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**The Problem of Access to Information and Effective  
Communication at Local Level.**

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## 1 Introduction

This study focuses on information policy of local authorities in Poland. Legal aspects, current assessment of local authorities practices and people's engagement are discussed in the context of theoretical arguments advocating the principle of openness in government. Particular emphasis is put on the role of ICT in the effective system of communication within a community. On the basis of my findings policy paper along with recommendations and strategies for improvement of information policy of local authorities was prepared<sup>1</sup>.

Local level of government appears to be one of the most important arenas of democratic consolidation of the "post-socialist" Poland. Local government is the ideal sphere where new possibilities of participation in public affairs emerged and quality of civil society can be assessed.

The paper summarises recent studies based on statistical data, online surveys, and interviews with practitioners, representatives of local authorities and journalists. It also presents analysis of questionnaire send to local authorities, results of public opinion survey and case studies of selected municipalities.

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<sup>1</sup> The research was supported by a grant funded by the Foundation Open Society Institute, Budapest - Hungary, which is greatly acknowledged. Comments and suggestions should be sent to [sakowicz@policy.hu](mailto:sakowicz@policy.hu). Policy paper "Effective Communication at Local Level" can be viewed at [www.policy.hu/~sakowicz](http://www.policy.hu/~sakowicz)

## 2 Theoretical Rationales for Openness of Government

This section highlights importance of openness and transparency for democratic governance. Transparency is usually understood to be a broader concept than openness. It is possible to picture a government that is open but not transparent in the sense that it is still hard for individuals to find out how the decisions are actually made since the decision making process is so complex. Transparency thus also includes concepts such as simplicity and comprehensibility<sup>2</sup>. Bunyan describing the term 'openness and transparency' in the context of EU notes that transparency refers to the decision making process - that it should be clear who makes decisions, when and where. Openness in turn entails the citizen's right of access to documents.<sup>3</sup>

There are many reasons for public authorities to carry out their activities in the light of public scrutiny. One fundamental reason is that activity is a matter of common interest – things that affect everyone and for whose funding all of us are jointly responsible in our capacity as taxpayers. Thanks to the right to public information we have possibility to check whether everything works as it should.

Three fundamental reasons for openness and/or transparency of government<sup>4</sup>:

First, transparency in government facilitates control of the actions and inaction of public authorities. From the perspective of the citizen or the public, control is essentially about preventing or reducing the risk of abuses of power by those we have chosen to govern us. This however requires access to information first.

A second rationale behind openness is a desire to increase the rationality, deliberateness and effectiveness of the decision making process and thus, public confidence in it. The argument is that accountable rulers, i.e. rulers that can be required to explain their actions to the public, reach better decisions<sup>5</sup>.

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<sup>2</sup> T. Larsson, How Open Can a Government Be? The Swedish Experience, in: Openness and Transparency in the European Union, Veerle Deckmyn and Ian Thomson (eds.), EIPA. Maastricht 1998, p.40

<sup>3</sup> T. Bunyan, Secrecy and Openness in the EU, Kogan Page, London 1999, p. xi

<sup>4</sup> A. Verhoeven, The right to information: a fundamental right?, Lecture at EIPA (Maastricht), May 29, 2000, [http://www.eipa-nl.com/public/public\\_publications/current-books/WorkingPapers/ConferenceProceedings/Table-of-Contents.htm](http://www.eipa-nl.com/public/public_publications/current-books/WorkingPapers/ConferenceProceedings/Table-of-Contents.htm)

<sup>5</sup> G. Majone, Evidence, arguments, and persuasion in the policy process, Yale University Press, 1989

A third rationale links more explicitly with citizenship as active participation in political affairs. This rationale leans on theories of deliberative democracy. In this view, openness in government cannot be limited to forms of parliamentary control but must include the wide range of mechanisms enabling participation of citizens in the policy process by means of effective access to the process and voice within it.

Answer to the question what kind of mechanisms are needed to build open government to a large extent depends on a form of democratic system<sup>6</sup>. In a representative government the involvement of the people has much more of reactive character and openness becomes a tool to achieve goals such as participation and control. In a democracy based on competing elites and where the general public remains largely passive, the need for openness is focused more on political parties, interest groups and media. Participatory democracy requires channels enabling people to participate in the work of government. However, in all democratic models engaging the public in policy making is not a means of diminishing the representative relationship, but of strengthening it<sup>7</sup>. A worth noting is fact that Information Communication Technologies through connecting citizens with their representatives, officials and policy makers provide new opportunities to guarantee effective systems of open governance.

Obviously, increasing openness and transparency is an important and even essential dimension of administrative reforms, especially in countries with a tradition of closed governance. However, it should be noted that transparency and openness are not unconditional or absolute rights and duties. There is also a danger that too much transparency and openness may negatively influence the governance by pushing rulers to act more 'by the book' and in ways, which avoid justified risk taking and protect governors from criticism. Furthermore investigating mass media, interest groups and individuals can help a lot to upgrade democracy by exposing corruption and fiascos. But they can also undermine the public interest if exerting disproportional influence through selective use and misuse of government information. Therefore, application of the principles of openness and transparency should be integrated into overall reforms of

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<sup>6</sup> T. Larsson, How Open a Government Be?, Ibidem, p. 41 - 42

<sup>7</sup> S.Coleman, J.Gotze, Bowling Together: Online Public Engagement in Policy Deliberation, Hansard Society 2001, p.11

public administration and tied in with overall upgrading of the quality of politics and governance<sup>8</sup>.

If we taken into account the costs of openness, the common assumption is that making the public know what really happens in the government undercuts the efficiency of the decision-making process. The example of well-rooted Swedish principle of openness along with effective work of public administration proves that it is possible to make an open government without any real loss in efficiency. It can be argued that, the right of public access does sometimes entail extra costs for a public authority or agency, but in the long run the right of access to public sector information promotes efficiency.

Summing up, **openness** enables citizens to **participate** more closely in the policy and **decision-making process** and guarantees that the administration enjoys greater **legitimacy** and is more **effective** and more **accountable** *vis-a-vis* the citizen in a democratic system.

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<sup>8</sup> Y. Dror, Transparency and Openness of Quality Democracy in: M. Kelly (ed.), Openness and Transparency in Governance: Challenges and Opportunities, NISPAcee and EIPA Maastricht 2000, p.71

### 3 Local Self-government in Poland

It is often argued that decentralised units of government, being nearer to the field of their operation than core units, can act with better knowledge of situations, can better communicate with the parties involved, and are better disposed to implement administrative decisions. Although decentralised units are not always more effective, move towards decentralisation can be justified also on other ground: it makes possible participation in democratic process. Answer to what degree citizens actively take part in local decision and policy making depends on relations between local authorities and citizens and other local actors.

#### 3.1 Territorial structure of self-government

In 1990 Poland reinstated self-government on the level of municipality. Since the administrative reform of 1999, which introduced additional levels of self-government: *powiaty* at local tier and *województwa* on regional tier (Table 1), the national state has been removed from day-to-day operation of broad areas of public services. In general, the self-governing *gmina* and *powiat* allow citizens to shape and control the **local** public institutions and polices.

Table 1 Territorial structure of self-governments units in Poland (2001)

Levels of territorial self-government	Number of units	Average area of a unit (in square kilometres)	Average population in a unit
<b>Municipal level – <i>gmina</i></b>	<b>2489</b>	<b>125</b>	<b>15 525</b>
<b>County level – <i>powiat</i>*</b>	<b>65+308 = 373<sup>9</sup></b>	<b>840</b>	<b>103 600</b>
Regional level – <i>województwo</i>	16	19 500	2 400 000

\*Counties (*powiats*) are differentiated as urban - 65 (formally larger towns endowed with *powiats* rights), encompassing only the area of one city, and 308 of those that encompass a municipal city-the county seat -and several urban-rural and rural municipalities.

According to the Constitution the **primary unit of local self-government** in Poland is the **municipality**. A general responsibility clause provides that *gminas* are responsible

for all public matters of local significance that have not been reserved by law for other entities and authorities. The self-government *powiat* is responsible for local issues which, due to the subsidiarity principle, cannot be ascribed to *gminas*. Proponents of the reform assumed that *powiats* should be large enough to maintain efficiently many of the everyday institutions of public life, such as secondary schools, general hospitals, as well as fire stations and sanitary inspectorates. Finally, the main task of 16 regional self-government authorities is formulation and implementation of regional development policy programmes.

The crucial role of municipalities within territorial self-government is confirmed by the scope of revenues and expenditures assigned to *gminas*. While in 1999 expenditures of all three tiers accounted for 11% of GDP, a vast majority of resources (around 80 %) was allocated to municipalities, including 65 cities with *powiat* rights.<sup>10</sup> However, financial autonomy of many self-government units is limited, especially if we consider *powiats* and regions, both of which have insignificant level of own revenues.

Given the fact that municipality plays vital role in local economic and social development, this paper first of all analyses the access to information and challenges of effective communication within the primary level of territorial self-governance.

### **3.2 Citizens assessment of local authorities**

Survey results indicate only 13% of respondents assess municipal authorities performance high or very high.<sup>11</sup> Much more (40%) assessed activities of their local authorities as low or very low. The largest percentage - 46,5% did not have opinion in that matter. It is surprisingly high and brings a clear message about the quality of local democracy in Poland. This generally negative evaluation was confirmed by CBOS survey of January 2001<sup>12</sup>. It shown that every third respondent is satisfied with the way

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<sup>9</sup> In January 1, 2002 to existing 308 county level self-governments 7 new ones were added, what makes 380 as total number of *poviats*.

<sup>10</sup> E. Kornberger-Sokolowska, *Decentralizacja finansów publicznych a samodzielność finansowa jednostek samorządu terytorialnego* (Decentralization of public finance versus financial autonomy of self-government units), Liber, Warszawa 2001, s.66

<sup>11</sup> *Diagnoza społeczna. Raport z badań.*, (Social diagnose. Report form the public opinion poll). Warszawa 2000 - Public opinion poll conducted on 3000 households in the early 2000 year.

<sup>12</sup> CBOS, *Opinie o funkcjonowaniu władz samorządowych*, (Opinions about functioning of local authorities), Warszawa 2001

local authorities operate in Poland while the largest percentage (45%) of polled declared discontent. 22 percent had no opinion in that matter.

It seems that important reason why local authorities activities are evaluated so low is widespread believe that councillors pursue interest of their own or of their friends or relatives. Many surveys conducted in the 90-ies shown the number of citizens who think that councillors follow the interest of state, inhabitants and their voters account for just 26-33 percent.<sup>13</sup> As can be seen from Table 2, only 14 % of polled think that their municipal authorities represent them well.

Table 2 People's involvement and opinions on municipal authorities.

Questions	Answers		
	YES	NO	NO OPINION
1. Have you been engaged in activities beneficial for your local community (municipality, housing area) last year?	8%	92%	
2. Do you think that municipal authorities do represent you well?	14%	31%	55%
3. Do municipal authorities co-operate with inhabitants to solve local problems?	20%	30%	50%

Source: Diagnoza społeczna, Raport z badan sondazowych (Social diagnose, Report from public opinion poll), Warszawa 2000

In the CBOS survey, every second respondent admitted that functioning of local authorities requires change. 31 percent out of those who declared need for change pointed out fighting with red tape and decreasing the administrative costs, every fourth proposed simplifying administrative service provision and 18 percent demanded improving relations between local authorities and citizens. In the latter case, there were suggestions concerning not only the new system of elections of councillors and executive board but also proposals to activate local communities so that they could have more influence on functioning the self-governments.

<sup>13</sup> CBOS, Władze lokalne, radni i urzędy przed reformą administracji terenowej w Polsce (Local authorities, councilors and offices before reform of territorial administration), Warszawa 1993, p. 7; J. Bartkowski (Reforma terytorialnej organizacji kraju w opiniach radnych i starostów (Opinions of councillors and 'starostów' on territorial organisation reform), in: Refoma Terytorialnej Organizacji Kraju: Dwa lata doświadczeń (Territorial Organisation Reform, Two years of experience) ed. G. Gorzelak, B. Jalowiecki, M. Stec., Scholar, Warszawa 2001, p.286; P. Swianiewicz, Public Perception of Local Governments, OSI-LGI, Budapest 2001, p.25

### 3.3 Problem of public participation at local level

Local self-government in Poland faces the legacy of centralised territorial administration that for a long time did not pay attention to the relationships with citizens. This situation might be characterised by paternalistic attitude - centralised administration knew what was good for their citizens, and therefore also which way and form of service provision was most appropriate to address them. As a result citizens did not have much contact with public administrators and were perceived by policy makers as passive target groups. Certainly, the gap between citizens and government during the period of “socialistic regime“ had been a major one.

After rebirth of interest in public affairs in the beginning of 1990-ies Poland is experiencing a trend of declining participation in the democratic process, evidenced by low election turnouts (Table 3) and low involvement of people in local affairs. For comparison, turnout at local election in other countries between 1987 and 1991 accounted for: France 73%, Finland 70%, Norway –69 %<sup>14</sup>. The very dramatic situation is confirmed by the figure presented in Table 2 – slightly 8% of polled have been engaged in activities beneficial for local community or housing area previous year. In addition, many Poles are not interested in who is their mayor or councillor.<sup>15</sup>

Table 2 Elections turnout in Poland

	Self-government	Parliamentary	Presidential
Year and Turnout	<b>1990 – 42,3%</b>	1991- 43,20%	1990 I run - 60,60 % II run- 53,40 %
	<b>1994 – 33,8%</b>	1993 – 52,08%	1995 I run - 64,70% II run - 68,20%
	<b>1998 – 46% (Municipal level)</b>	1997 – 47,93%	2000 – 61,12

Source: Panstwowa Komisja Wyborcza (National Electoral Commission).

