtable discussion, participants recommended continuation of the last actions of KOD, including marches defending the Constitutional Tribunal, social campaigns against tightening the abortion law, against propaganda in public media. In the past year, the Committee has become the face of Polish citizens' opposition. According to a TNS poll in 2016, 1.5 million Poles, equivalent to 5 percent of the population, have taken part in at least one KOD-organized event. KOD's main goal is to strengthen civil society in Poland as a civic mass movement.

Civic engagement is also supported by such actions as the participatory budgets<sup>45</sup>, urban movements and citizens actions, like e.g. protests of the medical community and private media actions, like e.g. revealing the real estate privatization scandal in Warsaw.<sup>46</sup> Especially local grassroots initiatives, like participatory budgets and the urban movement, acting in reaction to controversial decisions taken by local governments, play a critical role in promoting democratic processes on the local level and raising the interests of citizens.<sup>47</sup> Citizens' activism visible in urban movements and participatory

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<sup>44</sup>Currently, municipalities are withdrawing the case from the Constitutional Court, as they are not sure that all the judges have been nominated in accordance with Constitution.

<sup>45</sup>The participatory budget or civic budget is a part of the budget of mostly local authorities which is left to the discretion of citizens. With participatory budgets, citizens decide how to allocate part of the municipal budget, which gives them sense of ownership of public spending. 58 cities in Poland introduced the participatory budget in 2016.

<sup>46</sup>In 2012, the deputy director of the Bureau of Land Management in Warsaw issued a decision to return a plot in central Warsaw, worth 160 million PLN (ca 40 millions USD) to a lawyer, who had bought the claims to this property. Several weeks later, the deputy director quit his job in City Hall. The deputy director and lawyer were reportedly co-owners of a property in the southern Polish city of Zakopane. The property was allegedly re-privatized for the lawyer's sister, a business partner and head of the Regional Attorneys Council in Warsaw.

<sup>47</sup>Urban Movements decided to form a communication and exchange platform under the name of Congress of Urban Movements. Congress elaborated a set of 15 Urban theses that define the basic themes of their



budget initiatives provide important evidence of the institutional development of civil society in Poland, illustrating the increased collaboration and the establishment of umbrella structures which could protect democracy.

f. Dialogue with EU Institutions

Strong support for democracy is also the basis of the interest of the Venice Commission, European Parliament and European Commission in the situation in Poland. The majority of Poles (52%)<sup>48</sup> still do not perceive the EU as a system that is centralizing too much power at the expense of national administrations. During the last year (from November 2015), this perception increased by 7 percentage points.<sup>49</sup> EU membership is supported by 81 percent of Poles and only 10 percent are against it.<sup>50</sup> This shows that EU membership may play a significant role in support of democratic processes in Poland. The EU's interest in the state of democracy in Poland is beneficial for democratic processes.

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activities. The organization is currently in the process of registration and their activities are based on the work of volunteers.

<sup>48</sup> CEBOS Komunikat z badań nr 31.2016.

<sup>49</sup> CEBOS Komunikat z badań nr 31.2016.

<sup>50</sup> CEBOS Komunikat z badań nr 31.2016.

## **Appendix 1. Focus group questions:**

1. What is your interest in public life (current developments - economic and political challenges your country is facing)? Do you think it has any impact on your lives?

Do you discuss current developments with your friends or family?

2. What is your opinion on Poland's Democratic trajectory. How do you feel about level/quality of democracy in Poland? What are the drivers and costs/consequences? Compare Poland with neighboring countries.

3. Have you ever learned anything about democracy in school? Do you think it's important?

4. What is your opinion about (encourage participants to give specific examples – whether positive or negative - to support their views of specific areas):

Election/politicians (follow-up with questions on importance of political pluralism and political preferences of participants – who would they vote for and why, did constitutional crisis or any other events have any impact on their views)

Public media, Private media What news do you follow (traditional v social media, mainstream channels v new resources)? Has new media law changed their perception of media? Do you search for alternative sources?

Equal treatment of citizens (follow-up with questions on participants' views of socio-economic equality for all, xenophobia and acceptance of refugees)

Quality of services (education, health etc.)

Quality of regulations

Functioning of check and balance institutions, law enforcement

Development of Civic society and NGOs

Corruption/ethics in politics

Business community

EU Integration

Other?

5. What are the expected trends in policy in the near future? How will they influence young people?

6. What is the expected scenario of the labour market. What would be the challenges for people entering the labour market?

7. What are the expected trends in the economy in the near future? How will they impact young people?

Do you plan to start your own economic activity (why)? What are incentives and barriers?

8. What would inspire you to get more civically engaged (have you ever been)?

Do you plan to leave Poland?

9. What can improve the situation of young people in the area of:

Education

Functioning of the labour market

Civic society

Others?

10. What can improve the democratic development of Poland?

