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SIGMA

**Support for Improvement in Governance and
Management in Central and Eastern European Countries**

**PUBLIC MANAGEMENT PROFILES OF
CENTRAL AND EASTERN EUROPEAN COUNTRIES:**

POLAND

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(AS OF NOVEMBER 1999)

Political Background

The last general elections to the bicameral National Assembly were held on 21 September 1997. As a result of these elections, five political groups and representatives of the German minority obtained seats in the *Sejm*, the lower chamber of the National Assembly. They included:

- Solidarity Electoral Action (AWS): 201 seats
- Democratic Left Alliance (SLD): 164 seats
- Freedom Union (UW): 60 seats
- Polish Peasant Party (PSL): 27 seats
- Movement for the Reconstruction of Poland (ROP): 6 seats
- Representatives of the German Minority of Lower Silesia: 2 seats

The same groups, plus five independents, also obtained seats in the upper chamber, the Senate, as follows:

- Solidarity Electoral Action: 51 seats
- Democratic Left Alliance: 28 seats
- Freedom Union: 8 seats
- Movement for the Reconstruction of Poland: 5 seats
- Polish Peasant Party: 3 seats
- Independents: 5 seats

Since the elections, several deputies and senators have changed their political affiliations. Thus, by September 1999, the composition of the *Sejm* was as follows:

- Solidarity Electoral Action: 187 seats
- Democratic Left Alliance: 164 seats
- Freedom Union: 59 seats
- Polish Peasant Party: 26 seats
- “Our caucus” group: 7 seats
- Confederation for Independent Poland/Fatherland: 6 seats
- Movement for the Reconstruction of Poland: 4 seats
- Independents: 5 seats
- German minority: 2 seats

After the 1997 elections, two parties previously in the opposition -- the Solidarity Electoral Action and the Freedom Union -- formed the government. The Prime Minister, Jerzy Buzek, is a member of the Solidarity Electoral Action party. In 1999, there were several changes in the composition of the Council of Ministers, with the latest reshuffle in late September 1999.

Members of the National Assembly are elected for four years. The next general elections are scheduled for 2001.

The President of the Republic of Poland, Aleksander Kwasniewski, was elected in November 1995 and took office on 23 December of that year. He won the presidential elections as the candidate of the Democratic Left Alliance.

1. The Constitutional Framework

1.1 Constitutional Bases

On 2 April 1997, the National Assembly adopted a new Constitution. It replaced the Constitutional Law on the Relationships between the Legislative and Executive Powers and on Local Self-government, known as the Small Constitution, which had been in force since 1992. The new Constitution was approved in a popular referendum on 26 May 1997, signed by the President and published on 16 July 1997. The Constitution finally entered into force on 17 October 1997. The new Constitution had been under discussion since 1989, but several earlier attempts to adopt a new constitution had failed.

According to the new constitutional provisions, constitutional amendments may only be proposed by at least one-fifth of the statutory number of Sejm deputies, by the Senate, or by the President of the Republic. A Bill to amend the Constitution needs to be adopted by the Sejm by a majority of at least two-thirds of the votes and in the presence of at least half of the statutory number of deputies, and by the Senate by an absolute majority of votes in the presence of at least half the statutory number of senators. If changes are to be made to chapters I, II or XII of the Constitution, the initiators of such changes may call for a popular confirmatory referendum.

Poland has traditionally been part of the continental law tradition. Even under communism, the country did not break with this legal heritage. The legal system of Poland is based on a hierarchy of legal norms. According to the Constitution, the hierarchy of norms is as follows:

- the Constitution;
- statutory laws;
- international agreements, duly ratified and published in the Journal of Laws;
- regulations issued by constitutional organs, including the President of the Republic, the Council of Ministers, the Prime Minister, and ministers, in order to implement legislation within their respective sphere of responsibility;
- resolutions of the Council of Ministers and orders of the Prime Minister concerning the internal affairs and binding only those organisational units subordinate to the organ issuing such an Act;
- local legal enactments passed by local self-government and territorial organs of government administration to implement legislation within their respective spheres of responsibility.

All of the above-mentioned legal instruments are valid only after they have been published.

1.2 Nature of the State

The Constitution defines Poland as a democratic state based on the rule of law and the principle of social justice. Poland is a unitary state and a republic.

The Constitution introduces the notion of civil freedoms (as distinguished from rights) not created by the State, but to be protected and guaranteed by the State. These include personal freedoms, and economic,

social and cultural freedoms. The catalogue of civil and political rights includes freedom of association, freedom of speech, protection of property, respect for privacy and protection against unjustified imprisonment.

The Constitution defines the economic system as a social market economy based on freedom of economic activity, private ownership, and solidarity, dialogue and co-operation between social partners. Private property, other ownership rights and rights to inheritance are legally and universally protected by the Constitution.

1.3 Division of Power

The Constitution is based on the principle of the separation of powers. It establishes the following organs of the State:

- the *Sejm* and the Senate, i.e. the lower and upper chambers of the National Assembly, as legislative bodies;
- the President of the Republic and the Council of Ministers as executive bodies;
- independent courts of law as judicial bodies.

The President is the head of state. He is the supreme representative of the Republic of Poland and the guarantor of the continuity of state authority. He is responsible for ensuring observance of the Constitution, safeguarding the sovereignty and security of the state and the inviolability and integrity of its territory.

The President is elected in universal, equal and direct elections for a five-year term of office. He may be re-elected once.

The powers of the President include, *inter alia*:

- *vis-à-vis* the National Assembly: the President calls general elections, convenes the first sitting of both chambers, may shorten the term of the National Assembly, has the right to speak in the National Assembly, and may initiate legislation;
- *vis-à-vis* the Council of Ministers: the President nominates the Prime Minister and appoints the Council of Ministers, and has the right to convene a Cabinet Council. The Cabinet Council, i.e. a meeting of the Council of Ministers chaired by the President, does not possess the powers of the Council of Ministers;
- *vis-à-vis* the judiciary: the President of the Republic nominates judges on the recommendation of the National Council of the Judiciary, appoints the President of the Supreme Court, the President and Deputy Presidents of the Constitutional Tribunal, and the President of the Chief Administrative Court.

As of September 1999, the Council of Ministers consists of the Prime Minister, 16 ministers, the Chairman of the Scientific Research Committee (minister responsible for the area of science), and the President of the Government Centre for Strategic Studies. The Council of Ministers does not have a fixed term of office and is appointed for an indefinite period. The Council of Ministers conducts the domestic and foreign policy of the Republic of Poland, conducts the affairs of state not reserved to other state organs or local self-government and manages the government (i.e. state) administration. In particular, it is responsible for the implementation of statutory laws.

The Constitution stresses the independence of the judiciary. In the exercise of their duties, judges are independent and subject only to the Constitution and to statutory laws. Judges are appointed for an indefinite period by the President of the Republic on the proposal of the National Council of the Judiciary.

Judicial authority is uniform in character, i.e. each court passes judgements in the name of the Republic of Poland.

2. Legislative Authority

2.1 Electoral Rules

Since 1991, the electoral system of Poland has been based on general principles of democratic states. Presidential, parliamentary and local self-government elections are general, direct, secret and equal.

Voters in elections to the *Sejm* and to the Senate must be 18 years of age on the date of the elections, must have Polish citizenship and enjoy full public and electoral rights. Those eligible for election must be at least 21 years of age, be Polish citizens, and have been permanently resident in the country for not less than five years. Votes may only be cast in person.

Of the 460 *Sejm* deputies, 391 are elected in 52 multi-member constituencies from constituency lists of candidates on the basis of proportional representation. The distribution of seats is effected on the basis of the d'Hondt method. Thus, parties win seats according to the aggregate vote for their candidates in a given constituency and then allocate them to those with the highest individual totals. The remaining 69 seats in the *Sejm* are allocated proportionately according to votes cast for national lists. Minimum thresholds apply. This system results in a multi-party system with a relatively small number of parties represented in the *Sejm*.

Senate elections have, up to now, taken place in 49 multi-member constituencies, congruent with the previous number of *voivodships*, on the basis of a simple majority vote. Each *voivodship* was represented by two senators, except for Warsaw and Katowice, the most populous *voivodships*, which were represented by three senators each. Due to the recent reduction of the number of *voivodships* from 49 to 16, the electoral law will be amended.

Formal parliamentary groups are constituted in both chambers of the National Assembly.

2.2 Main Powers of Parliament

The *Sejm* and the Senate exercise legislative power in Poland. Both chambers act jointly as the National Assembly in cases provided for by the Constitution: to adopt the Constitution; to swear in the newly-elected President; to determine whether the President is unfit to fulfil his duties on account of ill health; or to impeach the President before the State Tribunal for violating the Constitution or an act of law.

The *Sejm* consists of 460 deputies elected for four-year terms. The Senate consists of 100 senators, elected for the same term as the *Sejm*. The term of both chambers may only be shortened under two circumstances: if the State budget is not passed within four months or after three unsuccessful attempts to form a government. The *Sejm* may choose to dissolve itself, for which a two-thirds majority of the statutory number of deputies is required. The term of the National Assembly may also be extended if a state of emergency is declared.