<sup>14</sup> Bal u Burmistrza, (Reception at mayors place), W. Surazska ed., Rzeczpospolita 1996, p. 6

<sup>15</sup> J. Czapinski, Jak rządzić narodem malkontentów (How to govern malcontent nation?), Gazeta Wyborcza, 11.08.2000 r., p. 4

### 3.4 The issue of corruption

Poland ranks 44 position in the last Transparency International Corruption Perceptions Index 2001. Poland scored 4.1, what suggests high levels of perceived corruption in government and public administration. According to several surveys and opinions of practitioners and academics the corruption is present at the central, regional and local level of government<sup>16</sup>. Furthermore, the World Bank Report on Corruption in Poland alarms about the significant scope and continuous spread of corruption practices among local authorities. The main sources of corruption at local level are: increasing politicisation of local authorities, complicated division of competencies, abuse of supervisory rights and ownership of valuable properties. World Bank experts argue the high level of corruption thwarts efforts to foster local development and reduce poverty.

As conclusion to my findings related to local units, it is worth mentioning very accurate opinion expressed by Swianiewicz - "although public opinion on local governments is usually better than on central government institutions, there is a relatively modest satisfaction level regarding local government activity"<sup>17</sup>.

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<sup>16</sup> CBOS; Korupcja w zyciu publicznym (Corruption in public life) 1999; Raport Banku Swiatowego w Warszawie, Korupcja w Polsce, (World Bank Report , Corruption in Poland), Warszawa 2000, raport Najwyzszej Izby Kontroli „Zagrozenie korupcja w swietle badan kontrolnych NIK (Report of The Supreme Chamber of Control, Thread of corruption in the light of examination of the Supreme Chamber of Control), Warszawa 2000; J. Regulski, Za trzy pokolenia? (In three generations?), Gazeta Wyborcza, 02-03. 06 1999

<sup>17</sup> P. Swianiewicz, Public Perception of Local Governments, OSI-LGI, Budapest 2001, p.29, [www/lgi.osi.hu/publications](http://www/lgi.osi.hu/publications)

## **4 Legal Status of The Right to Information**

### **4.1 The main sources of the right to information**

#### **4.1.1 Constitutional provisions**

The Poland's Constitution states that "citizen shall have the right to obtain information on the activities of organs of public authority as well as person 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 State Treasury"<sup>18</sup>. This right means that all central and local government activities shall take place in the full light of public scrutiny. Additionally article 54 of the Constitution guarantees everyone the freedom to express opinion, to acquire and to disseminate information.

#### **4.1.2 International treaties**

Even before the new Constitution came into force (October 17, 1997) Poles were able to claim the right to information under the Convention for Protection of Human Rights and Fundamental Freedoms of 1950<sup>19</sup>. Poland is also a signatory or a party to number of international conventions from which an obligation to introduce a general access to information may be derived. These include the Rio Declaration and the Espoo Convention which imposes an obligation for public participation and access to environmental data in connection with environmental impact assessment (signed and voluntarily enacted by Poland).<sup>20</sup>

#### **4.1.3 Other legislation**

In spite of the constitutional requirement that "procedure for the provision of information shall be specified by statute", general law regulating access to public information was not approved till 2001. As a rule, constitutional and international regulations are on their own

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<sup>18</sup> The Constitution of the Republic of Poland , Sejm Publishing Office, Warsaw 1999, article 61, par 1, p.21

<sup>19</sup> The convention was ratified by Poland in 1993, Dz.U. No.61, pos. 284

<sup>20</sup> Rio Declaration: <http://www.unep.org/Documents/Default.asp?DocumentID=78&ArticleID=1163>, Convention on Environmental Impact Assessment In A Transboundary Context (The Espoo Convention) 1991 <http://sedac.ciesin.org/pidb/texts/environmental.impact.assessment.1991.html>

not effective in providing the right they profess to guarantee. The precise scope of these provisions very often may be unclear. Even certain level of definite provision like statement that 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”<sup>21</sup> remain subject to ambiguous interpretations. Thus secondary legislation is required to activate the constitutional provisions.

Right to information derives also from Press Law and other statutes and codes. In particular, the role of the Press Law in enlargement of the openness is significant as it effectuates the citizen’s right to information and to participation in public affairs.<sup>22</sup> Under article 4 of the Press Law Act, provisions of which are applicable also to audio-visual media, all state institutions, economic entities and organisations have the obligation to disclose information concerning their activities to the press.<sup>23</sup> Only when it is required by the interest of keeping state, official or other secret protected by law these subjects may refuse to provide information. In such a situation the refusing institution or person must specify in written and within a three days what are the reasons justifying the refusal. However, it should be stressed the right to information is primary the right of citizen. Rights of mass-media are only part of problem concerning execution of the right to information.<sup>24</sup>

## **4.2 Limitations of the right to information**

Limitations on the right to obtain information “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”<sup>25</sup>. A matter cannot be decreed to be confidential by taking such a decision. There are many regulations of different legal status relating to confidentiality. They may concern among other things national security, government finances, the prevention and prosecution of crime or the protection of

<sup>21</sup> The Constitution of the Republic of Poland, Sejm Publishing Office, Warsaw 1999, article 61, par 2, p.21

<sup>22</sup> For more about media law in Poland see: Ireneusz C. Kaminski, Evaluation of Levels of Media Freedom in Polish Law and Practice, <http://www.policy.hu/ipf/fel-pubs/index.html>

<sup>23</sup> Ustawa Prawo prasowe (The Press Law Act) of January 26, 1984, essentially amended in 1990 and later, Dz.U. 1984, No., pos.24

<sup>24</sup> T. Górzynska, Prawo do informacji i zasada jawnosci administracyjnej (Right to information and principle of administrative openness), Zakamycze, Kraków 1999, p.157-158

<sup>25</sup> The Constitution of the Republic of Poland, Sejm Publishing Office, Warsaw 1999, article 61, par 3, p.21

information relating to private individuals or companies. There are basically two particular acts in this respect: Protection of Secret Information Act and Protection of Personal Data Act<sup>26</sup>. Paradoxically, acts that introduced restrictions concerning disclosure of information were introduced just after adoption of new Constitution while law regulating access to information was finally enforced in 2002.

### **4.3 Legal developments strengthening access to information**

The impetus for change of legal status of the right to information mainly came from the necessity of fulfilling constitutional provisions. Other important factors fostering supporting openness of public life were requirements of EU integration and strong pressure of NGOs and media.

#### **4.3.1 *Acquis communautaire impact on the right to information***

Whether or not transparency can be counted among the general principles of EC law remains open to debate, its importance and status increased considerably, in a particular since the time of Maastricht Treaty. Until recently in many Member States, the operation of public administration were characterised by an institutionalised and far-reaching closeness and secrecy. However, in the last decade most member states decided to adopt rules on access on information. The importance of access to information for European citizens was stressed in Green paper on public sector information<sup>27</sup>. The right to “receive and impart information and ideas without interference of public authority and regardless of frontiers” was also enshrined in Draft Charter of Fundamental Rights of The European Union.<sup>28</sup>

Although member states differ in their approaches toward openness, in one particular sphere - information about environment they were forced to implement similar regulations. Directive 90/313/EEC, which the European Community adopted in June 1990 and Aarhus Convention influenced the changes that have started to be made in the area of environmental information. Similarly, the driving force of implementation by

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<sup>26</sup> Ustawa o ochronie danych osobowych (Protection of Personal Data Act of August 29, 1997), Dz. U., No. 133, Pos. 883, Ustawa o ochronie danych niejawnych (Protection of Secret Information Act of January 22, 1999), Dz. U., No. 11, Pos. 95

<sup>27</sup> Green paper on public sector information in the information society, COM (98) 585 final, adopted on 20 January 1999.

<sup>28</sup> Article 11 of Charter of Fundamental Rights of The European Union, OJ 2000/C 364/1, [http://www.europarl.eu.int/charter/pdf/text\\_en.pdf](http://www.europarl.eu.int/charter/pdf/text_en.pdf)

Poland law concerning access to information on environmental matters was first of all the result of international agreements and EU impact<sup>29</sup>.

In sum, adoption of *acquis communautaire* accelerated changes in respect of right to information in some aspects (environmental information, public procurement law). However, it should be taken into account that general access to information is not regulated at the level of EU and europeisation of public administration is not yet advanced.

#### **4.3.2 Law on Access to Public Sector Information**

Since 2000 new secondary legislation has been prepared to reinforce the right to information, to facilitate and secure open access. So far, in public debate on strengthening the right to information three projects were concerned:

- Law on Right to Information prepared by Centre of Monitoring of Freedom of the Press with co-operation of other non-governmental organisations: Institute of Public Affairs, Legal Programme of Stefan Batory Foundation, Program “Against Corruption”, Polish Section of International Commission of Lawyers, Social Ecological Institution.
- Project on Access to Public Sector Information initiated by Adam Smith Centre and then supported by the group of MP’s in the Parliament
- Project on Openness of Decision Making, Interest Groups and Public Access to Information, supported by Union of Freedom Party.

Last two projects were the subject of parliamentary work. As a result Law on Access to Public Sector Information was passed by Sejm on September 6, 2001 and it came into force from January 1, 2002. The statute regulates what information on the administrative apparatus and its activities can be offered to the public and what are the means for doing that. Preparing this law the main emphasis was put on the accessibility of all information through the Internet.

#### **What embraces the right to public information and who is entitled to the right?**

The law defines public sector information as every information about public affairs by meaning of the Public Sector Information Act. Public sector information should be accessible by the use of: provision of information in public places or on application of the

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<sup>29</sup> Ustawa o dostępie do informacji o środowisku i jego ochronie oraz o ocenach oddziaływania na środowisko (Act on access to environmental information and its protection and environmental impact assessment of November 9, 2000), Dz. U., No. 109, pos. 1157

requester, entry to sittings of public authorities and through Public Sector Information Bulletin (Internet version). It is prescribed this act will come in force from January 1 2002 but obligation to place information on the web will come into force after 18 months or even 36 months (depending on sort of information). The statute stipulates the public sector information is revealed, particularly on:

- Interior and foreign policy (activities of legal and executive power, projects of law, programmes concerning realisation of public tasks )
- Institutions obliged to provide information (legal form, organisation, subject of activities and competencies, organs exercising of power, properties)
- Rules governing functioning of public authorities and institutions (course of action, law making, handling the matters, registers and archives and ways of revealing the data incorporated in them).
- Public data (the content of administrative decisions, positions, information about state and territorial self-governments affairs )
- Public property (property of the State Treasury and territorial self-governments)
- Public debt, state aid

The act permits any person to request access to public access without having to show an interest. Everybody has the right to access to public information. This means that not only Polish requesters but also Swedish or American citizen can apply for a public information or document.

Right to information embraces entitlements to:

- Obtain information, particularly information processed in the manner which is particularly crucial for public interest
- Inspect official documents
- Enter to sittings of collective organs

### **Who is obliged to reveal information?**

Obligation to disseminate public information comprises all public authorities and other entities exercising public tasks, in particularly:

- Organs of public authorities
- Organs of economic and professional self-governments
- Entities representing the State Treasury
- Entities acting on behalf of state legal persons or territorial self-governments and representing organisational units of state legal persons and territorial self-governments

- Other entities representing legal persons, who exercise public tasks or manage public property and in which the State Treasury, territorial self-government units that have dominant position by meaning of Act on Protection of Competition and Consumers
- Trade unions and their organisations as well as political parties

### **Controversies about Law on Public Sector Information.**

The main line of criticism concern lack of the specific institution responsible for ensuring that rights stated in statute are properly executed. Organs, which refuse to reveal information, are forced to justify their decisions and a requester may take legal proceedings before administrative or common courts. Supreme Administrative Court (NSA) investigates matters concerning refusing the information on the ground of protection of personal data, privacy, state, official, treasury or statistical secrecy within 30 days. All other cases are subject of proceedings before common courts. The procedure is time consuming and may be real obstacle for justiciability of the right<sup>30</sup>. From 1989 to 1995 an average time of legal proceedings on criminal case increased three fold and in economic matters more than twelve times. This weak point is not present in project prepared by coalition of NGOs. It prescribes setting up the Information Ombudsman, which will have some authority to deal with complaints.

Other important weakness of new statute is the whole construction (concept) of it, which may give impressions that secrecy, is more important than access to information. This is the consequence of earlier adoption of law concerning limitations of the right to information on the basis defined in regulation on protection of secret information and about other secrets protected by law, for example privacy of individuals.

Another challenging task constitutes implementation of an electronic version of the Bulletin on Public Sector Information. The main difficulties may come from a very large number of entities and institutions (even more than 100 000) obliged to provide information by use of this Bulletin.

