

## 11: POLAND

*Helen Sutch, Sector Manager, World Bank; Michal Dybula, Research Analyst, World Bank; Ryszard Jerzy Petru, Consultant, World Bank, Jacek Wojciechowicz, External Affairs Officer, World Bank; Marcin Przybyla, Research Analyst, World Bank*

### *Overview*

The Polish government undertook a complex and comprehensive restructuring of public administration and public finance. This required complex legislation and was effectively implemented in 1999.

The underpinning of the reforms has been provided by restructuring the country into *gminas*, *voivoids* and *poviats*, giving local authorities more responsibility for service delivery. Decentralizing functional responsibilities has reduced central government employment

### **The sequence of reforms**

From 1 January 1999, a new administrative division of Poland was implemented. The new administrative structure of the country began with the reintroduction of new layers - '*poviats*', an intermediate level of subnational government. The number of *voivodships*, or regional governments, was reduced from 49 to 16. *Gminas*, the most local form of elected government, were retained.

### **Reformers' concerns**

The "four reforms" introduced in 1999 sought to restructure public administration, education, health service, and pensions. The scale of these reforms was second only to the "shock therapy" of very tough economic measures introduced in 1989.

**Administrative reforms were driven by subsidiarity within a unitary state structure.**

**Decentralization of state functions was the main challenge** after the events of 1989.

Rebuilding self-government at borough (*gmina*) level, and reestablishing local budgets, separate from the State budget and based significantly on local revenues, was paramount. The creation of two additional levels of self-government: *powiats* (counties) and *voivodships* (regions), followed from this.

The need for a competent and respected central civil service was the other reform driver of administrative reform.

Subsidiarity and a respected, professional civil service were both significant aspects of the **EU accession agenda**.

### *Institutional starting points*

### **Constitution/political system**<sup>i</sup>

Poland was the first country in Central and Eastern Europe to break out of communist rule.<sup>ii</sup> This move started in early 1989 with discussions, which became known as the "Round Table

Negotiations", between the Communist dominated authorities and the opposition. The legalization of the Solidarity trade union and an agreement to hold partially free elections on 4 June 1989 followed.

This was the prelude to the development of a new system of government with a legal parliamentary opposition. Other developments included the creation of a position of the President as head of state, and a second chamber of Parliament, the Senate. All the contested seats in the June 1989 elections were won by the representatives of Solidarity, who formed the first non-communist government in the region since World War II.

There are many political parties operating across the entire political spectrum; five parties or political coalitions are represented in the current Parliament.

The National Assembly - made up of the two chambers of Parliament, the Sejm and the Senate - approved the final draft of the country's first post-Communist constitution 2 April 1997. After the Supreme Court upheld the validity of the referendum, and President Aleksander Kwasniewski signed it into law, the new constitution went into effect on 17 October 1997.

The long-awaited constitution, the result of several years of intensive debate and negotiations spanning five administrations across the entire political spectrum, is the country's 10th since Poland's first Constitution of 3 May 1791.

Legislative power in Poland is centered in the popularly elected bicameral National Assembly. The upper chamber is a 100-member Senate; the lower chamber the 460-member Sejm. The President is popularly elected to a five-year term, and acts as head of state, approves Sejm nominations for the Prime Minister (head of government), and has limited decree power on many issues. The Prime Minister chooses the Council of Ministers (cabinet), and is responsible to the Sejm and to the president for administering the government.

The President is elected by universal suffrage to a five-year term, for a maximum of two terms. The President is the commander-in-chief of the military forces. The most recent parliamentary elections took place 21 September 1997, held according to the election law requiring a minimum of 5% of the vote for representation in the Parliament. 69 seats from a national list are proportionately allotted in the Sejm to all parties winning more than 7% of the general vote, thus promoting the consolidation of smaller parties.

The Constitution vests legislative power in the Sejm and the Senate, executive power in the President and the Council of Ministers, and judicial power in courts and tribunals. Thus the Sejm shares its legislative function with the Senate; simultaneously, it is part of the governmental system in Poland. The legislative competence of both Chambers is not symmetrical. The Constitution provides the Sejm with a dominant role in the legislative process. This does not apply to statutes which amend the Constitution or statutes which permit the ratification of international treaties, on the basis of which the Republic of Poland delegates certain competence of the State organs to an international organization or international body. In the case of the statutes in question, neither the opinion of the Sejm nor that of the Senate enjoys superiority guaranteed by the Constitution.