The main functions of the *Sejm* are:

- to pass statutory laws concerning, first and foremost, such matters as the rights and duties of citizens, the annual state budget, and the authorisation of the ratification or renunciation by

the President of the Republic of some international treaties;

- to pass resolutions on such issues as the holding of a popular referendum or the implementation of the state budget by the Council of Ministers;
- after appointment by the President of the Prime Minister and the Council of Ministers, and upon presentation by the Prime Minister of the Government Programme, to hold a vote of confidence in the Government;
- to appoint or elect important state officials, such as the President of the National Bank of Poland (on the proposal of the President of the Republic), the President of the Supreme Chamber of Control, the General Inspector for the Protection of Personal Data, the Chairman of the Institute for National Remembrance, the Commissioner for Citizens' Rights, judges of the Constitutional Tribunal and of the Tribunal of State, some members of the Council for Monetary Policy, the Council of Radio Broadcasting and Television, and the National Council of the Judiciary;
- to exercise control over the activities of the Council of Ministers, some state organs and, to a certain extent, local self-government.

Control is exercised through a variety of means, which include at plenary sittings:

- a vote of acceptance on the implementation of the state budget by the Council of Ministers;
- deputies' questions and interpellations addressed to the Prime Minister or to ministers;
- a vote of constructive no confidence in the Council of Ministers by a majority of the statutory number of deputies, on a motion by at least 10 per cent of the deputies, which specifies the name of a candidate for Prime Minister;
- a vote of no confidence in an individual minister that requires a motion by 15 per cent of the deputies;
- a vote of confidence -- on a motion by the Prime Minister -- in the Council of Ministers by a majority of votes and in the presence of at least half of the statutory number of deputies;
- deliberative reports of the Supreme Chamber of Control, the Council of Radio Broadcasting and Television, and the Commissioner for Citizens' Rights.

Control is also exercised by committees, which:

- consider reports and information from ministers;
- agree on opinions addressed, among others, to the Council of Ministers or to its individual members, the President of the Supreme Chamber of Control, or the President of the National Bank of Poland.

Deputies also have the right to obtain information and explanations from members of the Council of Ministers, and from the organs, institutions and enterprises of the state and local self-government.

The functions of the Senate are:

- to participate in legislation, including constitutional laws, through the right to initiate legislation and to review Bills adopted by the *Sejm* within 30 days of their receipt. The Senate may decide to approve a Bill without amendments, introduce amendments, or reject the Bill in its entirety. In the absence of a resolution within 30 days, a Bill is considered as accepted. The Senate's decision to amend or reject a Bill may be overruled by an absolute majority of votes in the *Sejm* in the presence of at least half of the statutory number of deputies;

- to participate in the appointment procedures of some authorities of the state; for example, the Senate agrees on the appointment of the President of the Supreme Chamber of Control and the Commissioner for Citizens' Rights;
- to approve the decision of the President of the Republic to call national referenda in matters of special interest to the state. Such approval requires an absolute majority of votes in the presence of at least half of the statutory number of senators;
- to nominate some members of the National Council for Radio Broadcasting and Television.

Decisions in both chambers generally require a quorum of more than half the members. Unless provided otherwise by the Constitution, decisions on statutory laws and standing orders of the chambers are taken by a simple majority of votes. In the *Sejm*, however, an absolute majority is often required.

2.3 *Internal Organisation*

In both the *Sejm* and the Senate, we find the following officers and bodies:

- the Speaker and several Deputy Speakers, traditionally called Marshal and Deputy Marshals, who together constitute the Presidium. The Speaker presides over debates, safeguards the rights of the *Sejm* and the Senate respectively, and manages the work of the Presidium;
- the Presidium, which develops the general work plans and manages the parliamentary timetable;
- the Council of Elders, which consists of the members of the Presidium and the heads of the parliamentary groups and caucuses. The powers of the Council of Elders are exclusively advisory;
- standing and ad hoc committees. The committees examine and debate matters referred to them by the Presidium; analyse activities of individual sectors of public administration and the economy; and consider matters related to the implementation and exercise of statutory laws and regulations. The most important task of the *Sejm*'s standing committees is to consider Bills and regulations, amendments adopted by the Senate, the President's veto, and reports and information from ministers.

At present, the *Sejm* has the following Standing Committees:

- Administration and Internal Affairs
- Agriculture and Rural Development
- Competition and Consumer Protection
- Constitutional Accountability
- Culture and Media
- Deputies' Ethics
- Economics
- Education, Science and Youth
- Environmental Protection, Natural Resources and Forestry
- European Integration
- Family Affairs
- Foreign Affairs
- Justice and Human Rights

- Liaison with Poles Abroad
- Local Government and Regional Policy
- National and Ethnic Minorities
- National Defence
- Physical Education and Tourism
- Public Finances
- Public Health
- Rules and Deputies' Affairs
- Small and Medium-Sized Enterprises
- Social Policy
- Special Services
- State Control
- State Treasury, Franchising and Privatisation
- Territorial Planning, Construction and Housing
- Transport and Communication

In September 1999, the *Sejm* also had ad hoc committees to consider packages of laws on social security reform; co-operatives; salaries of persons fulfilling certain public functions and persons employed in certain enterprises; and amendments of legal codifications.

At present, the Senate has the following Standing Committees:

- Agriculture and Rural Development
- Culture and Media
- Emigration and Poles Abroad
- Environmental Protection
- Family and Social Policy
- Foreign Affairs and European Integration
- Health, Physical Education and Sport
- Human Rights and the Rule of Law
- Legislation
- Local Government and Public Administration
- National Defence
- National Economy
- Rules and Senate Affairs
- Science and National Education

Each chamber has a Chancellery, as administrative auxiliary body directed by the Head of Chancellery. The latter is appointed by the speaker of the respective chamber.

2.4 *The Legislative Process*

The *Sejm* works in regularly convened sittings. Laws are passed by a majority of votes in the presence of at least half of the statutory number of deputies, unless the Constitution provides otherwise.

Legislation may be initiated by deputies (a group of at least 15 deputies or a *Sejm* standing committee), the Senate, the President, the Council of Ministers, or a group of at least 100,000 citizens with full electoral rights. The Bill is transmitted to the Marshal of the *Sejm*, with a justification and a statement on its financial consequences. The Marshal may return the Bill to the sponsors if the justification does not meet statutory requirements; transmit the Bill for further readings in the plenary session or in appropriate committees; or transmit the Bill to the Committee on Justice and Human Rights to ascertain its compatibility with the law.

The *Sejm* deliberates Bills in three readings in the relevant committees and in the plenary sessions. The Bill's sponsors may withdraw a Bill up until the end of the second reading.

A Bill approved by the *Sejm* is submitted to the Senate, which has 30 days to pass a resolution on the acceptance, rejection or amendment of the Bill. In the absence of a resolution within 30 days, the Bill is considered to be accepted in the form passed by the *Sejm*. The Senate's decision to amend or reject the law may be rejected by an absolute majority of votes in the *Sejm* in the presence of at least half of the statutory number of deputies.

The President signs a Bill passed by the *Sejm* and Senate within 21 days following its submission and orders its promulgation in the Journal of Laws. Before signing a Bill, the President may refer it to the Constitutional Tribunal for adjudication as to its conformity to the Constitution. If judged to be in conformity with the Constitution, the President must sign the Bill. The President may also exercise a suspensive veto, and refer a Bill back to the *Sejm* for reconsideration. The *Sejm* can override a presidential veto by a majority of three-fifths and in the presence of at least half of the statutory number of deputies.

The Council of Ministers may submit a Bill to the *Sejm* requesting a fast-track procedure, with the exception of tax Bills; Bills governing elections to the Presidency of the Republic of Poland, to the *Sejm* and the Senate, and to the organs of local self government; Bills governing the structure and jurisdiction of public authorities; and drafts of legal codes. The Council of Ministers may withdraw the Bill from the fast-track procedure before the commencement of the second reading.

The fast-track procedure shortens the time for a Bill's consideration by the *Sejm* and by the Senate. The Marshal of the *Sejm* transmits the adopted Bill to the President for signature at the latest three days after its adoption by the *Sejm*. The President must sign the Bill within seven days. In the event of the President's veto, the *Sejm* takes a final decision on the matter within seven days of the receipt of the President's decision.

The following presents data concerning the Bills considered by the two chambers between 20 October 1997, the beginning of the present legislative term, and 31 December 1998:

Total inflow of Bills	335
of which initiated by:	
President of the Republic of Poland	7
Senate	5
Council of Ministers	134
Deputies of the <i>Sejm</i>	172
<i>Sejm</i> standing committees	17

Total number of laws passed	122
of which:	
laws passed by fast-track procedure	27
laws to which the Senate submitted:	
- modifications	58
- motions for rejection	2
laws vetoed by the President of the Republic	4
decisions examined by the Constitutional Tribunal	13
of which: decisions dismissed by the <i>Sejm</i>	3

3. The Central Executive

3.1 *Legal Bases of Executive Authority and Administration*

The Constitution names the President of the Republic and the Council of Ministers as the two basic components of executive power. However, the Constitution entrusts the Council of Ministers with more powers in this respect. The Council of Ministers, for example, manages the entire state administration and the Prime Minister is defined as the superior of all state administrative employees.