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<sup>30</sup> Kilka uwag na temat przestrzegania praw człowieka w Polsce w związku z czwartym okresowym sprawozdaniem RP z wykonania Miedzynarodowego Paktu Praw Obywatelskich i Politycznych, Raport Helsinskiej Fundacji Praw Czlowieka, lipiec 1999 (Some remarks on Fourth periodic report of States parties : Poland concerning execution of International covenant on civil and political rights), Helsinki Foundation of Human Rights, July 1999)

## **4.4 Problems with the execution of the right to information at local level**

Several cases on breaching of the right to information happened before this right was enclosed in the Constitution. After passing the Constitution the situation has not improved dramatically. The experience of the last three years has shown that the authorities still lack transparency and openness. This is confirmed by several cases brought before NSA, Ombudsman Report and journalist experience.

### **4.4.1 Ombudsman Reports<sup>31</sup>**

In 1999 and 2000, Ombudsman responding to number of case brought before its office examined statues and rules of municipal deliberative and executive bodies (Council and Board respectively) from the perspective of execution of right to information. The subject of Ombudsman investigation were also: disclosure of protocols from board meetings, local law (resolutions) concerning public procurement and financial performance of executive boards. Most of cases brought before Ombudsman refer to:

- No reply or delay in revealing information
- Lack of reliability of local officials
- Violation of constitutional right to information

Ombudsman examination indicated that:

- Territorial self-government units usually do not regulate in their statues execution of right to information. Rules of revealing information are not regulated or are not regulated precisely, in particular about functioning of local authorities. By contrast, municipal authorities very often refer to law which allow them to act under the veil of secrecy. In one case, citizen was forbidden to record on tape municipal council session.
- Analysed by Ombudsman matters prove various execution of right of information by local authorities across country
- Local authorities tend to refer to the procedures of administrative law (KPA) only. It happens that some of executive boards refer to not clearly specified procedures and regulations and reject disclosure of any kind of information concerning financial aspects of municipal companies or access to protocols from sessions or committees meeting. What's more, not only inhabitants but also councillors including members of board of control commissions are treated very restrictive.

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<sup>31</sup> Informacja Rzecznika Praw Obywatelskich (Information of the Ombudsman): For the year 1999, RPO-MAT. Nr 39, p.214-217; For the year 2000, RPO-MAT. Nr 43, p. 58

Ombudsman's report concludes that statutes, as superior local acts, should define matters of organisation and procedure of municipal bodies as well as regulate rules of revealing information. This is the subject of last legal amendment to the statutory law concerning functioning of territorial self-governments described further in the next chapter.

#### **4.4.2 Case studies.**

##### **1. Missing and unclear provisions**

In April 1999 a session of the control committee in Losice (Mazovia region) took place to discuss the report on budget execution in 1998. The commission unanimously accepted the report and gave the vote of approval to Municipal Executive Board. A local newspaper requested protocol of the meeting. It turned out that two protocols were prepared: one open and the second kept secret. The journalist was refused to get the second one. Local authorities argued that the board of control meeting in this matter was secret thus the protocol should be also excluded from public scrutiny.

The Supreme Administrative Court (NSA) confirmed refusal to be in line with law. The court argued that mass media cannot demand documents from meetings, which are secret. The President of NSA voiced a separate statement. He appealed to Supreme Court and demanded to repeal of the verdict. He argued that any control of information on the activities of public authorities must be justified by the Constitution provisions, international treaties or statutory law. In particular, the right to information cannot be limited by local government board or rules of procedure. Organs of public authority formed by universal elections can act according with rules of procedure but these are the provisions of the Constitution, which define the principles of how these organs should operate. In particular, decision about holding a closed session and keeping a protocol secret do not mean secrecy in meaning of the term used in the Protection of Secret Information Act. In his statement the President of NSA concluded that questioned contradicts earlier established line of NSA judgements concerning access to information.

The Supreme Court took into account the revision and repealed the claimed verdict.<sup>32</sup> According to the Court, municipal internal regulation is not the source of universal law and particularly cannot contradict basic constitutional principles like: transparency of political life, citizens right to information and transparency of public finance. The case indicates that unclear provision not developed in statutory law may threaten the enforcement of the right to information and impair its justiciability.

## **2. Who is obliged to inform?**

NSA in its verdict of January 11, 2001 justified the complaint of local weekly newspaper "Plonszczak Press" concerning the refusal of revealing information by the mayor of Plonsk. Mayor refused respond to journalist's written questions claiming that the matters were clarified everything during municipal sessions. According to court judgement mayor did not fulfil his duties, one of which is to provide honest, exhaustive and comprehensive information about activities of municipal authorities. Similar case concerning blocking of information by mayor of Goleniów takes place before the court in Szczecin.

These cases exemplify problems journalists encounter when they request information from local authorities. The law specifies that all self-government officials are obliged to inform organs, institutions and individuals and to disclose documents if other statues do not forbid it.<sup>33</sup> Unfortunately, in many municipalities there is no spokesperson or official entitled to contact the press. Existing regulation obligate only institutions of central government administration to have spokespersons.<sup>34</sup> According to this regulation territorial self-governments are obliged to disseminate information concerning execution of central administration tasks delegated to them (§15). Although there is no formal requirement to municipalities or poviats to have spokesperson, according to NSA verdict the information should be provided irrespectively to whom it is addressed.<sup>35</sup>

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<sup>32</sup> Werdykt Sadu Najwyzszego, Verdict of Supreme Court of 01.06.2000, III RN 64/00, published in OSNAP 2001/6/183

<sup>33</sup> Art. 15 Ustawy o pracownikach samorządowych (The Law on Self-government Employees) March 22, 1990, Dz. U. no 21, pos.124

<sup>34</sup> Rozporządzenie Rady Ministrów w sprawie trybu udostępniania prasie informacji oraz organizacji i zadań rzeczników prasowych w urzędach organów administracji rządowej (Enactment on disclosure of information to the press and organisations and tasks of spokespersons in offices of government administration) November 7, 1995; Dz. U. no.132, pos.642

<sup>35</sup> Werdykt Naczelnego Sadu Administracyjnego, Verdict of Supreme Administration Court of June 27, 1996, II SAB/Kr36/96.

### **3. Unlawful procedure**

There are still cases like in municipality of Zychlin, where local rules of procedure state that municipal council with the accord of one fourth of councillors refuse access to documents when disclosure would undermine the protection of public interest. In this matter, Centre of Monitoring and Freedom of Press appealed to regional governor (wojewoda) to invalidate provisions. On 13 July of 2000 the wojewoda expressed its opinion that statute does not comply with the Constitution and Press Law and invalidated the questioned rules.

Having examined ten municipal statutes from Warminsko-Mazurskie region I found out that writing of these regulation might give impression that the council sessions may take place before closed door. In two cases municipal resolutions stipulated that councillors bearing in mind important social municipal interest may decide the whole session or part of it may take place before closed door.

#### **4.4.3 What should local acts define?**

Parallel to introduction of general law enhancing access to information, some improvements concerning self-government administration were also be made. Amendments to the law regulating functioning of territorial units of April 11, 2001 prescribe as follows: Activities of organs of municipalities, poviats, regions are open to public scrutiny. The limitation of transparency may come exclusively form statutes. Transparency of activities of self-government units embrace the citizen rights to obtain information, entry to sittings of collective organs and committees and also access to documents resulting form execution of public tasks. Rules of access to documents provide statute of given territorial unit<sup>36</sup>.

In consequence the law imposed requirement to change their statutes of self-government units on according with above stated provisions by the end of August 2001.

It is too early to thoroughly asses the influence of FOI Law on functioning the local self-governance. Despite the overall positive impact of this Law, there are still problems

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Ustawa o zmianie ustaw: o samorządzie gminnym , o samorządzie powiatowym, o samorządzie województwa, o administracji rządowej w województwie oraz o zmianie niektórych innych ustaw ( Law amending acts on: municipal self-government, powiat self-government, regional self-government, government administration in region and some others acts of April 11, 2001)

concerning obtaining public information from local administration.<sup>37</sup> The interpretation as well as in some cases the text of any number of standard provisions of access to information law will require modernising to keep pace with rapid changes so that truly effective access to information can occur.

Certainly, adoption by Poland of general legislation on access to information is development, which leads to an enlargement of the scope of open government law. From the legal point of view the circumstances of citizen right to information are becoming more favourable. The new law is of course a tool, not an end in itself. Usefulness of it must be measured by the extent to which it permits people – ordinary citizens, organisations, journalists, companies and even public authorities – to obtain the information about public activities, which they seek without overburdening the administration.

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<sup>37</sup> A. Piskorz-Ryn, Próba oceny, (The attempt of assessment), Wspólnota no. 5, 2002, p. 10-13; J. Pitera, Kto pyta, nie błądzi? (Who takes counsel, may avoid the mistake ?), Wspólnota no.8, 2002, p. 16

## 5 Communication at Local Level.

### 5.1 From the local governments' perspective

Survey carried out in 1995 by mailing questionnaires to all Polish municipalities of less than 50,000 inhabitants indicated that local newspapers were issued in 446 out of 1019 (44%) analysed.<sup>38</sup> This figure was smaller for local television and radio stations.

Table 4 Mass media in municipalities in 1995

Mass media	Urban municipalities	Rural municipalities
A newspaper	72,6 %	30,3%
Cable TV	22,9 %	1,2%
A newspaper funded by municipality	45,8%	19,5%

Source: G. Gorzelak, B. Jabwiecki, *Koniunktura gospodarcza i mobilizacja społeczna w gminach '95* (Economic situation and social mobilisation in municipalities in the year 1995), EIRRIL UW, Warszawa 1996, p.60

Local newspapers were the most common in urban municipalities, where more than two third of municipalities have its own newspaper (Table 4). In rural municipalities newspaper came out in every third municipality. With respect to cable TV, disparities between urban and rural municipalities are even much more significant.

More detailed data were received from questionnaires send to 266 Polish cities - members of Association of Polish cities.<sup>39</sup> Table 5 shows that the most frequent mechanism for dissemination of municipal information in analysed cities constitutes advertisements and materials on notice boards. By use of this medium almost all (96%) of local authorities inform citizens about local issues. As much as nine out of ten cities spread information via local authorities' websites. Vast majority of municipalities (77%) communicates with citizens via emails. Less common were newspapers, local TV and radio.

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<sup>38</sup> Dynamics and factors of local success in Poland, G. Gorzelak et al., CASE and EIRLD, Warsaw 1999, p.31

<sup>39</sup> For more information about results of this survey see: Appendix 4

Table 5. Responses to question by means of what forms cities communicate with inhabitants and local institutions (n=128)

	Form of communication	Number of cities	Percentages
1.	Local councillors' visiting hours	96	75%
2.	Executive board members' visiting hours	80	64%
3.	A newspaper published or supported by local authorities	78	61%
4.	An 'independent' local newspaper	93	73%
5.	Notice board in the office	123	96%
6.	Radio	88	69%
7.	TV	91	71%
8.	Web site	115	90%
9.	Electronic mail	99	77%

Source: Own calculations based on 128 questionnaires.

## 5.2 From citizen's perspective.

CBOS survey conducted in 1993 shown from what sources citizens obtain information about functioning of local government at that time territorial self-government existed only municipal level. Respondents learnt about local government functioning mostly from their acquaintances (78 percent), local newspapers (56%) and television (53%). The least common source of information on the work of local authorities was the meetings with councillors (15%).

The more updated picture presenting the ways people get to know about functioning of local authorities was collected in 2001. In August of that year research company SMG/KRC conducted a survey of 1000 citizens who were asked about their opinions on local administration performance in the field of information policy. In this survey the question was about the most essential source of municipal information from citizen point of view, therefore answers are not fully comparable with the CBOS survey.

Those interviewed in the course of the SMG/KRC study stated that they consider local newspapers, local TV and radio as the most important source of municipal information. Next to the media channels, talking to friends and acquaintances is the essential way of obtaining information about local authorities activities. Less important are

advertisements in offices and local authorities websites. As for the latter, only 16% of respondents admit that municipal web pages are important source of information on local authorities compared to more than 70% declaring local newspapers to be the most vital source<sup>40</sup>. The survey reported that as many as **every second respondent** declares that local authorities badly inform citizens about their activities.

Table 6 Answers to the question: From what sources do you obtain information about self-government. Is it from?:

	YES	NO	NO Opinion
Local newspapers	56%	42%	2%
Polish Local TV Programs	56%	42%	2%
Private Local TV Programs	11%	86%	3%
Meetings with councillors	15%	83%	2%
Advertisements and posters	35%	63%	2%
Talking to acquaintances	78%	20%	2%

Source: CBOS, Władze lokalne, radni i urzędy przed reformą administracji terenowej w Polsce (Local authorities, councillors and offices before reform of territorial administration), Warszawa 1993

### 5.3 The challenge of effective communication

Although there are still cases of breaching the very essential right to information, the improvement of situation depends highly on local tradition, culture, political habits and willingness of officials and citizens to proper use of his right. On the basis of my research I found out that there is another problem concerning flow of information within communities - the challenge of effective communication between very broad spectrum of local institutions and individuals.

