**EXECUTIVE SUMMARY**

Poland remains one of the success stories among the post-Socialist transitional democracies. Since 1989, the country has made steady progress on a range of issues relating to democratic institutions, civil society, and integration with the established democracies of Western Europe. Nevertheless, some important challenges remain. State regulation of the media is still a concern, as are problems with government corruption at both local and national levels. In addition, nationalist and populist political groups have become more powerful in recent years, and the tone of civil discourse has suffered as a result.

In recent years, the process of European Union (EU) integration has been a key driver of reform in the areas covered by this study—electoral process, independent media, civil society, governance, and the rule of law. In 2003, Poland continued to make progress toward joining the EU, with the country’s formal entry into membership now set for May 1, 2004. The year was

*Preston Keat is research director at Eurasia Group in New York.*

NOTE: Nations in Transit ratings are based on a scale of 1 to 7, with 1 representing the highest level and 7 representing the lowest level of democratic development. The 2004 ratings reflect the period January 1 through December 31, 2003. The ratings reflect the consensus of Freedom House, its academic advisors, and the author of this report. The opinions expressed in this report are those of the author.
marked by a national referendum in which an overwhelming majority of voters indicated their support for joining the EU. In addition, the Parliament passed important legislation in 2003 designed to improve the status of nongovernmental organizations (NGOs). A bribery scandal involving the ruling Democratic Left Alliance (SLD) and the country’s largest daily newspaper, Gazeta Wyborcza, raised some concerns during the year about government manipulation of the media.

An international development in 2003 that had important implications for both domestic politics and relations with other European countries was Poland’s support for the United States’ policy toward Iraq. In a year marked by controversy over foreign policy objectives among a number of European countries, Poland disappointed France and Germany when it allied itself closely with the United States and Britain and, throughout 2003, offered strong support for the U.S.-led war in Iraq. Polish forces participated in the initial invasion and later sent more than 2,000 troops to manage one of the zones in south-central Iraq. Poland also decided to purchase 48 F-16 fighter planes from U.S. manufacturer Lockheed Martin. A majority of Poles did not support the war.

**Electoral Process.** Poland cleared the final hurdles to joining the EU when it held a national referendum on June 7–8, 2003. Turnout was 59 percent, with 77 percent voting in favor of membership. Poland is now on track to become a full EU member in May 2004. The vote was the culmination of more than a decade of systemic reform and negotiations with current EU member states. The government was pleased with both the strength of the yes vote and the relatively high turnout. Despite this success, the ruling SLD continued to lose public support in 2003, with its popularity dropping below 20 percent in the early fall. Polls indicated a narrow but growing lead for the center-right opposition party Civic Platform. The SLD slipped into second place for the first time since it came to power in 2001. The decline of the SLD has been driven by a number of factors, including a stagnant economy, high unemployment, and an ongoing media bribery scandal that implicated members of the party’s senior leadership. Poland’s rating for electoral process remains 1.50.

**Civil Society.** Poland passed long-awaited legislation in 2003 regulating the volunteer and NGO sectors. One key aspect of the law is that it sets out rules governing cooperation between NGOs and municipalities. Under the law, NGOs will be able to carry out “public assignments” and be paid for these services. However, only those NGOs that fulfill all obligations to be registered as Organizations of Public Benefit will be able to receive tax exemptions and be financed by taxpayers. In addition, although the law stipulates that individuals now may donate up to 1 percent of their income tax payments to an NGO or charity, donations were capped at 350 zlotys (US$87) later in the year. Many observers believe that the cap will considerably curtail contributions to nonprofits. Since it is difficult at this stage to assess the impact of the new NGO legislation, Poland’s rating for civil society remains 1.25.

**Independent Media.** The most visible public scandal of 2003 was the “Rywingate” media bribery case. Leading figures from the SLD—members of regulatory bodies, state-owned media managers, and legislators—were accused by the editor of Poland’s largest daily newspaper (Gazeta Wyborcza) of attempting to extort money from the paper’s media holding company, Agora, in return for legislative favors. Between January and August 2003, a range of citizens and public officials, including the prime minister, testified before a parliamentary committee
investigating the scandal. The results of the investigation were inconclusive at year’s end, but the atmosphere of scandal and implied media manipulation by the government continues to raise concerns. In spite of the noise created by the Rywin affair, the environment for print journalism in Poland is still one of the best among the post-Socialist transition countries. The country’s rating for independent media remains 1.75.