Until 1999, governmental bodies, including ministries and central offices, were defined by statutory law. On 10 September 1999, the amended Law on Areas of Government Activity entered into force. The Law defines 29 substantive areas of governmental activity and gives the Prime Minister the power to assign “blocks” of tasks to ministers. The areas of responsibility can be assigned in any configuration, with the exception of “budget”, “public finance” and “international financial institutions”, which have to be assigned to one minister.

The 1996 Law on the Organisation and Rules of Procedure of the Council of Ministers and on the Sphere of Competence of Ministers defines the roles and responsibilities of the Council of Ministers and the Prime Minister, as well as general rules of procedure of the Council of Ministers’ work. More detailed rules of procedure are spelled out in Regulation No. 13 of the Council of Ministers (“Rules of Procedure of the Council of Ministers”), adopted in 1997 and subsequently amended in 1998 and 1999.

The Civil Service Law, in force since 1 July 1999, replaced the 1982 Law on State Administration Employees and the 1996 Law on Civil Service. It covers central, regional and local government (i.e. state) administration. The new law creates the civil service corps, consisting of civil service employees and civil servants; defines their rights and obligations; provides for a central office responsible for the management of the civil service; and states transparent and competitive rules for career progression. Transitional provisions make it possible for certain officials to keep their appointment status acquired under the 1982 law.

Technical support staff are employed under the general labour code. Political officials, including political advisors, under-secretaries of state and plenipotentiaries, are covered by the labour code and by special regulations.

Special categories of public servants are subject to specific statutes, such as the police, military forces and security forces. These statutes remain in force. The diplomatic corps is also currently subject to a special statute.

The 1990 Law on Local Self-government Employees governs local self-government administration.

All officials are subject to the 1997 Law on the Limitation of Economic Activity by Persons Fulfilling Public Functions.

The rules for the preparation and implementation of state and local self-government budgets are defined in the Public Finance Act, in force since 1 January 1999.

3.2 *Composition and Powers of the Government (Council of Ministers)*

The Council of Ministers is the supreme policy-making and executive body.

At present, the Council of Ministers consists of:

- the President of the Council of Ministers, i.e. the Prime Minister;
- the Deputy President(s) (Deputy Prime Ministers) of the Council of Ministers. They may combine their position with the position of a line minister;
- ministers, each of whom must "direct a given branch of the government administration or perform tasks assigned to him by the Prime Minister". The Constitution allows for ministers without portfolio;
- presidents of committees specified in statutory legislation may also be appointed to the Council of Ministers.

The Council of Ministers should adhere to the principle of collegiality, as required by the Law on the Organisation and Rules of Procedure of the Council of Ministers and on the Sphere of Competence of Ministers. Coalition relations are managed in regular meetings of the leaders of the coalition partners.

Under articles 154 and 155 of the Constitution, the President nominates the Prime Minister and appoints the Council of Ministers proposed by the Prime Minister-designate no later than 14 days following the first sitting of the *Sejm* or following the acceptance of the resignation of the previous Council of Ministers. Within 14 days following his appointment by the President, the Prime Minister submits a programme of activity of the Council of Ministers to the *Sejm*, together with a motion requiring a vote of confidence. The vote of confidence requires an absolute majority of votes in the presence of at least half of the statutory number of deputies. If the vote fails, the *Sejm* designates a prime minister who proposes his council of ministers. The vote of confidence must take place by an absolute majority vote within 14 days. If the vote succeeds, the President appoints the Council of Ministers so chosen. If the latter procedure fails, the President appoints within 14 days the Prime Minister and, on his proposal, other members of the Council of Ministers. The *Sejm* must hold a vote of confidence on the Council of Ministers within 14 days following its appointment by the President. If a vote of confidence is not granted, the President shortens the term of the *Sejm* and calls general elections.

3.3 *Division of Executive Power*

The Prime Minister is the head of the Council of Ministers. The Prime Minister:

- represents the Council of Ministers;
- manages the work of the Council of Ministers;
- issues regulations;
- ensures the implementation of the policies adopted by the Council of Ministers and specifies the manner of their implementation;

- co-ordinates and controls the work of members of the Council of Ministers;
- exercises supervision of local self-government within the limits and by the means specified by the Constitution and other relevant laws;
- is the official superior of the staff of the entire government (i.e. state) administration.

Since the amended Law on Areas of Government Activity came into force in September 1999, the Prime Minister has enjoyed greater flexibility in assigning portfolios among ministers.

The importance of the Prime Minister's position within the executive branch of power is based on his responsibility for the composition of the Council of Ministers, his presidency of the Council of Ministers, and his supervision over the government administration. Thus, he appoints, on the recommendation of respective ministers, two categories of deputy ministers -- the secretaries of state and the under-secretaries of state -- and the Head of the Civil Service.

The Council of Ministers conducts domestic and foreign policy and decides on matters of state policy not reserved for other state organs or local self-government. In particular, the Council of Ministers:

- ensures the implementation of statutory laws;
- issues regulations;
- co-ordinates and supervises the work of the organs of government administration;
- protects the interests of the State Treasury;
- adopts a draft state budget;
- supervises the implementation of the state budget and passes a resolution on the closing of the state's accounts and reports on the implementation of the budget;
- ensures the internal security of the state and public order;
- ensures the external security of the state;
- exercises general control in the field of relations with other states and international organisations;
- concludes international agreements requiring ratification, and accepts and renounces other international agreements;
- exercises control in the field of national defence and annually specifies the number of citizens who are required to perform active military service;
- determines the organisation and manner of its own work.

Ministers direct a given branch of the governmental administration, as decided by the Prime Minister, or fulfil other tasks assigned to them by the Prime Minister.

3.4 *The Office of the Government/Office of the Head of Government*

The State Economic Administration Reform carried out in Poland in 1996 aimed, *inter alia*, at improving the organisational structure that supports the Council of Ministers and the functioning of the Council of Ministers as a collegial decision-making body. One element of this reform was the abolition of the Office of the Council of Ministers and its transformation into the Chancellery of the Prime Minister. The Chancellery is responsible for providing organisational and legislative support to the Council of Ministers and to the Prime Minister. It is also responsible for programming, analysing and supervising the implementation of policies laid down by the Council of Ministers.

According to the Law on the Organisation and Rules of Procedure of the Council of Ministers and on the Sphere of Competence of Ministers of 1996, the Chancellery is responsible for:

- verification of the implementation of tasks assigned by the Council of Ministers and the Prime Minister, reporting on such verification, and making proposals for improving verification methods;
- publication of the Journal of Laws of the Republic of Poland (*Dziennik Ustaw*) and the Official Gazette of the Republic of Poland (*Monitor Polski*);
- co-ordination of the implementation of personnel policy in the government administration, to the extent set out in separate regulations;
- management of personnel matters pertaining to individuals occupying senior positions of state in the government administration;
- co-ordination of the co-operation of the Council of Ministers and the Prime Minister with the *Sejm* and the Senate, the President of the Republic and other state bodies;
- provision of information and press liaison to the Council of Ministers, the Prime Minister and auxiliary and advisory bodies subordinated to the Council of Ministers;
- co-ordination of the supervisory function of the Prime Minister with respect to government administration bodies;
- performance of tasks related to national defence and security, as set out in separate regulations;
- performance of other tasks set out in separate regulations or on the instructions of the Prime Minister.

The Chancellery can also provide organisational and substantive support to ministers without portfolio responsible for important reforms carried out by the Council of Ministers. The number of such senior appointees supported by the Chancellery was greatly reduced in 1999, as part of the reorganisation of the Chancellery aimed at improving and rationalising its internal organisation. Some important *ad hoc* policy programmes may be managed by a government plenipotentiary, a senior political appointee at the level of secretary of state or under-secretary of state. The plenipotentiary may function within the Chancellery of the Prime Minister or within another central governmental institution.

The Head of the Chancellery, who is not a member of the Council of Ministers, directs the Chancellery. Like any ministry, it has the following basic organisational units:

- departments to deal with the Chancellery's substantive tasks;
- bureaux to provide support services;
- secretariats to support the Prime Minister, Deputy Prime Minister(s), the Head of the Chancellery, secretaries of state and under-secretaries of state, and other persons;
- political cabinets of the Prime Minister, Deputy Prime Minister(s) and the Head of the Chancellery, composed of political advisers (as distinguished from civil servants).

The departments in the Chancellery are organised into three groups: departments that offer substantive support to the Prime Minister as head of the Council of Ministers; departments that support the Council of Ministers and its permanent committees; and personnel, budget and auxiliary services under the Director-General.