The inequality of the two Chambers of the Polish Parliament is also expressed in the fact that only the Sejm is vested with the right to control the Council of Ministers. The Sejm and the Senate, sitting jointly in the instances provided for in the Constitution, act as the National Assembly.

The Constitution shapes a delicate system of balance between the particular powers of the State, which is described as a parliamentary-cabinet system with a slight inclination towards the presidential system. Only the Parliament can pass statutes to which the Constitution grants a special role in the system of sources of law as regards the determination of the legal position of the citizens. The dominance of the Sejm over the Senate in the legislative process is constitutionally guaranteed; the Sejm may also (by a three-fifths majority vote, in the presence of at least half of the statutory number of Deputies) reenact a statute that has been referred by the President for reconsideration.

The Senate, in addition to the Sejm, is a legislative organ of the State. The Senate can propose legislation, as well as the Sejm. Within 30 days after the Sejm submits bills to it, the Senate examines the bills passed to it (unless the bills are urgent in which case the Senate has a seven day window to examine the bill), and either accepts the bill, introduces amendments, or rejects it. If the Senate makes amendments that have financial implications for the state budget, it must indicate how these are to be met.

### **Structure of Government**

The government is subject to the control of the Sejm. Members of the government and the Council of Ministers bear full political responsibility to the Sejm; the latter may also hold the members of the Council of Ministers constitutionally accountable to the Tribunal of State.

The accountability of the Council of Ministers to the Sejm is underpinned by the possibility of a vote of no confidence towards the whole government or its particular members. The Sejm may also grant a vote of confidence whenever the Prime Minister demands it to do so. The government is dismissed in the event of a vote of no confidence or when a vote of confidence has not been granted to the Council of Ministers. Art. 158 of the Constitution sets out detailed rules of procedure, stating that the vote of no confidence towards the government has to be passed by a majority vote of the statutory number of Deputies on a motion on this subject moved by at least 46 Deputies. Such a motion should also specify the name of a candidate for a new Prime Minister. In effect the vote of no confidence is synonymous with the appointment of a new Prime Minister, and therefore must be "constructive".

The Council of Ministers (the government) is the supreme policy-making and executive body. The Council of Ministers consists of:

- The President of the Council (i.e. the Prime Minister)
- The Vice-President or Vice-Presidents of the Council, if any
- Ministers, each of whom must "administer a given branch of the state administration" and
- Presidents of commissions and/or committees, which, by law, carry out tasks of the supreme authorities of state administration (a category that does not yet exist, except for the Committee of Scientific Research).

"Ministers without portfolio" can also be appointed to the Council of Ministers. (The Prime Minister and Deputy Prime Ministers can combine their position with a position of minister).

Meetings of the Government are regularly attended, without the right to participate in the decision-making process, by the Secretary of the Council of Ministers, by persons entitled to do so by virtue of specific statutes (e.g. President of the Supreme Chamber of Auditors), by persons

designated by the Prime Minister (e.g. the Government's Press Spokesman), and by representatives of concerned national entities invited to participate in a meeting or part of a meeting.

With the Prime Minister's consent, a member of the Council of Ministers may, for an agenda item requiring highly specialized knowledge, benefit from the assistance of an adviser, without that person having the right to participate in decision making.

In the Prime Minister's absence, the Deputy Prime Minister (or, if the position has not been created in the government, a minister) is delegated by the Prime Minister to preside over Council meetings. A secretary of state or under secretary of state in a ministry may be delegated to act in the absence of a minister. Substitute-ministers may take part in the debate but they may not vote. However, it is rare that Council decisions are made by voting; they are usually made by consensus.

Organization of the work of the Council of Ministers has not been legislatively regulated, except for a long forgotten decree of 1918, which was never abolished. Rules in this area are shaped by standing orders of the Council. The personality of the Prime Minister plays an important role in the way the Council is organized. Traditionally, the Council meets at least every week. Under the first post-1989 Prime Minister, meetings were lengthy and detailed.

### Box 1 Ministries in Poland<sup>iii</sup>

Chancellery of the President	Ministry for Environment
Chancellery of Prime Minister	Ministry of Labor and Social Policy
Ministry of National Education	Ministry of Agriculture and Rural Development
Ministry of Finance	Ministry of the Treasury
Ministry of Foreign Affairs	Ministry of Justice
Ministry of Economy	Ministry of Interior and Administration
Ministry of Culture	Ministry of Health
Ministry of Telecommunications	Ministry of Transport
Ministry of National Defense	

Local self-governments in Poland have been functioning since 1990 in 2,489 *gminas*. The creation of *gminas* after the fall of communism has proved a great success. The reforms have introduced two new levels of self-government and significantly reduced the central government's administrative presence at the sub-national levels. The state has decentralized responsibilities and financial capacities to 308 democratically elected local self-governments at the *poviat* level and to the authorities of 65 urban *gminas* that were granted *poviat* rights. The reforms have also radically reduced the number of existing *voivodships* from 49 to 16, with this act enabling them to create regional development policies.