**Governance.** The conditions of governance in Poland changed little in 2003 and, overall, remained very stable. In spite of recent concerns about a decline in civility in the Parliament, marked by loud shouting from certain opposition parties and failures to adhere to parliamentary rules, the institutions and conduct of government are typically carried out in a professional and responsible manner. The national government has adequate resources to fulfill its core functions; however, in some instances local governments have had revenue problems that make it difficult to deal with basic activities such as maintaining public infrastructure. Poland’s civil service suffers from problems common to most post-Socialist countries in the region. According to the European Commission (EC), “The long-standing disincentives to a civil service career (perceived poor status, profile, and rewards) remain and will need to be addressed in the years ahead.” The EC also commented that “political influence remains strong in some areas” of the civil service. Poland’s rating for governance stays the same at 2.00.

**Constitutional, Legislative, and Judicial Framework.** A variety of conditions makes the legal system extremely frustrating for both citizens and employees of Poland’s legal institutions. One of the most basic problems is that there are lengthy waiting periods for access to the court system. Virtually all Polish courts are overburdened, from the Supreme Court down to local courts. The number of cases investigated on average by a court reach 7,000 annually, out of which approximately 1,500 are delayed cases. The EC concluded in 2003 that “in general, the level of public trust in the efficacy and fairness of the judicial system remains low and the perception of corruption by the public is high.” Another problem is the current state of the prison system. In recent years, the situation has deteriorated, as budget allocations have not risen fast enough to meet the growing prison population. The rating for this category holds steady at 1.50.

**Corruption.** Corruption continues to be a problem in Poland. In recent years, various public officials have been implicated in corruption scandals, and in several cases there have been clear violations of conflict of interest provisions. In addition to the Rywingate scandal, the most prominent corruption case of the year involved SLD activists from Starachowice who allegedly cooperated with local gangsters in their criminal activities (kidnapping, drugs, weapons dealing). The main reason for the public’s outrage is that these SLD members appear to have been informed by SLD parliamentarian Andrzej Jagiello of an impending police dragnet. Making matters worse, Jagiello should not have had access to this information; he allegedly learned of the planned actions from the deputy interior minister. In 2003, the government had difficulty implementing its “anticorruption strategy,” owing in part to insufficient administrative and political support. Poland’s rating for corruption remains unchanged at 2.50.

**Outlook for 2004.** In spite of gradually improving economic growth performance and EU accession, Poland’s ruling SLD is likely to remain unpopular in 2004. One key challenge will be the austerity program of the government’s leading economic policy maker, Deputy Prime Minister Jerzy Hausner. While some form of his plan will likely be approved in early 2004, the
outlook for fiscal reform and restructuring is not positive. By midyear, the focus of political attention could move on to the next electoral cycle, with a general election due in 2005. The government’s biggest problem may be its souring relations with Germany and France, who were angry with Poland in 2003 for refusing to agree to the terms of the proposed EU Constitution. Germany and France may threaten to curtail EU development aid for Poland, which in turn could further weaken the government.

**MAIN REPORT**

I. Electoral Process

The electoral system in Poland has been evolving since the country held its first semifree democratic elections in 1989. While many of the rules have been adjusted over time, the core democratic institutions at the national level remain very stable. The rules of the political game at the local level have changed dramatically in recent years as well, as the number of state districts has been pared down and the voting rules for town and city elective office have been altered. In spite of the relative fluidity of the situation, elections are overwhelmingly free and fair, and the electoral system is generally stable.

Poland has a multiparty parliamentary system that is founded on the principles of proportional representation. The threshold for inclusion in the Parliament is 5 percent for individual parties and 8 percent for coalitions of parties. In the early elections following the end of Communism, there were no thresholds, and more than 20 parties were included in the Parliament. As in other political systems, the introduction of thresholds (in 1993) was driven by a desire to bring more coherence to the party scene and to force smaller parties to work together more effectively under the banners of the larger parties.

In the most recent parliamentary elections, which took place in September 2001, the Democratic Left Alliance (SLD), along with its electoral alliance partner, the Union of Labor (UP), captured 41 percent of the popular vote. This translated into 216 of 460 seats and gave the party a clear victory over its closest competitors. The opposition is made up of five main parties—the Civic Platform (PO), the Law and Justice Party (PiS), Farmers Self-Defense (Samoobrona), and the League of Polish Families (LPR). The Peasants Party (PSL) was in the ruling coalition until March 2003. These, as well as the previous national elections, were considered free and fair by independent observers.

The most powerful political office is that of prime minister. In principle, the president plays a more ceremonial role, although over the past decade in Poland the office of the presidency has been associated with a good deal of de facto power. The current president, Aleksander Kwasniewski, has played a prominent role in foreign affairs and has demonstrated a significant amount of authority in dealing with Russia, NATO, and a range of foreign investors. Kwasniewski began a second term in December 2000. His first term began in 1995. Both elections were deemed free and fair.