The staff of the Chancellery also includes the Secretary of the Council of Ministers, the highest-ranking civil servant in Poland, who is responsible for the preparation of, and support to, meetings of the Government. He is responsible for receiving draft texts from sponsors of particular proposals and for their

transmission to members of the Council of Ministers; for preparing the record of decisions adopted by the Council of Ministers; and for preparing documentation for examination by the Council of Ministers and for signature by the Prime Minister.

In September 1999, the Chancellery had approximately 580 staff.

3.5 *Line Ministries*

Until recently, line ministries were established by laws defining the competencies of particular ministers. The new Law on the Areas of the Government's Activity has introduced the practice of assigning ministerial portfolios by the Prime Minister in a more flexible way, as explained in Section 3.1. Each minister is responsible for one or more areas of work, and supported by appropriate ministries and departments. The minister is assisted by several deputy ministers. According to the Law on the Organisation and Rules of Procedure of the Council of Ministers and on the Sphere of Competence of Ministers, there are two ranks of deputy minister: secretaries of state (one in each ministry, the current exception being the Ministry of Finance with two secretaries of state), and under-secretaries of state. Together with the political cabinet of the minister, they constitute the political component of a ministry linked directly to the government of the day. As such, they are distinct from the permanent administrative staff whose nomination should not be dependent on political affiliations. In addition to a political cabinet, the minister has the support of a secretariat, a number of departments dealing with substantive tasks, and bureaux providing support services.

The Civil Service Law provides for a position of a director-general in each ministry and central office. He is the highest-ranking civil servant in the institution, and is responsible for the administration of the institution, including its organisation, staffing, and budget.

As at mid-November 1999, the following ministries existed:

- Agriculture and Rural Development
- Communications
- Culture and National Heritage
- Economy
- Environment
- Finance
- Foreign Affairs
- Health
- Interior and Public Administration
- Justice
- Labour and Social Policy
- National Defence
- National Education
- Transport and Maritime Economy
- Treasury

3.6 *Interministerial Co-ordination*

The Council of Ministers operates on the basis of a programme of work adopted for a period of one year. Meetings of the Council of Ministers take place every Tuesday, although sometimes two meetings may be held in a week. The Prime Minister convenes and chairs the meeting and sets their agendas. In addition to the statutory members of the Council of Ministers, its meetings are regularly attended by the Secretary of the Council of Ministers, by persons entitled to do so by virtue of the office they hold (such as the President of the Supreme Chamber of Control), persons designated by the Prime Minister (including, for example, the Government Spokesman), or others specifically invited to attend. Such invitees have the status of observers and are therefore not permitted to take part in the decision-making process.

Draft texts are prepared, agreed and submitted for the consideration of the Council of Ministers by its members and by other authorised bodies of the central administration, such as government plenipotentiaries. Decisions of the Council of Ministers are taken by consensus in the presence of a majority of its members. When it is not possible to reach a consensus, the draft decision is either submitted for further consultation outside the meeting, or put to a vote by the Prime Minister. In the event of a tie, the Prime Minister casts the deciding vote.

The procedural rules governing interministerial co-ordination are regulated by the Law on the Organisation and Rules of Procedure of the Council of Ministers and on the Sphere of Competence of Ministers and by a Government Resolution of 25 February 1997 on the Rules of Procedure of the Council of Ministers. It is mandatory for draft governmental texts to go through a procedure to gain interministerial acceptance, and then to be examined by the appropriate Standing Committee of the Council of Ministers before being submitted to the Council of Ministers.

The Council of Ministers has four standing committees: Economic Affairs, Social Affairs, Defence Affairs, and Regional Policy and Sustainable Development. They are made up of members of the Council of Ministers. Their function, as internal preparatory and advisory bodies, is to prepare texts for examination and decision by the Council of Ministers. Their chairpersons convene meetings of these committees. The Economic Affairs and Social Affairs Committees are chaired by one of the deputy presidents of the Council of Ministers; the other two are chaired by the Minister of Defence and the Minister of Economics respectively. The position of committee secretary is filled by directors of the respective departments within the Chancellery of the Prime Minister.

The Economic Affairs Committee is a rather solid structure, having been in place since 1989. The Social Affairs Committee was formed in August 1992, the Defence Affairs Committee in 1993, and the Regional Policy and Sustainable Development Committee in September 1998. The latter committee was created in response to the tasks arising from Poland's preparations for future EU membership.

The practical role of the committees depends on the way in which the Prime Minister organises the Council of Minister's work. At present, most decisions are prepared by committees, which meet regularly and then submit drafts to the Council of Ministers for formal acceptance. Frequent preliminary meetings help to avoid lengthy discussions during meetings of the Council of Ministers.

3.7 *Central Non-Ministerial Bodies*

Within the framework of Poland's central administration, there are structures in addition to "the supreme authorities of governmental administration", i.e. the ministries. These additional bodies include central offices, government agencies acting in the field of economics, and special decision-making or advisory boards.

According to the new Constitution, only ministers, as members of the Council of Ministers who administer specific branches of government administration, may issue secondary legislation in the form of regulations. This provision establishes a distinction, previously absent, between ministers -- as the supreme authorities of the governmental administration and, more importantly, political decision-makers -- and the heads of other central administrative offices with no ministerial or political rank.

Central offices, whose heads are appointed by the Prime Minister, are defined as "central authorities of the state administration". The law defines their authority. For administrative procedures, their decisions are regarded as final and may be questioned only before the Chief Administrative Court.

Central offices are attached to the Prime Minister or to a specific minister. Powers of supervision vis-à-vis a central office must be clearly defined by law. At present, the Prime Minister supervises the Main Office of Measures; the Central Statistical Office; the Securities and Stock Exchange Commission; the State Mining Authority; the Office for Supervision of Pension Funds; the Office for Competition and Consumer Protection; the Office of Civil Service; the Office for State Security; the National Office for Insurance Supervision, and the Office of Public Procurement. The Minister of the Interior and Public Administration supervises the Head Office of the Main National Land Survey Expert, the Main Building Supervision Office, the Central Headquarters of the Police, the General Headquarters of the State Fire Service, and the Headquarters of the Border Guard. The Minister of Finance supervises the Central Board of Customs and the General Customs Inspectorate. The Minister of Economy supervises the Office of Technical Inspection, the Office for Housing and Urban Development, the National Atomic Energy Agency, the Patent Office, and the Energy Regulatory Authority. The Minister of Culture and National Heritage supervises the State Committee of Cinematography and the General Head Office of State Archives; the Minister of Labour and Social Policy supervises the Office for War Veterans and Victims of Oppression, the National Labour Office, and the Social Insurance Office; the Minister of Agriculture and Rural Development supervises the Agricultural Social Insurance Fund; and the Minister of Transport and Maritime Economy supervises the General Railways Inspectorate and the State Sports and Tourism Administration.

There are several state agencies acting in the economic sphere, including the Agency for Motorway Construction and Operation, the Agency for Military Property, the Privatisation Agency, the Agency for the Restructuring and Modernisation of Agriculture, the Agency for State Reserves, the Agency for Reserves of Sanitary Materials, the Agency for the Agricultural Market, the Agency for Technology, the Agricultural Property Agency of State Treasury, and the State Agency for Foreign Investment. They are not "economic subjects", as defined in the Law on Carrying out Economic Activities of 1988, and are controlled by competent state authorities.

The next category of central administrative bodies includes such varied institutions as the Polish Committee for Standardisation, the Polish Centre for Testing and Certification, and the Polish Academy of Sciences.

Among the central non-ministerial bodies, a special position has been reserved since the reform of 1996 for the newly created Government Centre for Strategic Studies. The task of this institution, which is supervised by the Prime Minister, is to assist the Council of Ministers in strategic programming, forecasting of economic and social developments, and analysis of the content and implementation of short- and medium-term programmes in the context of wider strategic plans and policies.

The 1997 Law on the National Bank of Poland created a new policy-making body, the Monetary Policy Council. It is composed of nine members nominated by the *Sejm*, the Senate and the President of the Republic for six-year terms. The President of the National Bank of Poland chairs the Council.

3.8 Executive Budgeting Processes

The Minister of Finance manages public financial resources. In consultation with other interested ministries, it prepares annual budget proposals for consideration by the Council of Ministers. The right to introduce legislation concerning the budget or to establish an interim budget, amendments to the budget, a statute on the contracting of public debt, and a statute granting financial guarantees by the state belongs exclusively to the Council of Ministers.

A draft budget is submitted to the *Sejm* no later than three months before the commencement of the fiscal year. The Senate may, within 20 days following the receipt of the budget, adopt amendments. The President signs the budget or the interim budget within seven days of its receipt. He has no right to veto the budget, but may refer it to the Constitutional Tribunal for adjudication regarding its conformity with the Constitution.

Within the Government, the Ministry of Finance is responsible for general public expenditure policy, control and monitoring of government expenditure, and collection of taxes and customs duties. The Law on Public Finance of 1998 grants each ministry, central and territorial office of the government its own budget, which is allocated by the head of the office, i.e. the minister, head of office, or *voivode* respectively. This comprehensive piece of legislation covers general principles of public finance, management of public debt, the state budget and local government budgets, and arrangements for dealing with breaches of budgetary discipline. The Law on Public Finance is supported by other new legislative acts, notably a Law on the Revenues of Territorial Self-government Units. Approximately 20 executive ordinances are already in force and work is continuing on others.