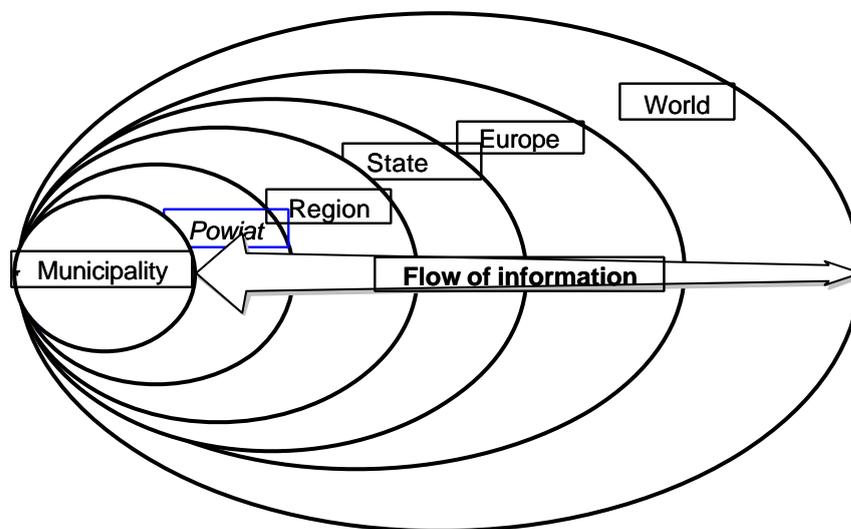
This problem is entirely connected to access to information but it also stresses the importance of flow of information inside and outside the community (see Figure 1 and Figure 2). Due to reconfigured pattern of development and governance Proper flow of information between local authorities, institutions and citizens appears to be crucial element for building strong communities and consolidating democracy. The gist of new

<sup>40</sup> For more information see, Appendix 3, Table 2

development consists in **extraction of local intellectual, human (social capital) and environmental resources** and ability to respond to new challenges. The success of local development is the results of combined efforts of the policy makers and partnership with local actors: private industry, academia, research institutes, community groups, and civic and voluntary organisations. This may be exemplified by a gradual shift from citizens as customers (clients) to the more participative citizen as stakeholder model of governance<sup>41</sup>.

There are many actors in the local government arena: pressure groups, local businesses, voluntary organisations, institutions such as schools and welfare organisations, the media and individual citizens. These stakeholders have all their own interests and their own agenda, and each of them exerts to a greater or lesser degree of influence on the decisions made by local administration.

Figure 1 Exchange of information outside the local community

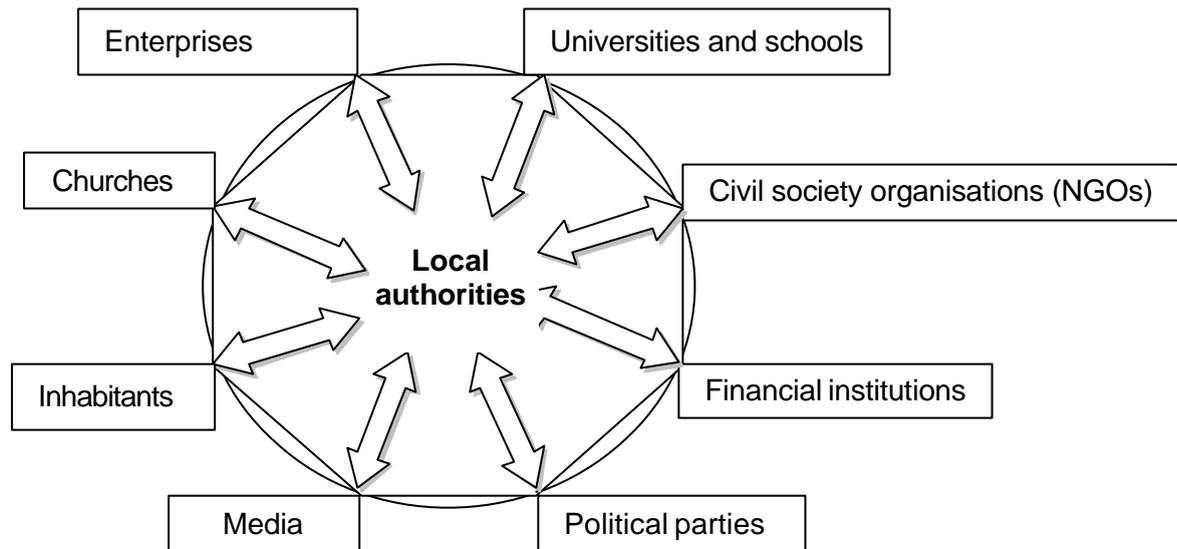


At the same time, the local authorities are dependent on the co-operation and support of these groups and organisations for the successful implementation of its policy. Organisations outside the local arena are important actors as well, for example

<sup>41</sup> J. Peter, *Local Governance in Western Europe*, Sage Publication, London 2001, p. 9-14

neighbourhood municipalities, *powiats*, regions and national government, which develop common regional and national policy framework and supply a large proportion of local funding.

Figure 2 Exchange of the information within local community



With more and more tasks being delegated to local self-governments and many new players in the local arena, communication is becoming more complex than ever before. This research signals that there is small number of municipalities where the appropriate and integrated exchange of information between local institutions and partners is undertaken. Some of the good practice identified within this research are listed in Table 7.

Table 7 Best practices in the field of communication within local community<sup>42</sup>

Municipality	Special achievement	Main commitment to successful initiative
Szczecin	Dissemination of information about local finance	City Treasurer
Sokolów Podlaski	Presenting the municipal information on the web-site	Mayor and Webmaster
Krosno	Activating the local community and providing portal presenting very broad information on local issues.	Local NGO
Cmolas	Cooperation between local authorities and civic associations	Mayor and NGO-s

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<sup>42</sup> The first two examples are thoroughly described in the section 'Case Studies' in the ANNEX.

## 6 Could Internet Be a Remedy for Effective Communication?

Usage of new Information and Communication Technologies (ICT), which the Internet has come to represent, is creating a slow but irreversible transformation of the world of communication. Three facts show that we are heading towards an information society:<sup>43</sup>

- Organisations are becoming increasingly dependent on an intelligent use of information and information technologies as competitive factor.
- Individuals are becoming more active users of information technologies. They use information technologies in many of their daily activities both at home and work. People therefore need to develop their information literacy skills.
- A whole new information industry is taking shape.

The main prerequisites for broad usage of ICT by local authorities to communicate with citizens and reverse are: ubiquitous access to Internet, sufficient knowledge and capabilities of both sides: inhabitants and their representatives and willingness of politicians and officials to adapt to new circumstances.

### 6.1 Internet users in Poland

The availability and use of Internet has strongly increased in Poland in the last decade. However, Poland is still lagging behind if compared to the EU. The number of Internet users per 100 inhabitants is still only 1/3 of the EU average.<sup>44</sup> This situation is mainly explained by income levels and relatively high costs of Internet access, limiting the number of users in private households. Studies recently published shows that only one of seven Poles of age of 15 and up has used an Internet connection during last month. However, this figure has considerable increased from 6% in January 2000.<sup>45</sup>

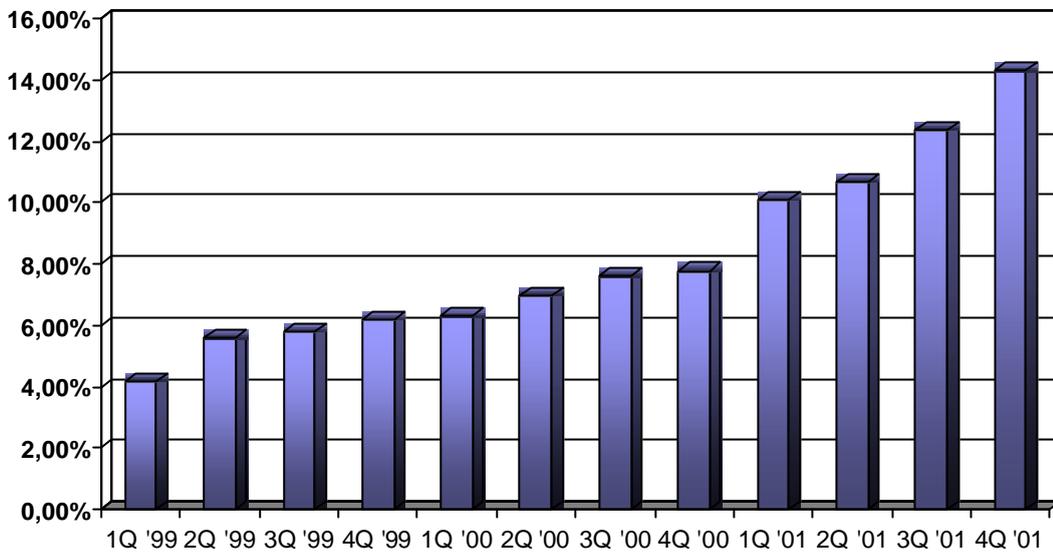
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<sup>43</sup> A. Huber, B. Caremier (2000), Democracy and the information society in Europe, Office for Official Publications of the European Communities; A. C. Esade, Infrastructure: a key concept in the information society; <http://www.infonomics.net/cornella/ainfoang.pdf>

<sup>44</sup> R. Deiss, Information Society Statistics, Data for Central European Countries (CEC), European Communities 2001

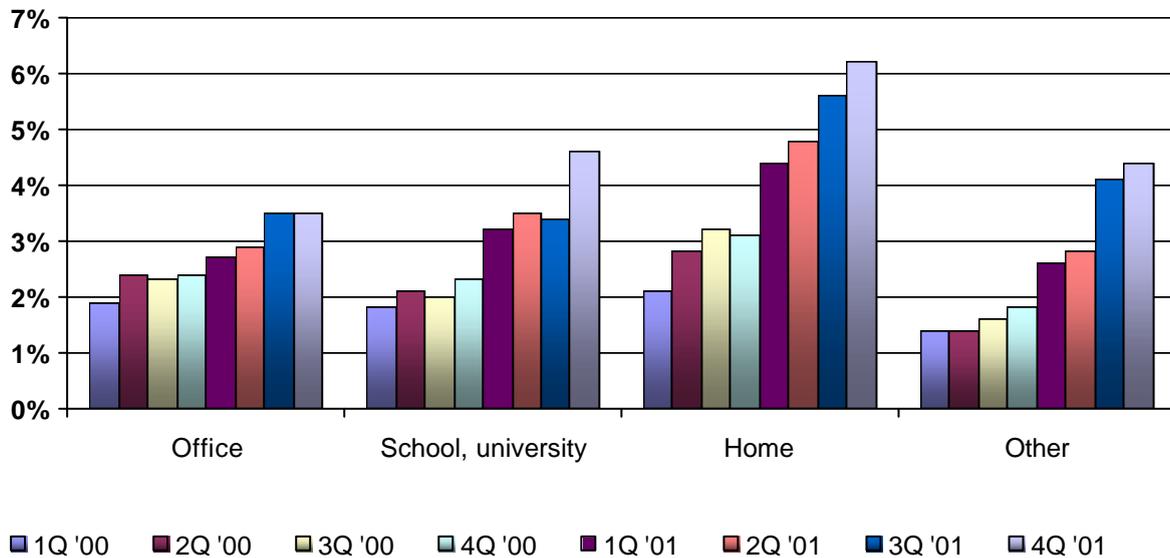
<sup>45</sup> ARC Rynek i Opinia survey (February 2001) points out a 13,4% of Internet users in Poland, <http://www.arc.com.pl/pol/publ/im2001.htm>; According to OBOP survey (July 2001) 16,5% of Poles have used Internet, whereas 20% have access to Internet, [http://www.obop.com.pl/internet/200106komunikat\\_interbus\\_IE3\\_pliki/slide0007.htm](http://www.obop.com.pl/internet/200106komunikat_interbus_IE3_pliki/slide0007.htm); The significant difference between OBOP and ARC, SMG/KRC survey results is due to various definitions of Internet user. As for OBOP,

**Figure 3 Internet users in Poland, as a % of the population 15 and over**



Source: My own interpretations on the basis of SMG / KRC Net Track

**Figure 4 Place of Internet usage**



Source: My own interpretations on the basis of SMG / KRC Net Track

Most people use Internet at home, users at offices and school or university follow. Survey evidences that more than half of respondents use Internet at home (53%), 36%

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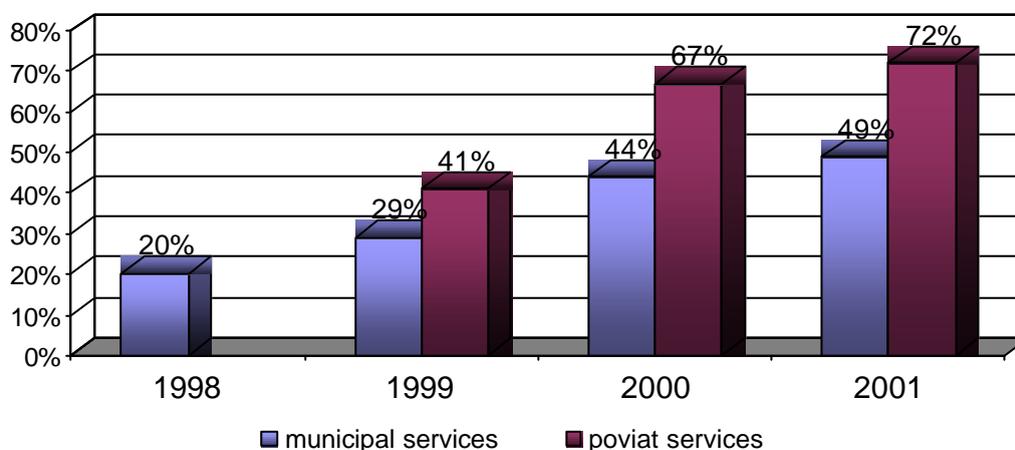
Internet user is anybody who has used Internet, ARC and SMG for Internet users considers respondents aged 15 and over that used Internet last month.

at work, 28,1% at school or university and every fifth of polled at Internet cafe.<sup>46</sup> During the last year, significant surge of individuals using Internet at school and at home is perceived (Figure 4). This is due to several projects focused on the spread of Internet usage at schools and decreasing prices of connections provided by telecommunication company Telekomunikacja Polska SA as a result of competition introduced on telecommunication market.