Starting on January 1, 1999, the *voivodship* (regional) councils (*Sejmiks*) become responsible for the development and implementation of regional economic policies. Like *poviats* (county) and *gminas* (commune), they are independent legal identities with independent budgets. As a result, the reforms have brought about a **significant decentralization of both public authority and public finance**. A new system of public finance makes the budgets of all public administration entities more transparent and accountable to the electorate.

Elections to new three-tier local governments took place on 11 October 1998. 52,000 communal councilors, 9,000 *poviat*-level local government officials and 1,000 provincial administrators were chosen.

*Gminas* run nurseries, kindergartens, elementary schools, libraries and cultural centers and maintain local roads. 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. *Gminas*' own tasks focus on meeting the collective needs of communities for public services. *Gminas* also perform tasks delegated to them by the central government and state administration and which remain under state supervision. These responsibilities may be placed on *gminas* by law or through voluntary agreements with state agencies. The law provides assurance that *gminas* will be provided with the funds necessary to carry out these delegated tasks.

*Poviats* constitute the second tier of local self-government. There are 308 *poviats* (county-level governments) and 65 urban *gminas* (larger towns) endowed with *poviat* rights (by assuming *poviat* functions, *poviat* infrastructure, and *poviat* budget authority). The *poviat* self-government is responsible for local issues that, due to the subsidiarity and proportionality principles, cannot be ascribed to *gminas*. *Poviats* are large enough to maintain efficiently many of the everyday institutions of public life, such as secondary schools, general hospitals, as well as *poviat* police and fire stations, sanitary inspectorates and tax offices. They are small enough - on average 80-100 thousand inhabitants - to place the administration and the control over these institutions in the hands of the citizens that they serve.

The *poviat* has also been made small enough to encourage citizens to take an active role in local electoral politics; and large enough to utilize citizens' public involvement on a broader scale, taking advantage of non-governmental organizations and other forms of civic activity.

Unlike the *gmina*, which is responsible for all matters that have not been explicitly assigned to the other levels of government, the *poviat* implements only those tasks that have been clearly defined for it in the law. Thus, there is no dependence between the *poviat* and the *gmina*: each of them execute separately defined public tasks and responsibilities.

The sixteen new *voivodships* are quite large, with populations ranging between approximately 1 and 5 million, and an average population of approximately 2.4 million. Democratic *voivodship* self-governments have independent legal identities, their own budgets and extensive powers in the area of economic policy.

Councils known as *Sejmiks* (regional parliaments) are the decision-making bodies of *voivodship* self-governments. They are elected in general elections. The *Sejmiks*, in turn, elect governing Boards to exercise the executive authority in self-governing *voivodships*. Boards are headed by the elected Marshals.

Poland's civil service corps is divided into: (i) civil servant employees who hold employment contracts; and (ii) civil servants who are appointed

## Central agencies and reform management

### **Box 2 Central agency responsibilities in Poland<sup>iv</sup>**

<b>Organization</b>	<b>Tasks and Responsibilities</b>
Chancellery of the Prime Minister	Responsibility for conceptual work in the area of public administration reform Deregulation preparation Control over implementation of reforms Promotion of reforms Co-ordination of international aid
Ministry of the Interior and Administration Department of Public Administration	Evaluation of local representatives of the government administration Control over central/local government relations Control over territorial-administrative division of the country Co-operation of different levels of administration
Governmental Center for Strategic Studies	Preparation of long-term strategies of economic and social development Assessment of reform implementation Evaluation of current trends in economic and social situation of the country Programming and co-ordination of regional policies implementation
Ministry of Finance	Control over state budget process Control of public expenditure Financial management improvement
Committee for European Integration	Co-ordination of Poland's preparations for integration with the European Union
Civil Service Office	Promotion of civil service Government employment policy Civil service training

### Politicization

Although the civil service is in principle neutral, merit-based, and permanent, significant hiring and firing happens at the beginning of the political term. Politically motivated appointments for crucial posts usually follow the nomination of a minister. At the end of the ministerial term, political figures and senior public servants, whose nominations were mainly political, can be seen trying to find soft landings in the management of the State controlled enterprises or in the private sector.