3.9 Advisory and Consultative Arrangements

According to the 1996 Law on the Organisation and Rules of Procedure of the Council of Ministers and on the Sphere of Competence of Ministers, the Prime Minister may, on his own initiative or that of the Council of Ministers, create *ad hoc* committees, councils or working groups as support, advisory and consultative bodies to consider matters falling in the sphere of competence of the Council of Ministers or of the Prime Minister. The Council of Ministers may also constitute joint commissions composed of representatives of the executive and other political or societal groups, such as the Joint Central and Local Government Commission or the Joint Government and Polish Episcopate Commission. The Council of Ministers may also create advisory committees attached to individual ministries.

At present, there are about 80 such support, advisory and consultative bodies. Some of these are attached to the Prime Minister, others to individual ministers or heads of central administrative offices or state agencies. There are *ad hoc* arrangements as well as permanent bodies.

4. Executive Linkages

4.1 The Executive and the Presidency

The Constitution stipulates that the executive in Poland is composed of the President of the Republic and the Council of Ministers. Official Acts of the President require, for their validity, the signature of the Prime Minister who, by such signature accepts responsibility therefore to the *Sejm*. However, article 144 (3) of the Constitution contains an extensive list of cases in which such a counter-signature is not required.

The prerogatives of the President vis-à-vis the Council of Ministers include his right to nominate the Prime Minister and to appoint the Council of Ministers. In matters of extreme importance or urgency, the president has the right to convene and preside over meetings of the Cabinet Council (*Rada Gabinetowa*), composed of the Council of Ministers. The Cabinet Council is a forum for discussion and does not have the decision-making powers of the Council of Ministers. The representatives of the Chancellery of the President are invited to attend meetings of the Council of Ministers when matters of particular importance are considered.

The Head of the Chancellery of the Prime Minister is responsible for contacts with the Head of the Chancellery of the President of the Republic.

The President is supported by the Chancellery of the President, which fulfils tasks arising from the powers of the President as defined in the Constitution and in other relevant laws. The Chancellery acts according to decisions and instructions of the President and is run by its head. It is composed of several units, including the President's Cabinet, the Bureau of the Head of the Chancellery, the Bureau of Legislation and the Political System, the Bureau of Personal Affairs and Medals, the Bureau of International Affairs, the Bureau of Social Affairs, the Bureau of Information and Social Communication, the Bureau of Studies and Analysis, the Bureau of Letters and Civic Opinions, the Financial Bureau, and the Administrative and Economic Bureau.

4.2 *The Executive and Parliament*

In addition to the parliamentary prerogatives vis-à-vis the Council of Ministers and its members broadly presented in section 2.2 above, it is worth mentioning the special role that may be played by investigative committees appointed *ad hoc* by the *Sejm* to examine particular matters within the scope of the Council of Ministers' responsibilities.

One of the designated members of the Council of Ministers acts as its representative before the *Sejm* and the Senate in the consideration of matters initiated by the Council of Ministers. In other matters, the Prime Minister may designate individual ministers to represent the Council of Ministers. The Prime Minister may also, on the proposal of a minister, designate a secretary of state or an under-secretary of state to represent the Council of Ministers before the *Sejm* and the Senate.

The Chancellery of the Prime Minister is responsible for co-ordination of the co-operation of the Council of Ministers with the National Assembly. The Rules of Procedure of the Council of Ministers of 25 February 1997 stipulate that responsibility for co-ordinating the Council of Ministers' duties vis-à-vis the two chambers lies with the Secretary of State for Parliamentary Affairs, whose office is located in the Chancellery of the Prime Minister. He is obliged to co-operate closely with secretaries of state or under-secretaries of state appointed in each ministry or central office as the persons responsible for direct contacts of their respective institutions with the National Assembly.

During the parliamentary legislative process, deputies and senators may amend Bills proposed by the Council of Ministers. This prerogative is frequently exercised. In practice, almost no Bill introduced by the Council of Ministers is passed without amendments. The formal way for the Council of Ministers to defend Bills submitted to the National Assembly is to withdraw support for a Bill that has been changed in an unacceptable manner. However, this possibility is rarely used, since informal contacts between the Council of Ministers and the governing coalition representatives in the *Sejm* and the Senate help to solve most problems arising in the course of the legislative process.

The same political mechanism is employed in establishing the working plans and timetables of business for the *Sejm* and Senate by the presidiums of these bodies. Through this informal way, the Council of

Ministers may strengthen its formal requests concerning the parliamentary timetable, which are communicated to the speakers of each of the two chambers.

According to the Constitution, the Council of Ministers must submit a report to the *Sejm* on the implementation of the budget and information on the state debt within five months following the end of the fiscal year. The *Sejm* seeks the opinion of the Supreme Chamber of Control. Within 90 days following receipt of the report, the *Sejm* must pass a resolution on whether to grant or refuse approval of the financial accounts submitted by the Council of Ministers. In addition, the Minister of Finance is obliged to submit to the Public Finance Committee a half-yearly report on the execution of the budget.

4.3 *The Executive and Political Parties*

The formation of political parties, their finances, and the financing of election campaigns are regulated by the Law on Political Parties of 27 June 1997. This law replaced the 1990 Law on Political Parties. One of the notable changes introduced by the new law was an increase in the minimum number of members required for a political party's registration to 1,000, thus ending the extreme fragmentation of the political scene which had previously existed.

Political parties cannot be financed from the state budget, except for donations determined by the parties' share of the votes gained in elections. They may not accept any donations from foreign subjects or from local self-government, and their financial matters must be open and transparent. The principles governing the size of donations and their use are described in detail in the Law on Political Parties and in the Ordinance of the Minister of Finance of 18 December 1997.

The principles governing the activities of the governing coalition are regulated by political practice. Neither the Constitution nor any other legal act contains norms covering this area. Similarly, the nature of the governing coalition is neither dealt with nor resolved through any legal channels. As practice demonstrates, the basic elements of co-operation include a coalition agreement and *ad hoc* meetings between the party leaders, at which the Prime Minister is also present.

In the last few years, the leader of the larger coalition party has remained outside the Council of Ministers. However, in the present coalition, Leszek Balcerowicz, the leader of the junior coalition partner, the Freedom Union, acts as a Deputy Prime Minister and as the Minister of Finance and, as such, plays a crucial role in the management of the coalition.

4.4 *The Executive and Organised Civil Society*

At present, there are two major types of non-profit organisations in Poland: foundations and associations. They operate, respectively, under the Law on Foundations of 1984 and the Law on Associations of 1989. The Law on Associations is very liberal, permitting freely the establishment of associations. Associations registered by the competent courts of law have a legal character and a legal capacity to act in all legal matters, including those of civil and commercial law.

According to the Rules of Procedure of the Council of Ministers, any organ initiating a Bill or any other document may consult non-governmental organisations if their scope of activity covers the matter concerned. Although such consultation is not obligatory, it is broadly used in everyday work of the Council of Ministers.

Since 1980 Poland has had a strong tradition of independent trade unions. Starting in 1989, this tradition has become well anchored in legislation. Trade unions received guarantees of freedom and independence of activity and self-government through the Law of 1991. They also have rights with respect to the general

conditions of economic and social life. The largest trade unions -- *Solidarnosc* and the post-communist OPZZ -- also play a considerable political role.

Wage problems have become a major subject of the negotiations held by the Socio-Economic Tripartite Committee. Set up by a resolution of the Council of Ministers in 1994, this committee comprises representatives of trade unions, employers and the Council of Ministers. The Labour Code of 1994 has shifted the regulation of wage policy onto the enterprise level through the conclusion of collective bargaining agreements.

4.5 *The Executive and the Media*

The task of presenting the authorised standpoints of the Council of Ministers before the media is assigned to the Government Spokesman. He is appointed by the Prime Minister and is part of the Chancellery of the Prime Minister. The Spokesman supervises the activities of the Government Information Centre and coordinates the Council of Ministers' contacts with the media. The centre organises press conferences and briefings attended by the Prime Minister, members of the Council of Ministers and the Spokesman. The Centre also provides press releases, including usually more than ten messages a day, which relate to important events in the work of the Prime Minister, the deputy prime ministers and the Council of Ministers as a whole. The Centre publishes a "Weekly Bulletin", which provides information on the work of the Council of Ministers during the preceding week and announcements concerning plans for the following week. The Centre also publishes a monthly "Governmental Review", which comprises summaries of the Council of Ministers' activities and a selection of the most important documents.

The Government Information Centre makes wide use of electronic tools, notably e-mail and the Internet, in its communication with the media and the public.

The address of the government Website is <http://www.kprm.gov.pl>.