There are no serious barriers to political party organization, and new parties emerge on the political scene frequently. The most notable recent cases of this phenomenon are Samoobrona
and the LPR, which made it into the Parliament in 2001 touting populist and anti–European Union (EU) messages. At times, both parties have offered an obstructionist rather than constructive opposition. Although Samoobrona and its firebrand leader, Andrzej Lepper, have a history of challenging the political system and institutions in Poland, the SLD has occasionally formed a strategic alliance with them on certain issues in the Parliament.

In 2003, conflicts between the government and Samoobrona highlighted what is perhaps the most potentially destabilizing political dynamic in Poland—agricultural policy. According to the 2001 census, approximately 38 percent of Poland’s population is rural, with many farming sectors underdeveloped and struggling. Most of Poland’s rural citizens feel that they are relative losers in the post-Communist transition and view the West as a threat. In particular, they fear direct competition with the highly subsidized farmers of the EU. The main political voice of rural interests has traditionally been the PSL, but with the emergence of Samoobrona this is changing. Both parties are loath to associate themselves with the SLD’s agenda on European integration.

In 2003, Poland cleared the final hurdles to joining the EU when it held a national referendum on June 7–8. The turnout was 59 percent, with 77 percent voting in favor of membership. Poland is now on track to become a full EU member in May 2004. The vote was the culmination of more than a decade of systemic reforms and negotiations with current EU member states. The government was pleased with both the strength of the yes vote and the relatively high turnout.

While in retrospect the outcome may appear to have been a foregone conclusion, the government was concerned about the issue throughout the spring of 2003. In a move to ensure a higher turnout, the Parliament adopted legislation extending the voting period for the referendum from one to two days. Language allowing for the additional day of voting was inserted into the draft Law on Referendums, which was passed easily by the Parliament. The rationale for this move was that it would increase the chances of meeting the legally prescribed 50 percent threshold for voter turnout.

Political leaders were concerned that public opinion could shift ahead of the referendum, and they feared ongoing criticism from opposition parties of the final content of the EU accession treaty. Opposition parties criticized the government for alleged misunderstandings between Polish and EU negotiators. For example, the two sides apparently did not have the same understanding of the treaty language covering important issues such as the process for distributing agricultural subsidies, the timing for changes to “special economic zones,” and the terms of milk quotas.

With these concerns in mind, the government went out of its way to avoid controversy in the months before the referendum vote. Sensitive issues that the SLD did not address until after the vote included mining sector reform, Finance Minister Grzegorz Kołodko’s fiscal reform program and 2004 budget proposals, and the reform of the farmers’ pension system. To ensure the support of the Catholic Church, the government also showed a great deal of flexibility in pushing for a church-inspired “morality” clause (referring explicitly to Christianity) in the accession treaty. The SLD’s agenda for reforming Poland’s relatively restrictive abortion law was also put on hold.
Ahead of the vote, leading politicians toured the country and the government sent 13 million letters to individual Polish households. Moreover, the SLD-dominated Parliament, in a successful move to win rural support for EU accession, succumbed to pressures from the PSL and adopted a Law on Land Transfers. Fortunately, the most ridiculous provisions were dropped during the parliamentary discussion. For example, the requirement that people can buy Polish soil only if they can speak fluent Polish was dropped after one member asked whether a Polish mute could purchase land.

The government was grateful for Pope John Paul II’s input in the final weeks before the vote, which helped to boost turnout. During mass on Sunday, June 1, in addition to hearing a letter from Polish bishops, Catholics heard the pope’s May 19 speech, in which he stated, “Europe needs Poland” and “Poland needs Europe.” The pope’s speech complemented the bishops’ letter, which appealed for participation in the EU referendum.

Ultimately, all but one of the eight leading political parties approved the referendum. In a surprising result, more than 50 percent of supporters of Samoobrona, which is well-known for its anti-EU and anti-Western rhetoric, voted yes. This bodes well for the process of implementing EU regulations in rural areas of the country, where Samoobrona draws much of its support.

<table>
<thead>
<tr>
<th>Percentage of Yes Votes by Political Party Affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democratic Left Alliance (SLD)</td>
</tr>
<tr>
<td>Self-Defense (Samoobrona)</td>
</tr>
<tr>
<td>Law and Justice (PiS)</td>
</tr>
<tr>
<td>Peasants (PSL)</td>
</tr>
<tr>
<td>Civic Platform (PO)</td>
</tr>
<tr>
<td>League of Polish Families (LPR)</td>
</tr>
<tr>
<td>Solidarity (AWS)</td>
</tr>
<tr>
<td>Freedom Union (UW)</td>
</tr>
</tbody>
</table>

Source: Poll results as published in Rzeczpospolita

The nature of the EU political debate changed course in the fall of 2003, when the government began attacking the proposed new EU Constitution. The move had no impact on the timing of Poland’s accession, but it did contribute to the notable failure of the Brussels summit in December 2003. Along with Spain, Poland demanded that voting rules for the European Council be based on the Nice Treaty, which benefits medium-size countries such as Poland and penalizes larger ones like Germany and France. In the coming year, tensions with France and Germany could grow as a result of this ongoing policy dispute.