## 6.2 Local authorities web sites.

The majority of local administrations have an Internet presence with web site. The first research on local government web sites was conducted by Krzysztof Glomb in 1998 and referred to the level of municipal authorities. In 1998 only 20 percent of municipalities had active web site. In 1999, new territorial units: poviats were introduced in the administrative reform and among them 41% had their web services in the first year of

**Figure 5. Percentage of municipalities and poviats with their own web site**

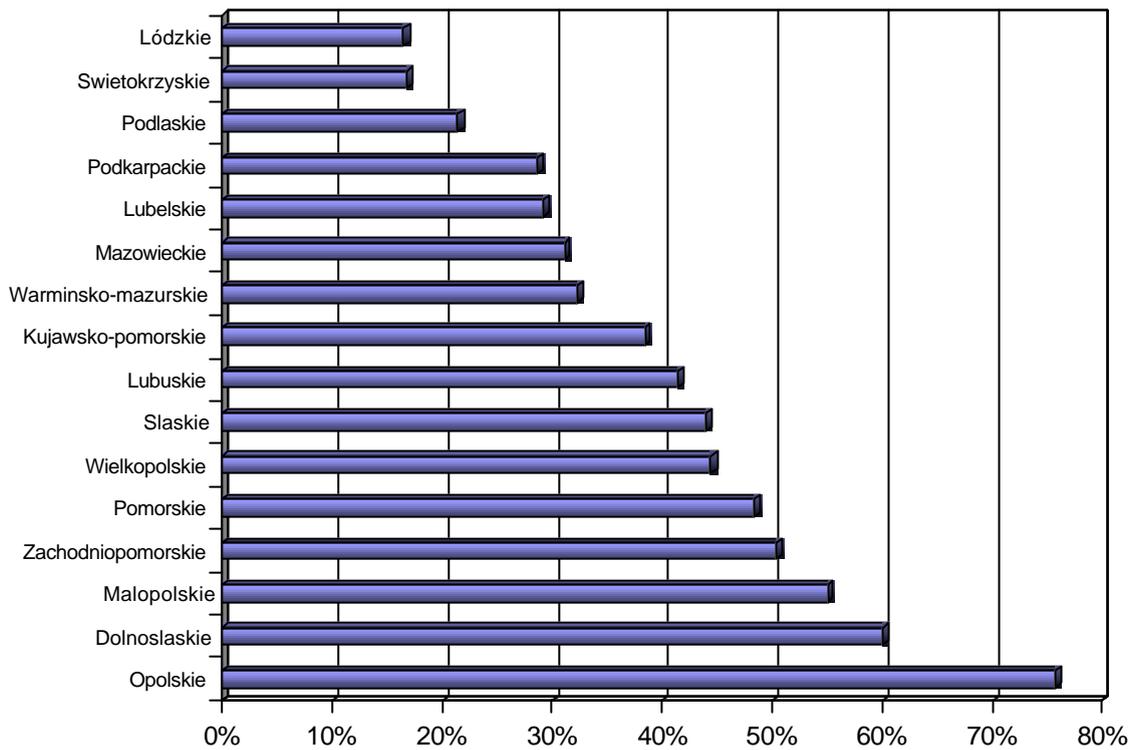


Source: Krzysztof Glomb presentation, [www.miastawinternecie.pl](http://www.miastawinternecie.pl)

existence. In 2000, number of web sites increased dramatically. However, this process slowed down in 2001. According to last analyses, almost half of all municipalities (1220) have web sites and 72 % (267) of poviats.

<sup>46</sup> ARC Rynek i Opinia survey, <http://www.arc.com.pl/pol/publ/im2001.htm>, February 2001

**Figure 6. Percentage of web services provided by municipal authorities ( by regions in 2000)**



Source: Login, Samorzadowa Internetowa Siec Informacyjna, Rocznik, Municipium S.A., Tarnów 2001.

Differences between regions are considerable: while the largest percentage of municipalities having their own web site was recorded in Opole region (93%), it stands at merely 28 % in Podlaskie and 26,5% in Lódzkie region<sup>47</sup>(Figure 6). On the whole, municipalities of the west and north Poland have dominated the scene.

<sup>47</sup> Data calculated by Krzysztof Glomb (May 2001) – presentation at the E-democracy Conference, Zakopane, June 20-23, [www.miastawinternece.pl](http://www.miastawinternece.pl)

Another line of division lies between urban and rural areas. The latter are still in initial stage of ICT usage. For example, only about one third of rural municipalities comparing to more than two thirds of Polish cities had their web-sites in 2001<sup>48</sup>.

Local authorities tend to benefit from www presence in various ways. Web services allow local officials promote their municipality, attract domestic and foreign investors, and communicate with citizens. But still, most of web sites run by local authorities are static and provide basic information about given municipality, local authorities and their activities.

A vast majority of surveyed APC cities place investment offers and tourist information on their websites. Data presented in Figure 1.13 (Appendix 4 ) confirm assumption that in the first stage of websites development local authorities foremost focus on promotion and attracting the investors. Councils' resolutions, highly important for local citizens, may be found in 64% of surveyed cities. Less common are city budgets and development strategies, which may be found in one out of two cities' websites. The least popular are information about local environment and local spatial plans.

### **6.3 Expanding the usage of Internet at municipal level - issues for considerations**

It is much more evident that in new information society era the ability to access information, transform, use and apply as a knowledge will be crucial for the development of local communities. Effective flow of information internally and outside the local communities constitute an essential factor of strengthening democracy and socio-economic development.

The question naturally arises how advanced are local communities in facing new challenges and opportunities. The access to World Wide Web is continuously becoming easier, but convenient use of the Internet typically requires a considerable monetary investment for equipment and a considerable temporal investment in learning. Research showed that in this matter local authorities lack not only adequate strategies for exploiting ICT but awareness of long-term profits and willingness to cooperate with local institutions.

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<sup>48</sup> *Samorzady w Internecie – statystyka*, <http://www.infoport.pl/content/fs/?dn=2%2C3>, 02.02.2002

In order to design appropriate strategies improving present situation a closer look at two key actors (local government-officials and citizens) should be done.<sup>49</sup> Four types of officials may be identified in respect to their willingness to act and level of awareness and capability to improve information policy:

- 1-initiators (aware and eager to act)
- 2-potential supporters (not aware but willing)
- 3-‘opposition’ (capable and aware but not willing)
- 4- not aware and not willing

Table 1 “ (officials)”

		“Will to act”	
		YES	NO
“Aware and capable”	YES	1. Initiators (innovators)	3. Opposition
	NO	2. Potential supporters	4.

To achieve the strategic objectives the stress should be put on:

- How to identify those groups and prepare relevant course of action?
- How to influence the ‘opposition’?
- How to enlarge the number of initiators?
- How to make potential supporters understand the benefits of ICT?

Citizens may be grouped with reference to in their interest in local affairs and usage of ICT:

- 1. Champions (interested in local affairs and ICT users)
- 2. Potential leaders (Interested in local affairs but not ICT users)
- 3. ICT users but not interested in local affairs

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<sup>49</sup> Proposed strategies for development of effective communication are described in the policy paper "Effective communication at local level", [www.policy.hu/~sakowicz](http://www.policy.hu/~sakowicz)

#### 4. Neither ICT users no interested in local affairs

We can assume that around 10 % of people are interested in local affairs and actively engage in problem solving of their communities.<sup>50</sup> Around 15-20% of population is internet users, but the percentage of citizens using ICT in their contacts with local administration is still insignificant.<sup>51</sup> Proper information policy may expand the number of active leaders as well as increase citizens' involvement in policy and decision making at the local level.

Table 2 "citizens"

		Interested in local affairs	
		YES	NO
ICT usage	YES (users)	1. Active leaders (champions)	3.
	NO (no users)	2. Potential leaders	4.

To sum up, as a result of ICT applications, the communication relationship with government has become more flexible from citizen's point of view, providing more opportunities for contact with officials and representatives. However, taking into account various developments, the rate and, the extent to which ICT is actually causing changes in the relations between local authorities, institutions and citizens, is limited. Therefore the revolutionary renew in communication does not seem to occur at the moment, but it is difficult to determine the effects the ICT will finally have on the public engagement in local policy making and upgrading the quality of public services. It may be concluded that in Poland electronic democracy and service delivery are still in infancy. Therefore different kind of activities showing the potential benefits of Internet related technologies for enhancing democratic development are much welcomed.

<sup>50</sup> Diagnoza społeczna, Raport z badan sondazowych (2000), Warszawa (Social diagnose, Report from public opinion poll) This report highlights that slightly 8% of polled have been engaged in activities beneficial for local community or housing area previous year. This figure is also confirmed by other analyses: A. Bartoszek (1993): Opinia o dzialalnosci wladz miejskich i urzedow miejskich (Social opinion on performance of urban authorities and offices, in: M. Baranski, (ed.), Spolecznosci lokalne i rozwój lokalny. (Local communities and local development), Katowice; or international experience: for example: Barcelona.

<sup>51</sup> The TNS (2001) study revealed that only **5% of Poles have used the Internet to access government online over the last twelve months**, <http://www.obop.com.pl> November 2001

## **7 Conclusions and lessons learned**

During the last ten years Poland has witnessed a growing trend away from secrecy and towards transparency. Although the reforms following the collapse of the old system led up to rebirth of democratic institutions, truly open governance is still far to be reached.

In spite of efforts undertaken to guarantee broad access to information, Poland still faces the challenge of ensuring effective execution of this right. However, many problems result not only from the absence of good regulations but also from lack of the established democratic practice and respect for rules of law. The latter refers to the whole society, to local administration, to individuals and representatives of local institutions and media. In particular, local authorities are not aware of necessity to act under public scrutiny, which hinders development of democratic processes.

It is believed that new Freedom Information Act could improve this situation. But whether the enforced in 2002 Law on public sector information will guarantee truly effective access to information is debatable. During parliamentary works some limitations of access to information were introduced and final version departed from initial proposal.

In order to attract people and get them involved in consultations and discussions the changes on less formal level are required as well. Many local authorities are not trying to change their approach to information policy and enhance effective communication with internal and external partners. Therefore local authorities must respond to people and actively demonstrate that there is a relationship between the citizens' engagement in local issues and policy outcome.

New technologies can make it easier for citizens to access public information, follow the political process and form groups on specific issues. As growing part of the population has access to Internet, this medium is becoming more and more important as an information channel. The extent of Internet and computer usage depends on people needs and skills. Thus proper training and education is necessary if the benefits of new technologies are going to be achieved.

In sum, it is necessary to focus not only on legal aspects of access to information but also on increasing awareness of local authorities so that truly access to information effective communication at local level can occur.

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## 9 Appendixes

In order to give some flesh to issues discussed above it is necessary to look somewhat more closely at specific municipalities. Szczecin and Sokolów Podlaski constitute good examples of how information policy of local authorities has been shifted from closed to more open one. In both cases, local authorities are trying to use new technologies as a means of improving interactive relations between local administration and citizens. Two case studies are followed by some more profound presentation of results of opinion poll and questionnaire concerning information policy of local authorities in Poland.

### 9.1 Appendix 1 The Best Practice of Making Budgetary Information On-line. The case of Szczecin

Szczecin, inhabited by 420 000 people, is the capital of *Zachodniopomorskie* region. Local democracy in the city is based on full disclosure and transparency in financial management and a dialogue between citizens and local government. Szczecin's authorities are aware that unrestricted public access to the information is a foundation of local democracy and therefore consequently pursue the principle of full disclosure and transparentness of municipal financial management. In particular, this refers to the budget planning and controls process. In ten years time local authorities made a tremendous shift, from unrestricted information about finance to the situation when information is available to citizens and local authorities in the same scope.

Under authoritarian rule, information about city management procedures was constrained. At the beginning of the 90-ties, budget resolutions were available only to the top municipal management. Since 1998 the programme of full disclosure have been implemented. In effect continuously updated, analytical budgetary and property data are available in printed out and electronic versions. Local administration considers informing the general public as one of the main task of local government. City officials maintain relations with local newspapers and radio stations. City spokesperson, treasurer and politicians inform journalists systematically about local government decisions through press releases, press conferences, interviews, and the provision of the background information.