In addition to the Government Information Centre, spokesmen and special units responsible for contacts with the media exist in every ministry and central governmental office. They are entrusted with the task of informing the public about the activities of their respective institutions. Most of them maintain their own Websites.

5. Subnational Government

5.1 *Decentralised State Administration*

The basic unit of decentralised state administration is the *voivodship*. On 1 January 1999 the number of *voivodships* was reduced from 49 to 16.

The *voivode*, as head of the *voivodship*, is appointed and dismissed by the Prime Minister on the recommendation of the minister responsible for matters of public administration (currently this is the Minister of the Interior and Public Administration). The *voivode* has, as a legal substitute, one or two deputy *voivode(s)*, appointed by the Prime Minister on the recommendation of the *voivode*. Besides acting as the government's representative, the *voivode* is the main representative of the government (state) administration in the *voivodship*.

Since 1 January 1999 there has been a dual structure of public administration at *voivodship* level. It consists, on the one hand, of *voivodship* self-governments that have independent legal identities, their own

budgets, and extensive powers in the area of economic policy. On the other hand, the state-appointed *voivode* is responsible for ensuring that national policies are implemented and enforced within the *voivodship* and that state institutions operating in the region perform their functions appropriately. He thus ensures the unitary character of the Polish State.

The *voivode* is accountable to the central government. At the same time, he is answerable to his superiors for the operations of those services for which he has direct responsibility, in particular law enforcement and public safety. The *voivode* also has to ensure that the decisions made by *voivodship* self-governments are in compliance with state laws.

5.2 Regional Government

Since 1 January 1999, 16 new *voivodships* with elected self-governments constitute the system of regions in which regional economic policies are developed and implemented.

The decision-making bodies of *voivodship* self-governments are the *voivodship* councils (*Sejmik*), elected in general elections. The *Sejmik* elects an executive board to exercise executive authority. Marshals elected by the *Sejmik* head these boards.

The tasks of *voivodship* self-governments with regard to the promotion of regional development are concentrated in three major areas: economic development, including international relations and regional promotion; sustainable development, especially the preservation and rational utilisation of the cultural and natural environments, including land use and land planning; and higher order public services.

The major tasks of *voivodship* self-governments in these categories include:

- education: post-secondary schools, certain secondary and vocational schools, teacher training colleges, *voivodship* libraries, high schools, including vocational ones, with a regional reach;
- health protection: specialised facilities within a regional service area, medical emergency and ambulance services, spas and health resort facilities;
- culture: cultural institutions within a regional service area, preservation of cultural assets;
- social welfare: facilities within a regional service area, including shelters, orphanages and old age homes;
- modernisation of rural areas;
- territorial development;
- preservation of the natural environment;
- water management, land amelioration and maintenance of hydraulic installations;
- roads and transport, particularly with respect to the modernisation, maintenance and protection of *voivodship* roads.

The 1999 administrative reform involves a significant further decentralisation of public finances. *Voivodships* and the two levels of local self-government -- counties and communes -- are assigned a share of the personal and corporate income tax receipts collected within their boundaries. Transfers are paid from the central budget to the poorer *voivodships*.

5.3 Local Government

Gmina, i.e. communal self-governments, were restored in 1990. There are 2,489 communes in Poland.

Local administration at the communal level operates under the Law on Local Self-Government of 1990. The Law on the Organisation of Self-Government of the Capital City of Warsaw of 25 March 1994, as amended in 1995, governs the commune of Warsaw.

According to the Law on Local Self-Government, the tasks of the local self-governments are twofold, including genuine self-governing tasks and delegated tasks executed by local authorities on behalf of the state. Depending on the type of task, different rules govern acts of local self-government and the responsibilities of appeal authorities in administrative procedures.

The Constitution contains a general presumption in favour of local self-government competence. It stipulates that "local self-government shall perform public tasks not reserved by the Constitution or statutes to the organs of other public authorities".

The general rule of the 1990 law is that the commune satisfies the collective needs of its community, in particular in the following areas:

- territorial planning, property administration, environmental protection;
- communal roads, bridges, squares, streets, traffic management;
- water supply, sewage, waste removal;
- local public transport;
- public health protection;
- social assistance;
- communal housing;
- education up to the primary school level;
- culture;
- sport;
- marketplaces and halls;
- parks and green areas;
- communal cemeteries;
- public order and fire protection;
- maintenance of structures of public utility.

The commune has two organs: the Council and the Executive Board. The Council is elected every four years in direct, equal, and secret elections. The number of members ranges from 15 to 100, depending on the size of the communal population. The Council decides on the most important matters, notably economic and financial issues. The Council elects a president and up to three deputy presidents.

The Executive Board is elected by the Council and has between four and seven members, depending on the size of the commune. They include:

- the head of the commune (*wojt*) in rural areas, the mayor (*burmistrz*) in towns of less than 100,000 inhabitants, or the city president in towns with more than 100,000 inhabitants. They may be elected from outside the Council;
- the deputy head(s), deputy mayor(s) or deputy city president(s), who also may be non-members of the Council; and/or
- other members, who must be elected from among members of the Council.

The President of the Executive Board is elected separately; substitutes are elected on the president's recommendation. Members of the board may not be employed in government administration. The secretary and the treasurer of the commune, who are communal employees, also participate in meetings of the board.

The Executive Board acts in a collegial manner, but its president and or other persons to whom he delegates power take individual decisions in the area of public administration.

Rural communes consist traditionally of a number of villages. To preserve the identity of each village, a sub-communal division is maintained in each village. It consists of three bodies: a general assembly, a head (*soltys*), and a council head. The latter two are elected in direct and secret elections. In towns, it is possible to set up boroughs with an organisation similar to that of villages.

A law of 1990 regulates the financial basis of the activities of local self-government on a temporary basis. Besides revenues from civil law liabilities and profits from their enterprises, communes may gather local taxes (real estate property tax, agricultural tax, and tax on means of transport), and some charges and duties (notably stamp duty). They also benefit from some state taxes (15 per cent of the individual profit tax, and 2 per cent of corporate tax), and have a right to state subsidies.

At the beginning of 1999, 308 counties (*powiats*), including 65 town counties, were established as a higher tier of local self-government.

Their major tasks include:

- secondary education: post-elementary schools, vocational and special schools;
- general responsibility for the operation of the public health service institutions (financed from the Health Funds);
- organising and providing social welfare services that extend beyond communal boundaries;
- sanitary and epidemiological supervision;
- maintenance of public order and collective safety;
- support of cultural institutions whose activities extend beyond communal boundaries;
- road construction and maintenance;
- building supervision, as well as the registry and exchange of land, water management and environmental protection;
- flood and fire precautions, prevention and management of natural disasters;
- promotion of economic activities;
- counteracting unemployment;
- protection of consumer rights;
- maintenance of county facilities and public utilities.

6. Personnel Management

6.1 *Legal Bases and Principles of the Public Service*

Public administration in Poland is divided into two separate branches: government administration, which is the administration of the state, and local self-government administration.

A regulation relating solely to the governmental administration at central and local levels is the Civil Service Law. As of 1 July 1999 the Civil Service Law covers all officials in government administration, i.e. all incumbents of public service positions who are not covered by special statutes. Officials covered by the law, i.e. members of the civil service corps, will initially have the status of public administration employees. The law provides the possibility for public administration employees holding a civil service position to qualify as civil servants according to a three-year plan, annually revised by the government. The law defines the qualifying procedure. Local self-government administration is regulated by the Law on Local Self-Government Employees of 1990.

6.2 *Personnel Management*

The management structure established by the Civil Service Law builds on a distribution of tasks and responsibilities between director-generals, who manage civil servants in a ministry or office; the Head of the Civil Service, who manages the civil service as a whole; and the Prime Minister, who acts as the highest responsible authority, issues relevant regulations and provides the highest level for internal appeal. The Civil Service Council assists the Prime Minister in reviewing policies related to the civil service, its management and funding.

Numbers of staff and personnel costs are defined by the state budget. Authorised appropriations related to vacant positions cannot be used for other purposes, but must be returned to the budget. Personnel expenditure is audited by the Ministry of Finance and by the Supreme Chamber of Control and is monitored by the Head of Civil Service as from 1999.

7. *Administrative Oversight and Control*

7.1 *Internal Oversight and Control*

Key legislation governing financial control includes the 1998 Public Finance Law, the Council of Ministers' Resolution 57/1983 on the Performance of Audits by Public Administrative Units, the Customs Code, and the Law on Regional Clearing Chambers. The Public Finance Law describes the control responsibilities of designated office-holders (including extra-budgetary funds). The law provides a basis for reforming public finances in Poland, strengthens internal controls and incorporates EU funds into the state budget. Government Resolution 57/1983 describes the position and functioning of internal control in line ministries and other central government bodies.

7.2 *External Audit and Control*

The Supreme Chamber of Control is one of Poland's most characteristic public management institutions. It has been in existence since 1919 with only two interruptions: during the Second World War and during the period 1952-57. The chamber is the chief organ of state audit.