### *Reform activities*

### Summary<sup>v</sup>

Under the Act on "Branches of the Government Administration" passed in September 1999, 32 branches of administration were outlined covering the major sectors. The Act confirmed that **ministers would be responsible for overall sector policy and strategy**, and not managerially responsible for the work of specific ministries and central offices. The act strengthens the position of the Prime Minister, who can re-assign responsibility for sectors between ministers, leaving technical units tied to a given sector rather than a ministerial office.<sup>vi</sup>

In addition, the Civil Service Law outlines the division of labor 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 issues relevant regulations).<sup>vii</sup>

The government is in process of simplifying administrative procedures at various levels of government, and reforming the system of public finance (with the Law on Public Finance), as well as delegating new powers to democratically elected local and regional authorities.

### **Reforms to the organizational structure of government**

Through the transfer of powers from the central to local communities and the development of the first level of local government (administrative decentralization), service delivery has improved as the new division of labor removes the responsibility of the central government from the day-to-day operation of public administration and development. Local and regional governments have the opportunity to operate freely, only subject to the center's legal review.

The delegation of powers down to lower levels of self-government is accompanied by decentralization of public finances. In December 1998, parliament passed the interim Law on Revenues of Territorial Self-Government Entities for the Years 1999 and 2000 and the Law on Public Finance. Both Laws contribute to the introduction of a clear and transparent assignment of financial responsibilities to particular entities. They seek to match financial resources to the tasks delegated to territorial self-government entities.

### **Cutting back the programs undertaken by government**

Government policy reforms have seen a significant education sector reform, with changes in the curricula, and the closing down of a number of small, local schools and arranging transport for their students. Vocational schools and secondary technical schools were also eliminated. An additional level of education, the "*gimnazjum*", has been added.

There has been some limited privatization in the health sector. New financing arrangements have seen the introduction of a new referral system, with contractual relationships established between hospitals and other service units and the Health Funds. The reform was heavily opposed due to the lack of support of the doctors and nurses.

### **Civil service and personnel reforms**

A new Civil Service Act came into force in July 1999. This legislation unified all staffs employed within the Government, who were previously governed by several overlapping pieces of legislation. The Act was consistent with the new Constitution, and satisfied the European Commission's requirement that all citizens have equal access to employment in the civil service.

The aim of the new Act is to develop a Civil Service Corps, with a modified salary and promotion scheme, to provide stronger performance incentives and to encourage transparency in public administration.

The Act defines the civil service corps as employees working in clerical posts within the governmental administration, e.g. at the Prime Ministers Office, ministries, central agencies, *voivodship* offices, and other offices of regional entities of government administration, also at the Government Strategic Studies Center.<sup>viii</sup> The civil service corps includes most people employed in clerical posts at headquarters, inspectorates and other organizational units forming the "supportive apparatus" for the managers of unified services, inspections, and some *voivodship* and *poviat* functions.

The civil service corps is divided into two groups: civil service employees (employed on the basis of an employment contract) and civil servants (employed on the basis of appointment). Anybody of Polish nationality, who has not been convicted of an intentional offence, has the necessary qualifications and a sound reputation, may become a civil service employee. The law has converted existing staff, employed in clerical posts within the governmental administration, into civil service employees. Staffs appointed under an earlier Civil Service Act (of July 5, 1996) have become, civil servants within the meaning of the current Act.

Vacancies must now be advertised, (usually in the “Civil Service Bulletin”) and new recruits normally secure a contract for a maximum of three years. During this “preparatory service”, a special commission evaluates their performance. The commission determines whether the employee will remain in the position or be terminated.

Applicants for an appointment as a civil servant must be: civil service employees; have completed preparatory service; have at least two years work experience in the civil service; have a master or equivalent university degree; have at least one foreign language; and be in the military reserve or otherwise not liable to conscription. Assigning points to all applicants for general positions creates a ranking list, and the Head of Civil Service appoints those persons who are at the leading positions on the ranking list. The number of nominated persons is determined by the limit of nominations established for the given year in the Budget Act.

Very senior posts in the civil service are filled through competition. This recruitment method is used for Cabinet Secretary, general director of an office, director (deputy director) of a department (or an equivalent unit at a ministry or central agency), or director (deputy director) of a division (or an equivalent unit) at a *voivodship* office. The competitions are managed by the Head of Civil Service with the help of competition teams appointed especially for this purpose.