In spite of its success on the EU front, the ruling SLD had a difficult year in 2003 and saw its public support erode. Slow economic growth, high unemployment, and ongoing allegations of corruption (for instance, Rywingate) all contributed to this decline. On March 1, the SLD pushed its junior coalition partner, the PSL, out of the government. The PSL had given the SLD only lukewarm support on key issues such as EU accession and had refused to support the government's proposed highway funding proposals. Ultimately, the SLD leadership decided it could no longer tolerate a coalition partner that behaved like an opposition party much of the
time. However, without the SLD the government coalition was left with just 212 members in the 460-member Parliament—19 votes shy of a majority. As a result, it had to gain the support of other small factions in the Parliament.

Following the ouster of the PSL, the SLD faced a number of other problems. The finance minister threatened to resign if his fiscal reform package was not implemented, and the populist Samoobrona party withdrew from local government coalitions with the SLD, saying that it could not ally with a party that supported EU accession and the war in Iraq. The government came under heavy fire from independent media over the Rywingate bribery scandal. In addition, testifying before a parliamentary commission, the head of the National Council of Radio Broadcasting and Television accused the government of "scheming" and "machinations" during the preparation of a new law governing the media. The president called on the council members to resign. Opposition parties called for Prime Minister Leszek Miller's resignation.

In the midst of turmoil over the scandal, muddled fiscal policy management, and volatility in the cabinet, the SLD quietly demonstrated that it had the political wherewithal to survive important votes in the Parliament. In early March, opposition parties attempted to include in the Parliament's agenda an item calling for Miller's resignation. The motion failed 202 to 221. At the end of March, a no-confidence motion against Deputy Prime Minister Marek Pol failed 209 to 228. The party alignments were identical in both cases. Substantial SLD mobilization and selective, deliberate no-shows by some of the opposition also enabled the minority government to prevail.

Just before the EU referendum, President Kwasniewski announced that he would actively involve himself in a search for broader political support for a new (or refreshed) majority government. To this end, he initiated "consultations" with major opposition parties. Opposition leaders generally advised the president to take more decisive measures, including a call, possibly in the Parliament, for Miller's resignation. During the process, Kwasniewski seems to have understood that if he decided openly to challenge Miller, a significant part of the SLD would probably consolidate around the prime minister.

Kwasniewski hesitated, and Miller moved aggressively to regain the political initiative. He abandoned his earlier promise to hold early elections in 2004, outlined a plan to liberalize the economy (surprising everyone by mentioning the possibility of a flat personal income tax rate), and announced a parliamentary vote of confidence for his government. The minority SLD-led government had few problems with the confidence vote, winning 236 to 213. The purpose of his plan was straightforward: to eliminate all speculation and discussion regarding whether and when the government might resign. Miller emphasized that he intends to remain in office for the full term of his government. These unilateral steps—he essentially ignored Kwasniewski—made it clear who was in charge.

The final stage of Miller's political recovery was the SLD party congress. Miller faced no opposition and was reelected for another four-year term as SLD leader. He won 625 out of 777 votes. The run-up to the Congress was marked by growing criticism of Miller's reign within the SLD. But this was a way to demonstrate that there is a form of "democratic dialogue" within the party and that the SLD is ready to engage in self-cleansing. Miller demonstrated his efficiency in
securing and reinforcing his power within the party. By engaging in self-criticism (a popular form of rhetoric during Communist times), he quieted his opponents. He also tried to give the impression that he had a visionary program for the SLD and Poland for the rest of his term. It is clear that Miller will try to remain in office until 2005, by which time he hopes the effects of economic growth will allow his party to win the next general election.

By the fall, public opinion polls indicated a narrow lead for the center-right opposition PO. The PO had finally resolved an internal leadership struggle, and Jan Maria Rokita was clearly the party’s prime minister designate. Rokita’s public stature had improved in part because of his impressive performance cross-examining government figures during parliamentary hearings on the Rywingate media bribery scandal. PO pulled ahead of both the SLD and the other leading mainstream opposition party, the PiS.

II. Civil Society
In 2003, Poland passed long-awaited legislation regulating the volunteer and nongovernmental organization (NGO) sectors. The law is formally called the Bill on Public Benefit Activities and Volunteering and came into effect on January 1, 2004. This legislation was based in large part on a proposal drafted by a group representing Polish NGOs and was widely seen as a positive development for the sector as a whole.