According to the Constitution, the Supreme Chamber of Control is an institution of inquiry. The new Law on the Supreme Chamber of Control, adopted on 23 December 1994, came into effect in August 1995. The law stipulates the types of organisations that the Supreme Chamber of Control is authorised to audit and the operational areas to be audited. The chamber audits the activity of the organs of government administration, the National Bank of Poland, state legal persons and other state organisational units in respect of the legality, economic prudence, efficacy and diligence of their activities. The chamber may conduct facultative audits of local self-governments, communal legal persons and other communal

organisations regarding the legality, economic prudence and diligence of their actions. The chamber may also audit the legality and economic prudence of other organisational units and economic subjects, to the extent to which they use state or communal property or resources to satisfy their legal obligations to the state.

The controlling activity of the Supreme Chamber of Control is carried out at the request of the *Sejm*, the President of the Republic, the Prime Minister or at the chamber's own initiative.

The chamber reports to the *Sejm*. The *Sejm* appoints and dismisses the President of the Supreme Chamber of Control. The 1994 law strengthens the position of the chamber's president by giving him a six-year term of office and limiting the conditions under which he can be dismissed. In addition, the 1994 law strengthens the principle of collective decision-making of the chamber's executive board. The executive board's structure, term of office and areas of responsibility are set out in the law. The 1994 law was amended on 8 May 1998. The amendments widened the list of subjects of the chamber's audits to include those enterprises which are financed by public (state or self-government) funds, or which conduct public works or fulfil public procurement contracts. The amendment further strengthens the position of the president of the chamber by granting him immunity from prosecution without the prior consent of the *Sejm*.

Regional clearing chambers audit territorial self-government entities, i.e. the regions, counties and communes, primarily with regard to the regularity of their actions. Regions and counties are audited annually. Communes should be subject to a comprehensive audit at least every four years.

7.3 *Public Redress*

Courts

According to the Constitution, the Supreme Court, common courts, administrative courts and military courts implement the administration of justice. For petty offences and administrative misdemeanours, boards are used.

The *Supreme Court* is the highest authority of judicial power. It exercises supervision over common and military courts regarding judgements. Common courts are hierarchically organised at three levels: district, *voivodship* (circuit) and appellate.

The Code of Administrative Proceedings enacted in 1960 provides for appeals against an administrative decision to a superior administrative body. After internal appeals have been exhausted, an action may be brought before the *Chief Administrative Court* to decide on the legality of an administrative action. Besides this function, the Chief Administrative Court controls the activities of public administration, to the extent specified by statute. Such control also extends to judgements on the conformity to statute of resolutions of organs of local self-government and normative acts of territorial organs of government administration.

Judges of all courts are appointed by the President of the Republic, on the proposal of the National Council of the Judiciary, from among candidates proposed by the Minister of Justice and accepted by boards representing judges of a given jurisdiction. Judges are independent and, in principle, are appointed for life.

In common courts of the first instance (criminal, civil for family matters and labour law), cases are judged jointly by professional judges appointed by the President of the Republic and by lay assessors elected by authorities of local self-government.

The First President of the Supreme Court is appointed for a six-year term by the President of the Republic from among candidates presented by the General Assembly of the Judges of the Supreme Court. The President of the Chief Administrative Court is appointed for a six-year term by the President of the Republic from among candidates presented by the General Assembly of the Judges of the Chief Administrative Court. The Minister of Justice appoints presidents of common courts from among candidates accepted by boards representing judges of a given jurisdiction.

The Constitution of 1997 introduced the institution of individual constitutional appeal. Accordingly, any person whose constitutional liberties or rights have been infringed upon may appeal to the *Constitutional Tribunal* to challenge the constitutionality of a law or another normative Act on the basis of which a court of law or organ of public administration has made a final ruling concerning an individual's liberties, rights or obligations as specified by the Constitution. A Polish citizen or a foreigner may make an individual constitutional appeal, but a foreigner has no such right if he or she is seeking asylum or refugee status.

Judgements of the Constitutional Tribunal are universally binding and are final.

The *Tribunal of State* is a special court which adjudicates the responsibility for violations of the Constitution and laws by the following persons: the President of the Republic, the Prime Minister and members of the Council of Ministers, the President of the National Bank of Poland, the President of the Supreme Chamber of Control, members of the National Council of Radio Broadcasting and Television, the Commander-in-Chief of the Armed Forces, and persons to whom the Prime Minister has granted powers of management over a ministry. The Constitutional Accountability Committee of the *Sejm* examines requests to bring a person to constitutional accountability before the Tribunal of State.

The President of the Republic is held accountable before the Tribunal of State only for an infringement of the Constitution or of a statute, or for commission of an offence. To indict the President, the National Assembly must pass a resolution by a majority of at least two-thirds of the statutory members of the National Assembly, on the motion of at least 140 members of the National Assembly.

Deputies and senators are constitutionally accountable to the Tribunal of State for violation of the injunction not to perform any business activity involving any benefit from the property of the State Treasury or of local self-government or to acquire such property.

The First President of the Supreme Court is the chairperson of the Tribunal of State. The *Sejm* elects judges of the court for the term of its mandate.

Ombudsman

The institution of ombudsman -- Commissioner for Citizens' Rights -- was introduced in 1987 and given a constitutional basis in 1989.

The *Sejm*, with the consent of the Senate, appoints the Commissioner for a five-year term. He is charged with safeguarding the rights and freedoms of persons and citizens specified in the Constitution and in other normative Acts. The Commissioner inquires, on his own initiative or following the request of an interested person, as to whether an authority, organisation or institution obligated to respect and to ensure rights and freedoms has violated the law or the rules of social life and social equality. Citizens have open access to the Commissioner, who is independent in his activities and accountable only to the *Sejm*.

The Commissioner may ask a competent authority to carry out an inquiry, ask the Supreme Chamber of Control to exercise its control, or carry out an inquiry within his office. In the latter case, the Commissioner may demand all respective information and documents. When the Commissioner

determines that a violation has occurred, he may address the relevant authority or undertake an appropriate legal remedy, such as bringing a civil action, demanding the opening of prosecution proceedings for a criminal offence, or lodging an appeal or constitutional complaint.

8. Administering European Integration

8.1 *The Institutional Framework of EU-Related Policy-Making*

To ensure the adequate co-ordination of Poland's preparations for integration into the European Union, the Committee for European Integration was created in October 1996 as an interministerial committee, with its supporting institution, the Office of the Committee for European Integration (OCEI). The Committee comprises a chairman, secretary, several ministers responsible for sectors of key importance for the integration process, and up to three members appointed by the Prime Minister on the basis of merit and experience. Ministers other than the permanent members of the Committee participate in the Committee's meetings when relevant issues are on the agenda. They have the right to vote. The President of the National Bank of Poland and the Head of the Government Centre for Strategic Studies may also participate in the meetings. The Prime Minister may hold the position of chairman, as is the case at present. If the Prime Minister chairs the Committee, the Secretary of the Committee heads the OCEI.

The Committee oversees the implementation of integration programmes by the ministries and reports to the Council of Ministers on the progress of the adjustment process of Polish law and the economy to EU standards. It initiates actions aimed at implementing integration policy at all levels of public administration, organises the relevant training of civil service personnel, and informs public opinion on issues related to European integration.

Other actors involved in EU-related policy-making include the Government Plenipotentiary for Accession Negotiations with the EU, whose office is located in the Chancellery of the Prime Minister; the Minister of Foreign Affairs; and the Government Plenipotentiary for Transfers of EU Funds, whose office is situated in the Ministry of Finance.

8.2 *Managing the Approximation of Laws*

The Office of the Committee for European Integration comprises several departments, including the Department for Harmonising Law, which plays a key role in the legal transposition process. It reviews draft legislation from the point of view of its compliance with EC law. The department co-operates in this area with the relevant staff of ministries and central offices, the *Sejm* and Senate, and with the European Commission's legal experts.

8.3 *Implementing the *acquis communautaire**

The Council of Ministers has approved a National Programme for the Preparations for Membership. It lists the measures required prior to accession and sets out the necessary steps for the adoption and implementation of the *acquis communautaire*.

9. Plans for Reform and Modernisation

The government is continuing to implement and monitor the key reforms that were introduced at the beginning of 1999, including decentralisation reforms, reform of the health care system, and social security reform. The reform of the education system entered into force on 1 September 1999.

The implementation of the Civil Service Law is continuing, and the first round of qualification procedures to allow public administration employees to become civil servants has taken place. In the mid-term programme of the government's priorities, the development of an anti-corruption programme is highlighted.