The Prime Minister is responsible constitutionally for supervising the civil service, although the central agency responsible for civil service matters is the head of Civil Service. The Civil Service Council advises the Prime Minister generally on issues regarding the civil service, as well as offers opinions on Head of Civil Service position candidates. The Council consists of 16 members, half of whom have substantive civil service-related knowledge, and the other half of whom are representatives of all parliamentary caucuses. The Council members (including its Chairman) are nominated by the Prime Minister.

Wages of civil service employees are determined based on estimated average wages across the public sector. Wage increases are negotiated every year in a Tripartite Commission with participation of public sector employees, trade unions and government and then presented in the Budget Bill.

Wages for managers in the civil service consist of two parts: basic salary and functional allowance. Both components are calculated in the same way - as an estimated average wage in the public sector with a multiplier determined by the President.

In 1997, Parliament passed a law restricting areas of activities where public officials can participate. Under such law, officials are: (i) banned from holding stocks or shares in companies; and (ii) places an obligation to declare the size of their financial assets, property, business capital, as well as that of their next of kin.

## **Budget process changes**

An annually adopted statute that contains the specification of revenues and expenditures of the State for a year shapes the central government budget process. Only government can introduce a draft Budget into the Sejm and must do so according to the constitution.

The Constitution contains a fiscal responsibility provision: the increase in spending or the reduction in revenues from those planned by the Council of Ministers may not lead to the adoption by the Sejm of a Budget deficit exceeding the level provided in the draft Budget. Moreover, the Budget cannot cover a budget deficit by contracting credit obligations to the State's central bank. It is also prohibited to contract loans or provide financial guarantees that would engender a national public debt exceeding three-fifths of the value of the annual gross domestic product.

The process of adopting the budget statute and the examination of the report presented by the Council of Ministers on the implementation of the Budget together with information on the condition of the State debt is of particular importance as regards the Sejm's authority to control government activities. The consideration of the report is - according to the Constitution - one of the major premises of granting or refusing to grant approval of financial accounts submitted by the Council of Ministers.

Additionally, the Sejm examines a report submitted by the Council for Monetary Policy on the achievement of the purposes of monetary policy. The Council presents those guidelines "to the attention of Sejm" simultaneously with the submission of the government's draft Budget.

The Sejm analyses the report on the performance of the Budget together with the opinion of the Supreme Chamber of Control whose activity forms an institutional guarantee of the controlling function of the Parliament. Furthermore, the Sejm or its organs, and in particular parliamentary committees, may order the Supreme Chamber of Control to exercise its powers in a particular case.

The Law on Revenues of Territorial Self-Government Entities is the major legislative act that determines the nature of self-government bodies' revenues.

## **E-government**

The Polish government has several useful web pages outlining the structure of government, with web pages dedicated to individual ministries.

### ***Reform outcomes***

Public administration reform in Poland had been undertaken with great dynamism. The government had been determined to push forward fundamental changes in the political and financial structure of the state in a remarkably short time. The government realized public administration reform, supporting the three social sector reforms, needed to go hand in hand with the economic transformation that Poland has been undergoing since 1989.

In 1990 **local self-government at the *gmina* level** was introduced. This marked the first phase of public administration reform and proved to be a great success. The preparations for the next

phases were instigated in the years 1991 - 1993. However, the four following years saw the abandonment of public administration reform.

Once a post-solidarity coalition returned to power, the newly formed government of Prime Minister Jerzy Buzek made the reform of the state its fundamental and most important objective.

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- i This section draws heavily from (references) (*Effectiveness, Openness, Subsidiarity: A New Poland for New Challenges* 1998) See also: <http://www.kprm.gov.pl/menu/menubeng.html>. See <http://www.sejm.gov.pl/english/konstytucja/ek5.htm> for a copy of the constitution in English.
- ii See: <http://www.kprm.gov.pl/>
- iii See: <http://www.kprm.gov.pl/menu/menubeng.html> for individual web addresses of ministries.
- iv Source: <http://www.oecd.org/puma/sigmaweb/index.htm>
- v This section draws extensively on: <http://www.oecd.org/puma/focus/compend/po.htm>
- vi See: <http://www.oecd.org/puma/focus/compend/po.htm>
- vii See: <http://www.oecd.org/puma/sigmaweb/index.htm>
- viii See: <http://www.kprm.gov.pl/menu/menubeng.html>