A significant evolution has been reached in the forms of publicising this information – commencing with the traditional, printed out materials through electronic versions published on the city's Internet website: [www.szczecin.pl](http://www.szczecin.pl). City on-line service provides very accurate and broad information on overall performance of the city, finance, local law, and includes possibility of inhabitants to voice their opinions. In the 2001 Szczecin won the prize of “golden @” for the best web site in the competition organised by association “Cities on Internet”. In particular, Szczecin's remarkable achievements in informing the public are result of very transparent on-line information on city's finances.

Szczecin City's website on the finances was launched on 26 February 1998, publishing the city budget for the first time in Poland. The broad application of principle of openness was achieved thanks to Mirosław Czekaj - city treasurer. It was his initiative to publish as much information as possible. Asked where lies the core of his success in opening up information on city finance he frankly expresses his own opinion - not to inform the politicians, just do it.<sup>52</sup> In answering the question what arguments should be used to make local officials disseminate information like Szczecin does, he suggests to convince them by using the following argument. If local officials share the information about local issues with citizens they will have possibility of quick reaction, to answer, comment and face potential future conflicts, which may reveal after problem builds-up.<sup>53</sup>

Apart from full disclosure of procedures in the decision making process, resolutions taken by City Council and City Executive Board, website provides wide and unrestricted public access to budgetary data. These include: budget project and budget itself, budget reports over the last year, multi-year capital improvement programme, a list and value of updated communal stock property, monthly publication of budget performance reports, evaluation made by rating agencies, evaluation and opinion made by Regional Auditing Agency. During 50 days in the fall of 2001 over 3500 visitors have visited the financials services on line. An interesting point is that citizens have got accustomed to the fact that such documents like the city 2002 budget project or a list of municipal property are published on the website before these documents are actually printed out.

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<sup>52</sup> City treasurer's answer to question during the Government – Citizen Communication Workshop, OSI, Budapest, 8 March 2002

<sup>53</sup> Mirosław Czekaj, Government – Citizen Communication Workshop, OSI, Budapest, 8 March 2002

The question is, of course, whether citizens are interested and use the information provided on the website? According to Czekaj it is difficult to assess the use of on-line information by ordinary citizens. In his opinion these are couple of percentages of citizen using on-line information. Certainly, the main users of website information are journalists, which regard this tool as a very useful and quick source of information. However, city's aim is to provide opportunity for all of citizens, not only representatives of media. So far, little has been done to encourage computer illiterate citizens to benefit from this medium.

Publishing of a local budget by itself can little say about where the local funds will go and how the local community will benefit from the budget implementing. A 400 hundreds paged document is very difficult to read and understand even for the city treasurer of Szczecin. Therefore information about finance is provided in easy to understand manner. Since 1994, the city publishes the brochures informing citizens about financial situation of the city, which are delivered to every Szczecin's family. What's more, brochures describe local finance comprehensively and with good deal of humour, what makes financial issues understandable to an average citizen. Since 1995, the information on the city finances has been distributed on the CD-Roms, while since 2000 in the form of budget cards. For those, who don't have access to the Internet, the City provided multimedia kiosks.

Szczecin citizens have also the possibility to consult and assess the city authorities' decisions. Local authorities encourage citizens to voice their opinions about city budget, development strategy and major local events. For this purpose officials use both on-line and off-line methods of interactive communication. For instance, special boxes for citizens willing to share their opinions are provided. Another way to gather responses from citizens are special actions (designating activities) - which focus on particular group of people in the city. Local authorities cooperate also with scientists, students and researchers in order to improve their services.

As for electronic delivery of services, in 1996 local administration made inventory of all procedures in the city. Due to implementation of Document Management System inhabitants are offered broad on-line services ranging from registration of born child or business, electronic circulation of documents to register of matters system. At present

procedures and forms are available on-line but citizens have to collect and fill forms at home and then submit to office. Practical usage of on-line services will be possible when law on electronic signature be enforced (July 2002).

Szczecin authorities still face the problem how to expand the number of citizens benefiting from opportunities provided by new technologies. Cities activities, however very beneficial, are constrained to publish all information but still too less is done in respect of strengthening effective communication between individuals, local institutions and civic organisations. For instance, local administration doesn't provide sufficient support and training for people willing to use Internet.

## 9.2 Appendix 2 More Open and Easy Access to Information. The case of Sokolów Podlaski.

Sokolów Podlaski, with population of almost 20 000 inhabitants, is situated in the eastern part of *Mazowsze* region. The town is a seat of municipal and *powiat* authorities. Evaluation of ICT usage by municipality of Sokolów Podlaski was carried out between June 2001 and February 2002. These included interviews with local politicians, officials, journalists and entrepreneurs.

Given the fact that in Sokolów Podlaski there is neither local TV nor radio station the main information channel in this municipality constitute local newspapers: *Gazeta Powiatowa* and *Gazeta Sokolowska*. The first newspaper has a ten years tradition, the second one was set up in the summer of 2001. Both newspapers are called 'independent' in the sense that they are not supported financially by local administration. In fact, local authorities usually publish information (buy a page in the newspaper) in the first one. The explicit distinction between *Gazeta Powiatowa* and *Gazeta Sokolowska* is that the second one is much more critically disposed towards local authorities. Apart from local newspapers, meeting with councillors and talking to friends, the new local information channel has been established.

In the spring of 2000 Town Executive Board decided to create website of Sokolów Podlaski. Mayor of the town, Zbigniew Karakula, asked what was the critical factor for launching web site, said: "Time has changed, we live in XXI century and there is need for this kind of undertaking".<sup>54</sup> Initially, [www.sokolowpodl.pl](http://www.sokolowpodl.pl) provided basic information about town, local authorities and their activities. After one year from launching, the website won the prize "golden @" for the best one in the category of small towns and municipalities. An interesting fact is that this success is mainly the result of work of one person – webmaster of the office. Hardly had the web site been awarded, officials, local institutions and neighbourhood municipalities manifested more involvement in enhancing this service. Furthermore, a lot of vigorous involvement in providing content for the web site indicate young people, but they very often quickly give it up. However,

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<sup>54</sup> Interview with Zbigniew Karakula, mayor of the Sokolów Podlaski, November 23, 2001

not everything showed up a success from the beginning. For example, discussion fora occurred to be misused for externalities: to make fun or to disseminate vulgar words.

Nevertheless, the web site is constantly updated and became a crucial element of bettering provision of services. Apart from putting into practice of ISO 9001:2001 the on-line service fosters accomplishment of strategy *Municipal office friendly to the citizens*. However, new standardised system of quality in administration arouses criticisms and controversy among some local journalists. They pointed out the low level of services provided by current local administration (for example closed one office department due to officials' training). In consequence journalists expressed doubts whether the new system would improve the situation. In spite of this, implementation of ISO had positive influence on on-line services. Thanks to ISO it was easier to elaborate procedures and involve all officials to work on e-service project. Finally, not all interviewers are satisfied with the way municipal information is distributed but even the strong opponents of local authorities admit that web site is a remarkable step to transparent and effective work of local authorities.

### 9.3 Appendix 3 Results of Public Opinion Poll.

Table 1 Citizens' assessment of local authorities in Poland

Questioned issues	Percentage of polled who definitely or rather <b>disagree</b>	Percentage of polled who definitely or rather <b>agree</b>	Percentage of polled who don't opinion or don't know
I am interested in municipal issues	20,4	64,8	14,9
I am interested in activities of municipal authorities	29	52,8	18,2
I am interested in activities of <i>poviats</i> authorities	38,4	41,6	20
<b>Local authorities badly inform citizens about their activities</b>	<b>19,1</b>	<b>49,7</b>	<b>31,2</b>
I have <b>influence on</b> decisions made by local authorities	83,4	<b>7</b>	9,6
Local authorities pursue interests of their own, not inhabitants	16,5	51,7	32,8

Source: My own interpretation on the basis of public opinion poll conducted on 1000 inhabitants by SMG/KRC Poland -Media S.A., September 2001

Table 2

Sources of information about activities of local authorities in Poland

	Percentage of polled who consider given source of information as definitely <b>not important</b> or rather not important	Percentage of polled who consider given source of information as definitely <b>important</b> or rather important	Percentage of polled who don't opinion or don't know
Local radio	21,9	57,7	20,4
Local TV	17,7	62,2	20,2
Publications in offices	28,2	48,5	23,2
<b>Local authorities' Web sites</b>	<b>58,6</b>	<b>16,6</b>	<b>24,7</b>
Meetings with councilors	45,5	33,7	20,7
Talking to acquaintances	14,1	63,5	22,2
<b>Local newspapers</b>	<b>13,2</b>	<b>72,3</b>	<b>14,6</b>
Regional daily	19,1	63,8	18,1

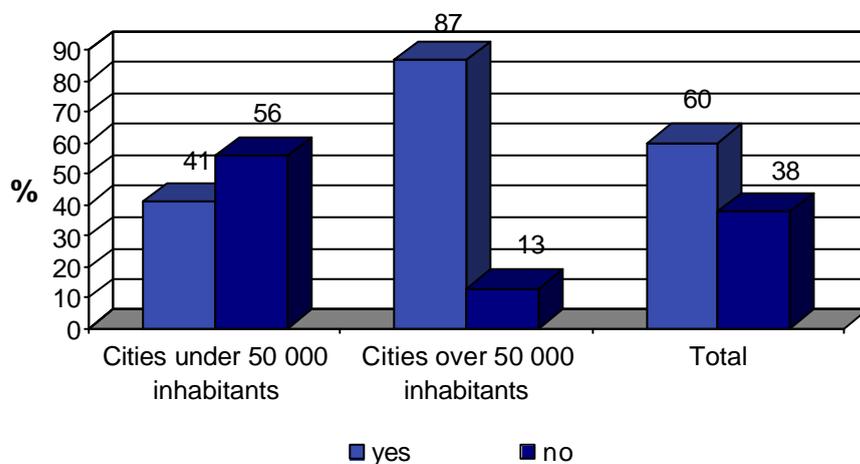
Source: My own interpretation on the basis of public opinion poll conducted on 1000 inhabitants by SMG/KRC Poland -Media S.A., September 2001

## 9.4 Appendix 4 Results of Questionnaire on Information Policy of Local Government

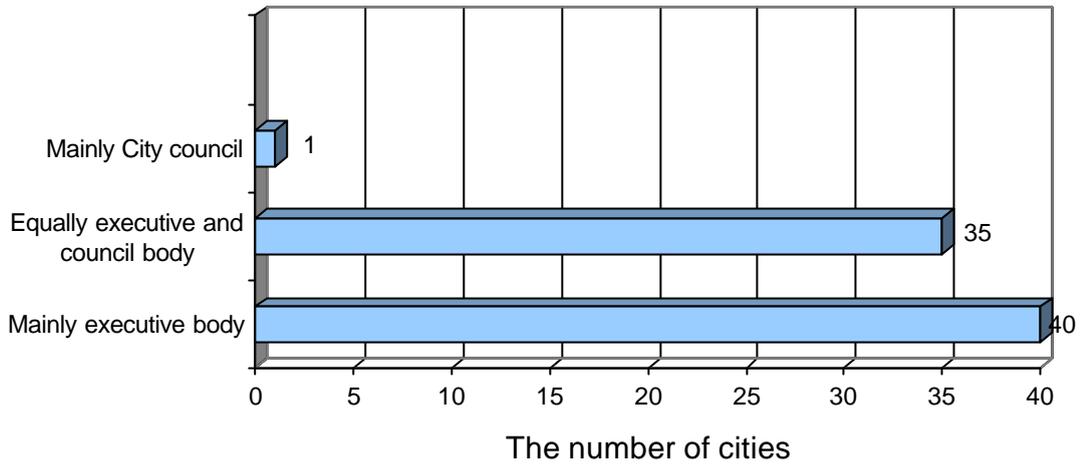
The questionnaire was mailed to 266 cities – members of Association of Polish Cities (APC – *Zwiazek Miast Polskich*) in December 2001. I received 128 replies, which accounts for 48% of the total number of cities chosen for the survey. In selected cases (Szczecin, Sokolów Podlaski, Czestochowa) interviews with local officials and representatives of local institutions were carried out. Results of this study are not representative for the whole country but shape a clear picture about information policy undertaken by urban municipalities. 80% of the total number of city-dwellers in Poland live in the member-cities of the Association of Polish Cities.