One key aspect of the law is that it sets out rules governing cooperation between NGOs and municipalities. NGOs will be able to carry out “public assignments” and be paid for these services. However, only those NGOs that fulfill all obligations to be registered as Organizations of Public Benefit will be able to receive tax exemptions and be financed by taxpayers. The new law also stipulates that individuals can donate up to 1 percent of their income tax payments to an NGO or charity—an amount far less than previous allowances for deductions of 5–10 percent. As a result, many NGOs fear that the new registration process, transparency rules, and caps on deductions could lead to a marked decline in funding. The real effects of these measures on NGO revenues will not be clear until mid-2004, but the benefits are not likely to be as great as originally anticipated.

More broadly, the civil society sector continued in 2003 to battle against the perception among international donors that Poland is nearing the end of its transition and therefore will not need to rely on international aid and training to the same degree that it did earlier in the decade. One of the key challenges in the coming years will be to develop reliable domestic sources of revenue. At this stage, some of the NGOs with the best prospects for sustainability are those that have been able either to put down strong roots in local communities or to leverage their experience with transition in Poland into opportunities to provide assistance for nascent civil society groups in countries farther to the east. Western donors have rewarded many such NGOs with ongoing support, with the aim of promoting civil society in countries that have worse conditions than Poland but have a similar Communist legacy. For example, Polish NGOs have been involved with activities such as human rights, civic education, and local media training in republics of the former Soviet Union.
Poland perhaps has the most vibrant and politically diverse trade union movement in post-Socialist Europe. The two largest unions are the All-Poland Alliance of Trade Unions (OPZZ; approximately 1.5 million members) and Solidarity (approximately 0.9 million members). There are also a number of small, specialized trade unions (for example, the railway engineers union). The strength of the Polish trade union movement is a product of its unique history. In most Communist countries, the principal trade unions were supported by and at least tacitly affiliated with the government. Poland had “official” state-sanctioned unions such as OPZZ, but it also had a broad-based and credible union—Solidarity—that opposed the Communists. Following the collapse of Communism, both types of unions remained viable and came to play a critical role in the largely successful reform of Poland’s economy.

Solidarity has remained a viable and influential trade union but has seen its direct role in electoral politics decline in recent years. In the 2001 elections, the main Solidarity-affiliated political grouping—Solidarity Electoral Action—did not meet the 5 percent electoral threshold and therefore has no official representation in the current Parliament. Several opposition politicians (as well as some from UP, the SLD’s coalition partner) have historic ties to Solidarity, but on balance the political effectiveness of the trade union has eroded. Nevertheless, Solidarity is still an important social force and along with OPZZ will continue to influence the process of industrial reform (particularly in heavy industry) and labor regulation.

In the fall of 2003, more than 10,000 coal miners in Katowice protested against the government’s proposed reforms of the mining sector. The Economy and Labor Ministry projected a loss of 28,000 jobs in the sector between 2003 and 2006. The government’s restructuring plans call for the closure of as many as 23 mines and a 15 percent reduction in coal output. The government claims that it will not back down and that reforms will go through in their entirety. Between 1998 and 2001, 22 coals mines were closed and 100,000 lost their jobs. In addition, coal extraction was reduced by 30 million tons. Still, during this period, the coal industry continued to be the recipient of sizable government subsidies.

From trade unions and NGOs to civic associations and religious groups, Poland has a wide range of interest groups that participate actively and freely in the political process. Labor- and church-affiliated groups are perhaps the most influential, as they have important effects on the political process at the local, regional, and national levels. Public policy institutes also play a significant role in the political arena. Other institutes are sponsored by the private sector, political parties, interest groups, and the national government. Several have a direct effect on public policy (for example, on coal industry reform plans), and many current and former government officials and policy makers have or have had affiliations with these organizations. To cite two recent examples, independent research groups have directly influenced the government’s approach to small- and medium-enterprise reform as well as entitlement reform.

Poland’s education system is now generally free of political influence and propaganda. This is, needless to say, a dramatic change from the Communist-era system. The primary and secondary education system, which is almost entirely public, is also free of any overbearing influence from the Catholic Church. The system of colleges and universities is still predominantly public. All of the large universities are state affiliated, and the quality of education remains high. However,
III. Independent Media

Poland enjoys a generally high degree of media freedom and independence. This has been the case for much of the period of transition from Communism. In the earliest days of the transition, censorship and government control of the media were outlawed. The 1997 Constitution stipulates that “the Republic of Poland shall ensure freedom of the press and other means of social communication” (Article 14). While overall conditions for the media are clearly among the best in the transition countries, print media enjoy more freedom than broadcast media.