10. Key Statistics

10.1 Budgetary Data:

STATE BUDGET EXPENDITURE BY DIVISION AND TYPE (in millions of zlotys)

SPECIFICATION	1997			1998*		
	Total	of which current expenditure of budgetary entities	of which property expenditure	Total	of which current expenditure of budgetary entities	of which property expenditure
TOTAL	125 674.9	117 974.3	7 700.6	139 755.8	130 318.2	9 437.6
Industry	114.8	58.9	55.9	154.2	114.7	39.5
Construction	97.1	95.6	1.5	106.8	106.0	0.8
Agriculture	2 207.9	1 652.2	555.7	2 362.0	1 778.6	583.4
Forestry	136.2	122.1	14.1	200.7	155.7	45.0
Transport	2 096.5	1 368.8	727.7	3 133.4	2 112.1	1 021.3
Communication	128.6	7.1	121.5	94.0	7.9	86.1
Trade: domestic	458.9	454.4	4.5	528.2	523.4	4.8
foreign	35.6	35.3	0.3	39.3	39.0	0.3
Miscellaneous material services	661.5	417.3	244.2	669.8	500.2	169.6
Municipal economy	1 460.7	397.0	1 063.7	1 799.0	666.6	1 132.4
Housing economy and intangible municipal services	486.0	376.2	109.8	194.6	140.7	53.9
Science	2 192.6	1 916.3	276.3	2 405.6	2 037.3	368.3
Education	6 477.1	5 833.7	643.4	6 987.8	6 353.1	634.7
Higher education	3 752.2	3 595.4	156.8	4 272.3	4 110.4	161.9
Culture and art	1 036.7	871.7	165.0	1 148.2	1 010.7	137.5
Health care	18 891.9	16 663.0	2 228.9	20 919.7	18 886.2	2 033.5
Social welfare	10 888.8	10 675.3	213.5	9 291.1	9 098.5	192.6
Physical education and sport	218.8	195.8	23.0	243.6	217.2	26.4
Tourism and recreation	69.4	57.5	11.9	76.1	65.0	11.1
Miscellaneous activity	374.7	344.2	30.5	394.6	347.2	47.4
State administration	4 927.1	4 493.3	433.8	5 851.6	5 404.9	446.7
Administration of justice and prosecutor's office	2 790.2	2 612.8	177.4	3 085.4	2 865.6	219.8
Public safety	4 901.8	4 755.3	146.5	5 575.7	5 419.6	156.1
Finance	19 328.9	19 277.4	51.5	21 316.5	21 228.2	88.3
Social security	21 229.3	21 227.9	1.4	25 218.7	25 215.7	3.0

SPECIFICATION	1997			1998*		
	Total	of which current expenditure of budgetary entities	of which property expenditure	Total	of which current expenditure of budgetary entities	of which property expenditure
Allocations for financing economic tasks	2 695.3	2 695.3	-	2 129.2	2 129.2	-
Miscellaneous transactions	9 944.1	9 897.4	46.7	12 295.1	12 175.1	120.0
National defence	7 275.0	7 151.8	123.2	8 358.7	6 827.2	1 531.5
Offices of principal authority bodies, inspection and jurisdiction	797.2	725.3	71.9	903.9	782.2	121.7

* Preliminary data

10.2 Personnel Data:

**EMPLOYMENT IN CENTRAL MINISTERIAL AND NON-MINISTERIAL INSTITUTIONS
(excluding the Ministry of the Interior and Public Administration)**

No.	Specification	Political Officials	Other employees	of which	
				Managerial staff, directors of depts., heads of sections	Technical staff
1	Chancellery of the Prime Minister	12	582	88	88
2	State Committee of Cinematography	1	47	8	7
3	National Labour Office	2	170	28	24
4	General Head Office of State Archives	3	42	6	7
5	National Atomic Energy Agency	2	92	15	14
6	State Social Security Supervisory Office	1	84	13	5
7	Office for War Veterans and Victims of Oppression	2	279	35	3
8	Office of Technical Inspection	1	134	20	22
9	State Sports and Tourism Administration	4	160	23	29
10	Office for Housing and Urban Development	4	150	28	16
11	Office for Competition and Consumer Protection	3	179	41	18
12	Patent Office	2	378	23	48
13	Energy Regulatory Authority	2	179	27	26
14	Office of Civil Service	2	85	10	15
15	Office of Public Procurement	3	55	5	19
16	Social Insurance Office	5	1003	131	185
17	State Mining Authority	3	142	20	15
18	General Customs Inspectorate	3	209	8	7
19	General Railways Inspectorate	1	101	15	11
20	Committee for Standardisation		309	29	22
21	Office for Supervision of Pension Funds	1	49	10	6
22	Ministry of Foreign Affairs	6	650	66	101
23	Ministry of National Education	6	284	55	25
24	Ministry of Finance	9	1019	201	54
25	Ministry of Economy	8	604	126	51
26	Ministry of Culture and National Heritage	4	186	39	21
27	Ministry of Communications	4	193	41	26
28	Ministry of National Defence	4	668	34	15
29	Ministry of Environment	6	297	49	13

No.	Specification	Political Officials	Other employees	of which	
				Managerial staff, directors of depts., heads of sections	Technical staff
30	Ministry of Agriculture and Rural Development	6	397	61	25
31	Ministry of Treasury	7	678	122	42
32	Ministry of Justice	7	648	64	60
33	Ministry of Health	7	281	58	15
34	Committee on Scientific Research	3	260	55	16
35	Ministry of Transport and Maritime Economy	6	295	82	23
36	Ministry of Labour and Social Policy	7	451	51	35
37	Office of the Committee for European Integration	2	179	37	39
38	Government Centre for Strategic Studies	2	263	29	38
39	Central Board of Customs	4	643	95	76
40	Head Office of the Main National Land Survey Expert	1	52	8	5
41	Main Office of Measures	2	372	29	64
42	Main Building Supervision Office	3	268	47	29
43	Central Statistical Office	5	788	114	30
44	Agricultural Social Insurance Fund	1	168	19	15
45	Securities and Stock Exchange Commission	3	122	23	14
46	TOTAL	170	14 195	2 088	1 429

EMPLOYMENT AND SALARIES IN PUBLIC ADMINISTRATION IN POLAND

Item	1996	1997		1996	1997	
	Average employment			Average monthly salary		
	No. of persons	1996=100		in zlotys		1996=100
State administration	156 856	163 992	104.5	1183.54	1434.59	121.2
Central administration	115 503	119 104	103.1	1291.37	1574.85	122.0
Ministries	16 471	16 598	100.8	1883.67	2355.27	125.0
Special governmental administrations	96 734	100 712	104.1	1190.52	1446.23	121.5
Foreign service	2 298	1 794	78.1	X	X	X
Local government administration	41 353	44 888	108.5	888.34	1068.03	120.2
Voivodship offices	15 552	16 156	104.1	997.26	1176.64	118.0
Regional offices	10 216	10 330	101.1	798.26	928.28	116.3
Supporting administrative services ¹	15 615	18 402	117.8	838.99	1051.12	125.3
Self-government administration	133 369	142 114	106.6	969.82	1194.48	123.2
Gminas (commune) offices	132 521	141 225	106.6	2888.99	3258.73	112.8
Urban gminas offices	47 012	49 542	105.4	1160.56	1142.23	98.4
Urban / rural gminas offices	32 313	34 665	107.3	884.99	1075.06	121.5
Rural gminas offices	53 196	57 018	107.2	843.44	1041.44	123.5
Self-government / regional councils administration	399	416	104.3	1471.22	1871.61	123.5
Administration of jurisdiction bodies	449	473	105.3	1326.22	1528.50	115.3
Public administration – Total	290 225	306 106	105.5	1084.54	1322.46	121.9
Administration of open services for the public ²	68 914	74 457	108.0	1326.22	1528.50	115.3
Public administration and Public Services – Total	359 139	380 563	106.0	1205.38	1425.48	118.3

1. Including *voivodship* inspectorates of state inspection of commerce, state service for protecting the monuments of the past, *voivodship* veterinary administration, and *voivodship* administration for irrigation and water facilities.

2. Administration covering legal and juridical units and public order and security units.

Source: Information about Employment and Salaries in Public Administration and Financial Factoring; Main Statistical Office (GUS), Warsaw, 1998

**AVERAGE EMPLOYMENT IN SELECTED TYPES OF ACTIVITIES
ACCORDING TO THE EUROPEAN CLASSIFICATION OF ACTIVITIES**

Specification	Average employment (no. of persons)		
	Total	of which	
		<i>Non-manual</i>	<i>manual</i>
Education			
1997	848 291	680 718	161 987
1998	860 349	694 266	166 083
Health care			
1997	706 722	502 250	194 553
1998	701 893	508 586	193 307
Social work			
1997	255 346	145 740	109 321
1998	257 098	147 880	109 218
Other community, social and personal service activities			
1997	273 298	103 027	98 910
1998	200 009	-	-
National defence¹			
1997	165 021	-	-
1998	-	-	-
Activity within the scope of public safety²			
1997	188 644	-	-
1998	-	-	-

1. Source: data of the Ministry of National Defence

2. Source: data of the Ministry of the Interior and Public Administration

Note: In 1998, data do not include persons employed by natural persons maintaining an economic activity and by civil companies in which the number of employees does not exceed five persons, nor persons employed in social organisations, associations, foundations, political parties and trade unions. In 1997, paid employment in these entities was: education: 5583 persons; health care: 9919 persons; social work: 285 persons; other community, social and personal service activities: 70.794 persons.