A. Informing citizens about local self-government activities and functioning of the municipal office

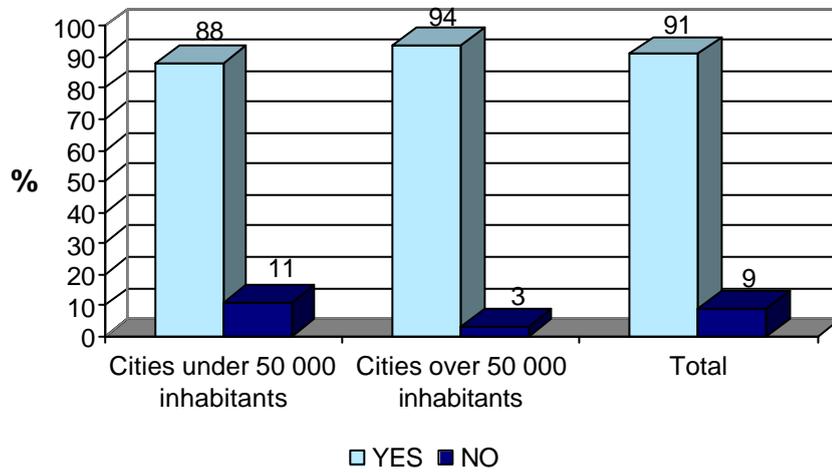
**Figure 1.1 Is there a spokesperson at municipal office?**



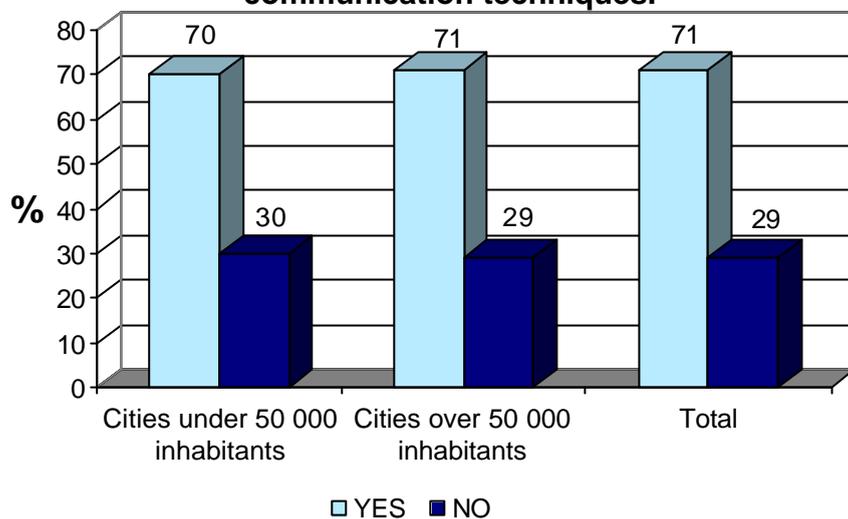
**Figure 1.2 For whom the spokesperson is working ?**



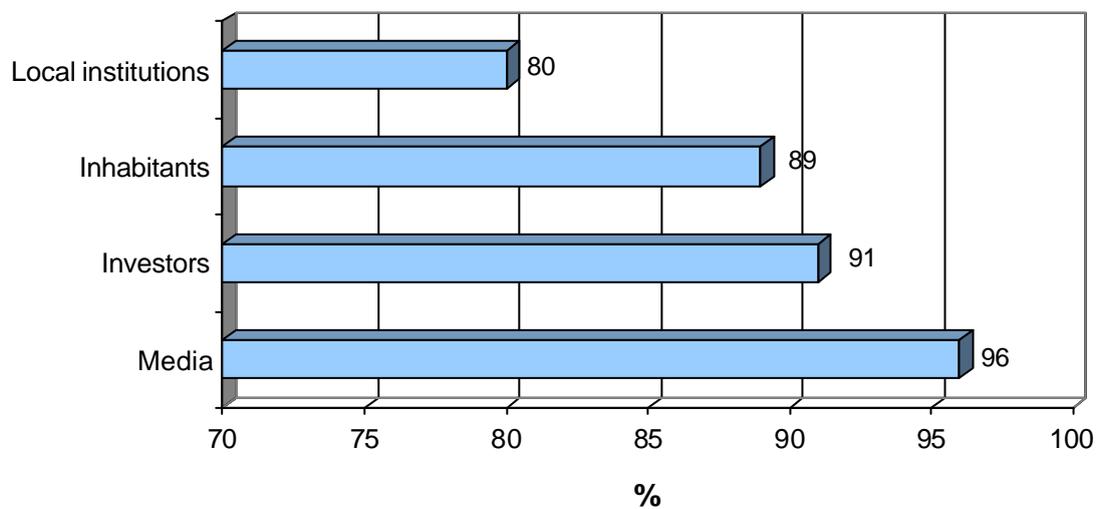
**Figure 1.3 Is the dissemination of information regulated within local administration?**



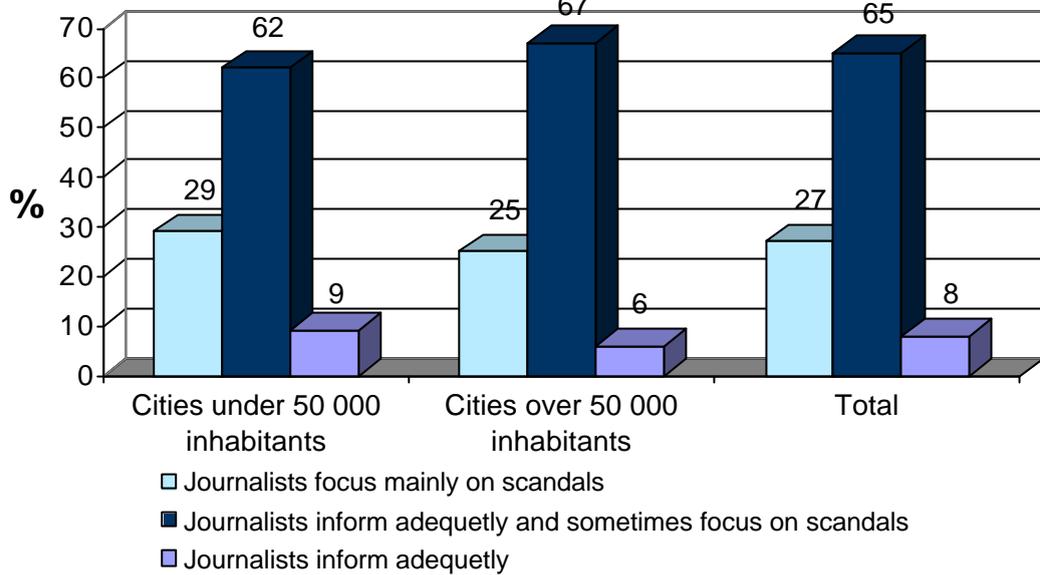
**Figure 1.4 Were the officials trained in the field of communication techniques.**



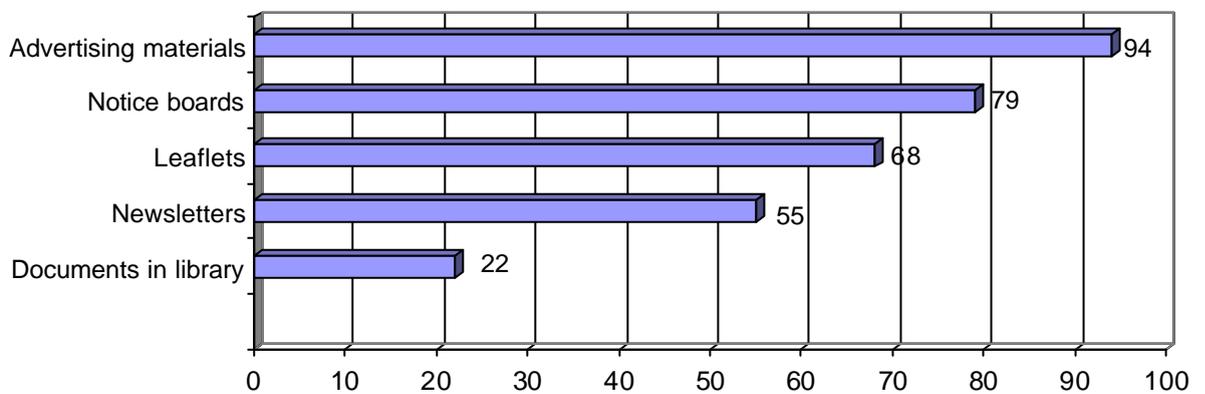
**Figure 1.5 To whom information materials are addressed ?**



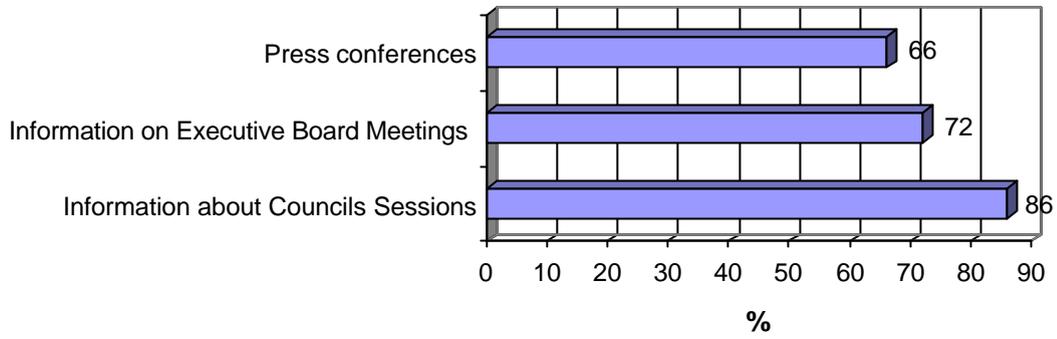
**Figure 1.6 The assesment of journalists**



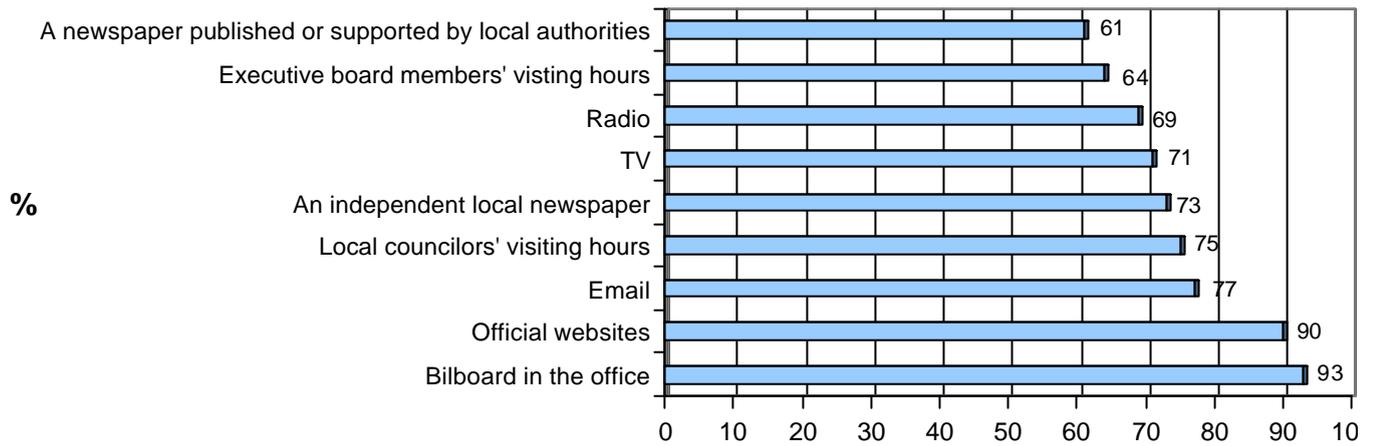
**Figure 1.7 What kind of communication tools are used ?**