The most visible public scandal of 2003 was the “Rywingate” media bribery case. During the year, several leading figures from the SLD—members of regulatory bodies, state-owned media managers, and some legislators—were embroiled in a scandal publicized by the editor of Poland’s largest daily newspaper, Gazeta Wyborcza, which alleged that they had tried to extort money from the paper’s media holding company, Agora, in return for legislative favors. Lew Rywin, a noted film producer, was accused of “influence peddling” after he allegedly approached the paper’s editor, Adam Michnik, and offered to help influence government legislation relating to Agora. According to the Gazeta Wyborcza, Rywin asked for money in return for securing passage of a series of new media regulations preferred by Agora. Between January and August 2003, several citizens and public officials, including the prime minister, testified before the parliamentary committee investigating the scandal. The results of the investigation have been inconclusive to date, but an atmosphere of scandal and implied media manipulation by the government continues to raise concerns.

In spite of the noise created by the Rywin affair, the environment for print journalism in Poland is among the best in the post-Socialist transition countries, without much of the politicization of noneditorial reporting that one witnesses in the region. There are numerous credible, independent, and high-quality periodicals. On the other hand, state-run television and radio is regarded as much less independent, and politicians still have a good deal of influence and control over the regulation, and by extension content, of these broadcast outlets.

The combined circulation of Poland’s main national daily papers is approximately four million. The two most important “quality” (nontabloid) dailies are Gazeta Wyborcza and Rzeczpospolita. The former has a circulation of approximately 600,000 copies per day and has 16 percent of the market, while the latter has 6 percent of the market. Other national dailies with a relatively large circulation are Super Express (15 percent market share), Zycie, Przeglad Sportowy, Nasz Dziennik, and Trybuna. The three most important weeklies are Polityka, Wprost, and Newsweek Polska, each of which has a circulation of approximately 200,000. There are also 46 regional daily newspapers in Poland, as well as several English-language newspapers (for instance, Warsaw Business Journal and Warsaw Voice).

Media distribution is dominated by two firms: the state-owned Ruch, which has a 50 percent market share, and the privately owned Kolporter, which controls approximately 40 percent of the market. Print media are almost entirely privately held. Gazeta Wyborcza is owned by Agora
S.A., a large media holding company; Rzeczpospolita is controlled by the Orkla group, a Norwegian company. Other foreign media companies such as Polskapresse-Passau, Bertelsmann, Axel Springer Verlag, and the Heinrich Bauer Group play an important role in regional and mass-market publications.

The Law on Freedom of Information, which Poland enacted in July 2001, is generally regarded as an important step toward government openness and accountability. Since the law came into effect, journalists have had improved access to a range of official public documents. However, the law has not been a complete success, as a number of journalists have complained that public officials too often are able to refuse access to requested information on the grounds of “personal data protection.”

Articles of the penal code provide for 6 months’ to 10 years’ imprisonment for anyone who publicly “insults, ridicules, or derides” the Polish nation, the state, or its principal organs. A significant number of libel lawsuits are brought against journalists each year. By law, the penalties are up to three years in jail for libeling the president, two years for a member of Parliament or the government, and one year for other public officials. In practice, though, fines, rather than prison sentences, are typically imposed. Nevertheless, the criminal nature of libel has created a climate in which journalists often refrain from criticizing politicians, particularly if they are from smaller publications with less clout and money. The larger newspapers are more open in their criticism of officials, but even here there is some restraint. Another highly criticized—and frequently invoked—law in Poland enables courts to impose gag orders on the media.

There are several journalists and editors associations, including the Polish Journalists Association, the Journalists of the Republic of Poland, and the Association of Local Press Publishers. To date, however, these groups have not been able to form an effective or cohesive lobbying organization. These organizations have codes of ethics and work to police their own members. Most have adopted a short, seven-point document entitled “Charter of Media Ethics,” which makes them members of a group called the Council of Media Ethics. There is also the Press Freedom Monitoring Center, which tracks cases in which the rights of journalists are violated.

Broadcast media do not enjoy the same degree of freedom that print media do. This is due in part to the role of the National Council of Radio Broadcasting and Television (KRRiTV). The council has nine members, of which four are appointed by the Parliament, two by the upper chamber of Parliament, and three by the president. This arrangement and a high level of independence without institutional accountability or oversight from any specific branch of government have led to a politicization of the council. As such, the council is able to influence the tone (and even content) of political coverage on public television and to manage closely the allocation of licenses.

Public television (TVP) manages and runs 2 nationwide channels—TVP1 and TVP2—12 regional channels, and 1 satellite channel (TV Polonia) for the Polish community abroad. The third most popular TV station, after TVP1 and TVP2, is the private Polsat. Each of these stations has approximately a 20–25 percent market share. Another private station, TVN, has grown as well in recent years. Most of the funding for these stations comes from advertisements, although
Cable and satellite stations are also a major presence. Out of 12.5 million households in Poland, approximately 4 million subscribe to some form of cable TV, and around 2.5 million have their own satellite dish. There are 4 main nationwide radio broadcasters: Public Radio, Radio Zet (private), RMF-FM (private), and Radio Maria (private, Catholic). There are also approximately 200 regional radio stations.

The Rywingate scandal, which dominated the headlines for much of 2003, has its roots in earlier proposed (though never passed) legislation. In 2002, the KRRiTV produced a controversial amendment to the Law on Radio and TV. The draft radically increased the scope of KRRiTV’s authority, which raised fears that the ruling SLD would increasingly politicize public broadcast media. The draft also proposed limits on the concentration of capital in the media sector.

Although this provision of the proposed law sounded fine to many observers in principle, last minute changes to its wording made clear that the provision was in fact an attempt to limit the power of Agora, a major media holding company managed by a number of prominent former Solidarity activists. Agora, the publisher of Gazeta Wyborcza, was seeking to expand into a range of radio and TV markets, and the legislation in its original form would have prevented this. Apparently, even the U.S. government voiced concerns privately to the SLD leadership.

Following outcry and strong resistance from the major media groups, the government finally moved toward a compromise, and in June 2002, Prime Minister Miller met with representatives from the largest TV and radio stations and announced that the government would consider new amendments that were more favorable to major private media groups. In July, the government altered its approach to the draft law and placated its most vocal and powerful opponents, including Agora. However, in 2003 the Speaker of the Parliament suspended work on the radio and television legislation, which ultimately was rejected by the Parliament. The government subsequently submitted a “small amendment” to the Law on Radio and TV focused only on harmonizing Polish and EU law. Final changes proposed by the Senate will be voted on in the spring of 2004.

IV. Governance

The conditions of governance changed little in 2003. Poland’s government system is very stable. In spite of recent concerns about a decline in “civility” in the Parliament, the institutions and conduct of government are typically carried out in a professional and responsible manner. The national government has adequate resources to fulfill its core functions; however, in some instances local governments have had revenue problems that have made it difficult to deal with basic activities such as maintaining public infrastructure. These problems have been particularly acute in areas where larger state-owned enterprises (SOEs) formerly provided many public services (electricity, recreation facilities, day care, hospitals, and the like). Local governments have been saddled with numerous social welfare and community development roles formerly handled by SOEs, and in several cases the local revenue base is simply not adequate enough to support the maintenance of such a range of services.
There are two systems of governmental administration in Poland: state (central) and local. The territorial division of the country consists of three levels—regional (16 voivods), county (over 350 powiats), and communal (nearly 2,500 communities). The systems of state and local self-government coexist at the regional level, while only local administrations function at the country and communal levels. Local self-governments have the right to perform public services and tasks not reserved by the Constitution or in the statutes of other public authorities. Units of local self-government enjoy property rights and other rights of ownership.

The self-governing nature of local administrations is protected by the courts. The financial resources of local self-governments consist of locally generated revenues as well as general subsidies and specific grants from the central state budget. Units of local self-government perform their duties through constitutive (councils) and executive organs. Elections to constitutive organs are universal, direct, equal, and conducted by secret ballot. The last local self-government elections in Poland took place in fall 2002. Independent observers judged them free and fair.

In July 2001, Poland passed the Law on Freedom of Information. The introduction of the law has substantially improved the openness and transparency of the government. While in broad terms this was a positive development, there are still problems with adherence to the law. In particular, there have been allegations that government officials too often resort to “personal privacy” language in the law to avoid disclosing information.

Poland’s civil service suffers from problems common to most post-Socialist countries in the region. According to the European Commission, “Human resources, training (including language training), and budgets need to be strengthened, and inter-institutional co-ordination needs to be improved…generally these problems result from budgetary constraints.”

In 2002, the government also amended the Law on Civil Service. This law was meant to create a high-quality, depoliticized, and protected group of civil servants—similar to what is found in Western democracies. Under the new law, civil servants are supposed to be hired through a competitive selection process. However, the amendment does allow civil servants’ posts to be filled by non-civil servants for a period of four years. This provision enabled the SLD to get a much-needed infusion of new civil servants, but it also led to opposition claims that the selection process would now be increasingly politicized.

V. Constitutional, Legislative, and Judicial Framework
Poland’s system of government is based on the separation and balance of powers among the legislative, executive, and judicial branches. Legislative power is vested in the Parliament and the Senate. Executive power rests with the president and the Council of Ministers. Judicial power lies in the courts and tribunals.

Poland’s Constitution (1997) provides for a judiciary that is independent from the legislative and executive branches. The administration of justice is implemented by the Supreme Court, common courts, administrative courts, and military courts. Court proceedings have at least two
stages. The State Tribunal judges the highest officials for violations of the Constitution or Polish law. The main task of the Constitutional Tribunal is to determine the conformity of statutes and international agreements to the Constitution and to consider complaints concerning constitutional infringements. The Constitutional Tribunal has emphasized on numerous occasions in recent years that judicial power is considered not only independent, but also a separate entity from the other branches of government. The Constitutional Tribunal and the State Tribunal are charged with interpreting and enforcing the rules set forth in the Constitution, and their decisions are respected in practice.