**Figure 1.8 Communicatationwith media**

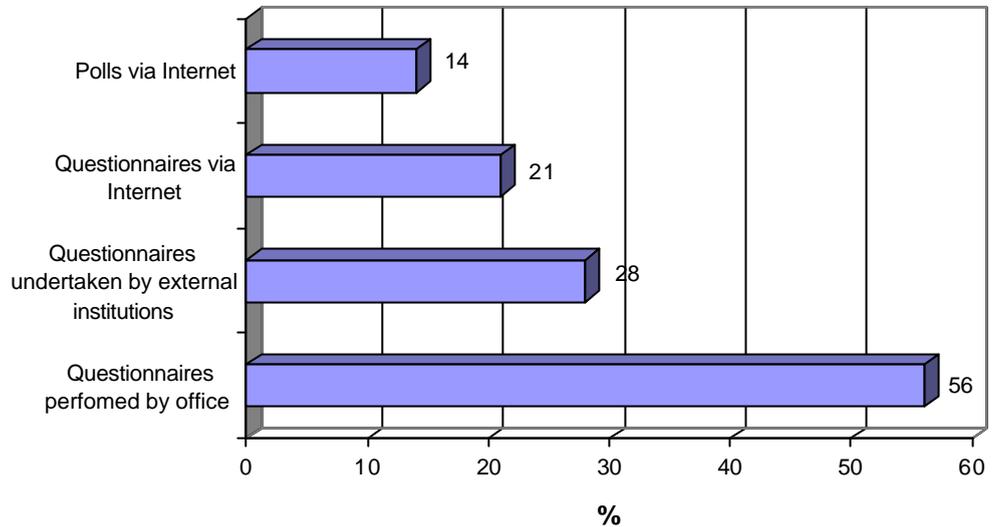


**Figure 1.9 Communication with citizens and local institutions**

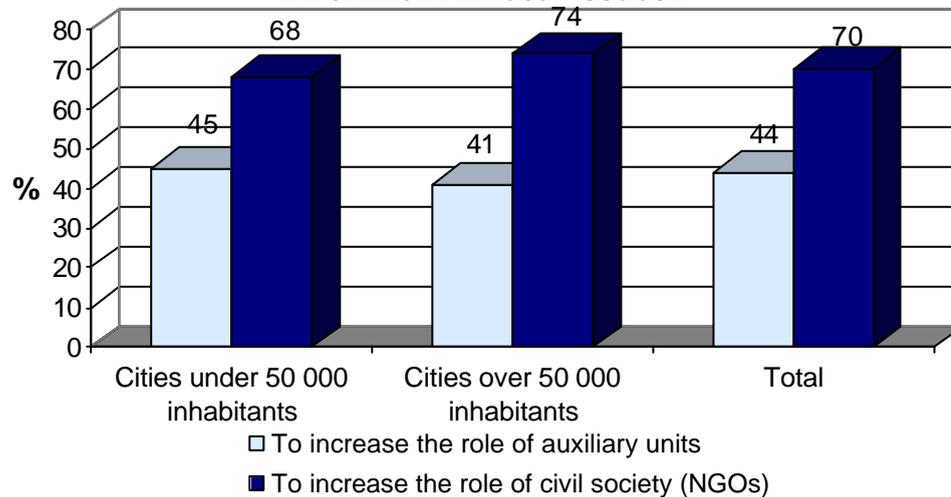


## B. Getting the information from citizens

**Figure 1.10 Acquiring information about citizens' preferences**

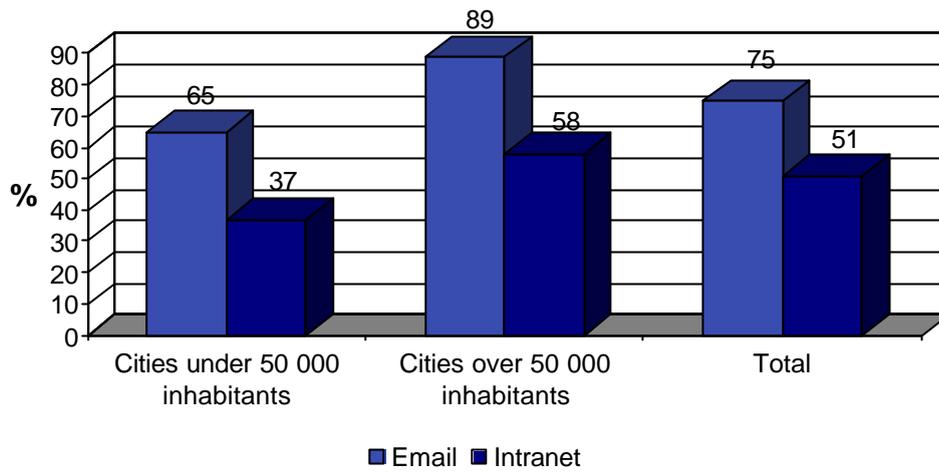


**Figure 1.11 What should be made to increase citizens involvement in local issues?**

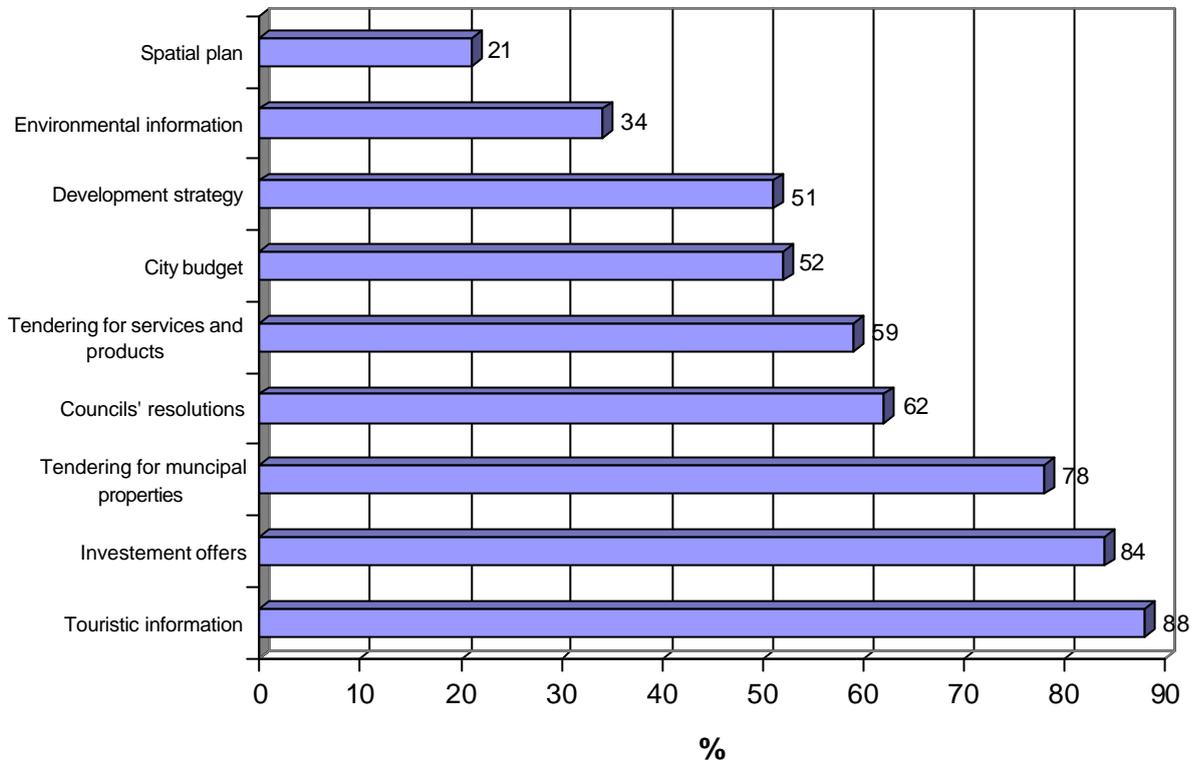


## C. Use of ICT

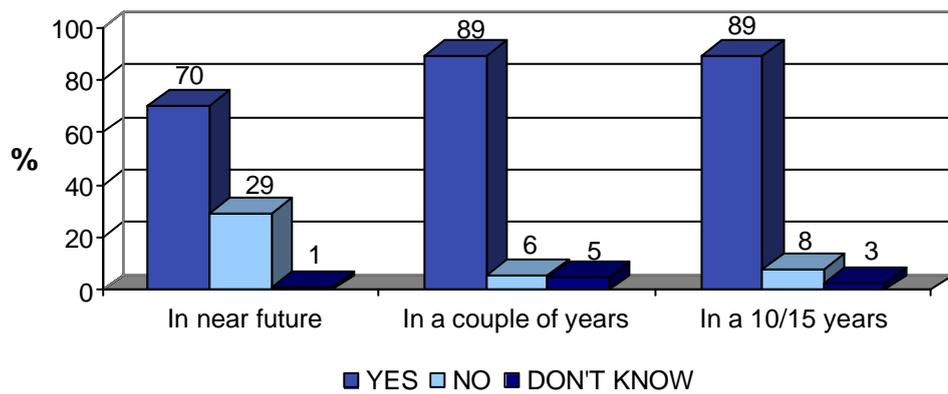
**Figure 1.12 Communication in the offices**



**Figure 1.13 Information on cities' websites**

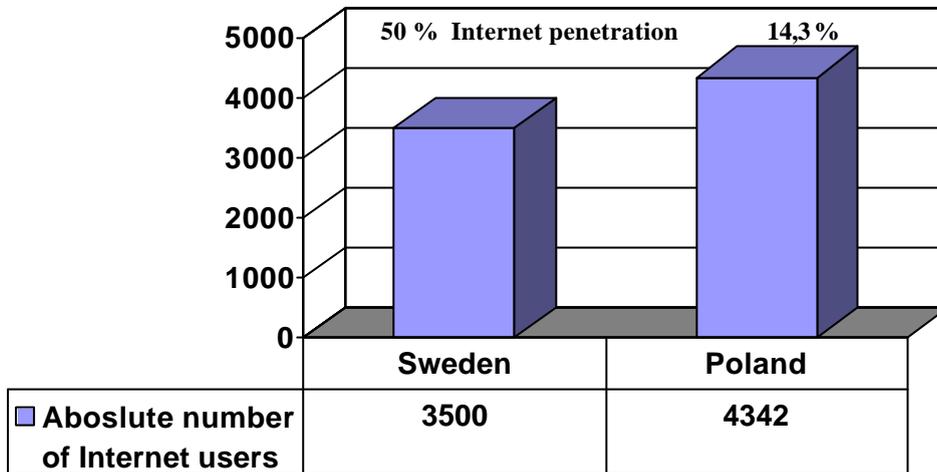


**Figure 1.14 Is Internet is going to improve communication between citizens and inhabitants?**



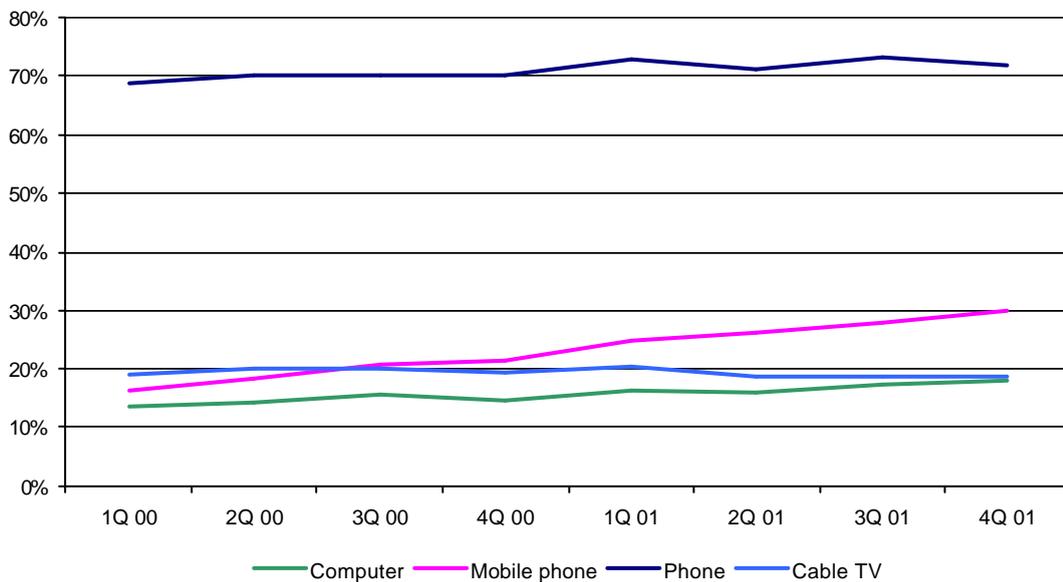
## 9.5 Appendix 5 Additional Data

Figure 3.1 Coverage of Internet in '000



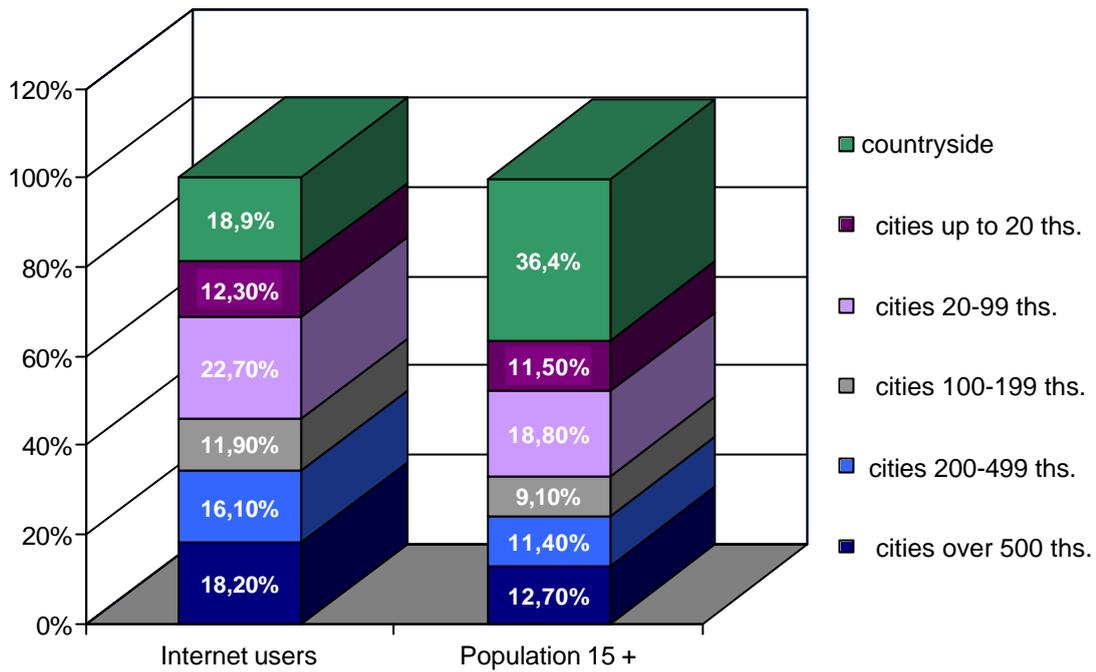
Although Internet penetration in Sweden (2001) was 50% and in Poland around 14,3% the absolute number of Internet users was higher in Poland.

Figure 3.2 Infrastructure development



Source: SMG / KRC Target Group Index

Figure 3.3 Localisation



Source SMG/KRC Net Track 4Q '01

Figure 3.3 presents the percentage of Internet users with reference to their place of living. For example the number of people aged 15 and up amounts to 36,4% of total population at countryside but they represent only 18,9% of Internet users. The best situation in this respect is in the cities over 200 thousands inhabitants.