In 2003, there was speculation that the government might bow to pressures from international investors who wanted it to force a constitutional challenge of new legislation regarding the management of Polish investment funds. In the end, the government did not make a politicized play in the Constitutional Tribunal. This incident once again reinforced the tribunal’s sense of independence and legitimacy.

Judges in Poland are required to be independent. They cannot belong to political parties and trade unions and are not allowed to perform public functions that would call into question their independence. Following nomination by the National Judicial Council, judges are formally appointed by the president. They must meet a list of mandated requirements (age, training, and so forth) and cannot be dismissed or removed arbitrarily.

In July 2003, the criminal procedures code was amended. Important changes included the acts on “crown witnesses” and the protection of “classified information.” The goal of these acts is to reduce the backlog of cases and improve enforcement of judgments. According to the EU, the effects of these new rules are not yet clear. More broadly, the EU remained concerned that Poland’s “system of legal aid is still under-developed and organized in a non-transparent way, with the result that citizens are not informed about their rights.”

Poland’s legal architecture has become increasingly sound. There is a credible system of checks and balances. There is no widespread official abuse of the criminal code. Basic human rights are guaranteed, and minority and religious rights are generally respected. However, it is also fair to say that Poland does not yet possess a true “legal culture.” That is, there is still a general tolerance among the public for violations of certain rules and codes. This is in part a legacy of Communism, wherein a certain social solidarity was associated with violating the rules of the “system.” Unfortunately, this general skepticism has also been reinforced by a number of very tangible inadequacies in the current system.

Currently, the legal system is frustrating for both citizens and employees of the legal institutions. Virtually all Polish courts are overburdened, from the Supreme Court down to local courts. The average number of cases courts investigate each year is 7,000; of these, approximately 1,500 are backlogged cases. Legal proceedings last approximately seven months, compared with three months in 1993. According to the Ministry of Justice, it takes several months in district courts for a case to enter the cause list for trial; in Warsaw, it takes 20 months. In fact, in 2003 the EU described the problem in Warsaw as “still very critical in terms of delays.”
Controversial trials, such as the prosecution of former high-ranking Communist officials, can typically take years. Poland has already lost several cases in the Strasbourg Human Rights Tribunal for violating an individual’s constitutional right to receive a judgment within a reasonable period of time.

In addition to backlogs, Poland’s judicial system faces a variety of other challenges. First, some observers believe that Polish judges are underpaid and do not have adequate administrative support. Second, the country’s prison system has shown increasing signs of deterioration, as budget allocations have not risen fast enough to meet the needs of Poland’s growing prison population. The number of detainees rose from 54,367 to 81,250 between 1997 and 2002.

VI. Corruption
Corruption continues to be a sizable problem in Poland. In recent years, a number of public officials have been implicated in corruption scandals, and in several cases there has been clear violations of conflict of interest provisions. Further, the SLD-led government continues to prop up several inefficient state industrial sectors that have traditionally been sources of unreported funding for politicians and political campaigns.

In addition to the Rywingate media bribery scandal, the most prominent corruption case in 2003 involved SLD activists from Starachowice who allegedly cooperated with local gangsters in criminal activities such as kidnapping, drug trafficking, and weapons dealing. The main reason for the public’s outrage was that these SLD party members appear to have been informed by Andrzej Jagiello, an SLD member of Parliament, of an impending police dragnet. What made matters worse was that Jagiello should not have had access to this information; he supposedly learned about the planned actions from the deputy interior minister.

In the fall of 2002, the government adopted an official anticorruption strategy and listed a range of legislation that should be adopted to curb the wrongdoing in a number of important areas. The EU commented in 2003 that this strategy was flawed because it fails to deal with high-level corruption and to provide the ministerial team responsible for its oversight with “sufficient administrative and political backup.” In addition to these initiatives, individual ministries were supposed to have implemented internal anticorruption programs. According to the Stefan Batory Foundation, however, these efforts have generally been weak and poorly implemented.

The EU also criticized Poland in 2003 for “unsatisfactory” follow-up on anticorruption recommendations made by the Supreme Chamber of Control. The EU’s report suggested that a special unit within the Agency for Internal Security that is in charge of fighting official corruption has performed poorly and has “not disclosed any of the most serious cases of corruption, launching investigations only after they have been revealed by the media.” In the areas of police cooperation and combating organized crime, the EU found that Poland still needs additional staff and improved coordination.

In December 2003, the government initiated a bill to regulate lobbying activity. The bill is intended to introduce more transparency in the lobbying process through the creation of a public information bulletin for monitoring such activities. The government admitted that there had been
instances of “negative lobbying activity” on legislation relating to biofuels, medicines, and radio and television.