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STRUCTURE AND OPERATION OF LOCAL AND REGIONAL DEMOCRACY

Poland

POLAND
Territorial set-up



STRUCTURE AND OPERATION OF LOCAL AND REGIONAL DEMOCRACY

Poland

Situation in 1999

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CONTENTS

1.	LEGAL BASIS	5
1.1.	Constitutional provisions	5
1.2.	Main legislation	5
2.	STRUCTURE OF LOCAL AND REGIONAL AUTHORITIES	6
2.1.	Main subdivisions	6
2.2.	Statistical data	6
2.3.	Special structures in particular areas and structural changes	7
2.4.	General units of state administration at local/regional level and relations with local and regional authorities	9
3.	ORGANS OF EACH CATEGORY OF LOCAL AND REGIONAL AUTHORITIES	11
3.1.	Deliberative body	11
3.2.	Method of election	12
3.3.	Executive body.....	15
3.4.	Political and administrative heads of local and regional authorities	16
3.5.	Distribution of powers and responsibilities among the different organs of local and regional authorities	17
3.6.	Internal structure of local and regional authorities	21
4.	DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING.....	21
4.1.	Local referendums	21
4.2.	Other forms of direct participation	22
5.	STATUS OF LOCAL AND REGIONAL ELECTED REPRESENTATIVES	23
5.1.	Positions and activities incompatible with elected office as a local or regional representative	23
5.2.	Financing of election campaigns	24
5.3.	Duties and responsibilities of local and regional elected representatives	24
5.4.	End of term of office.....	25
5.5.	Training for candidates and elected representatives	26
5.6.	Working conditions.....	26
5.7.	Remuneration for elected office.....	27
5.8.	Balanced representation of the sexes	27
6.	DISTRIBUTION OF POWERS AMONG THE VARIOUS CATEGORIES OF LOCAL AND REGIONAL AUTHORITIES	27
6.1.	Principles governing the distribution of powers.....	27
6.2.	<i>Ipsa jure</i> competencies of local and regional authorities	28
6.3.	Participation by local and regional authorities in economic and physical planning at national level	30
7.	CO-OPERATION AND OTHER LINKS BETWEEN LOCAL AND REGIONAL AUTHORITIES	37
7.1.	Formal co-operation for the performance of tasks of common interest.....	37
7.2.	Co-operation between local and regional authorities in different countries	39

8.	FINANCE	39
8.1.	Taxes and charges	39
8.2.	Subsidies and grants to local and regional authorities.....	41
8.3.	Other sources of income.....	45
9.	SUPERVISION OF LOCAL AND REGIONAL AUTHORITIES	46
9.1.	Organs, types and measures of external supervision	46
9.2.	Redress for local and regional authorities in the event of improper exercise of administrative supervision	48
9.3.	Audits	48
10.	APPEALS BY INDIVIDUALS AGAINST DECISIONS OF LOCAL AND REGIONAL AUTHORITIES	51
11.	LOCAL GOVERNMENT STAFF	52
11.1.	Main categories of staff.....	52
11.2.	Authority responsible for administrative matters	52
11.3.	Authority responsible for financial matters	53
11.4.	Recruitment.....	53
12.	CURRENT REFORMS.....	54

1. LEGAL BASIS

1.1. Constitutional provisions

The principles of local democracy are enshrined in the Constitution (Articles 15-16 and 163-172), the provisions of which guarantee, in particular:

- decentralised government, based on a system of territorial subdivision which takes account of social, economic and cultural ties as well as the ability of local authorities to perform public tasks (Article 15);
- the status of municipalities as the basic local authority; municipalities have competence for all local government tasks not assigned to other authorities by law; other tiers of local government may be established by law (Article 164);
- participation by local authorities in the exercise of government; through their deliberative and executive bodies, local authorities are empowered by law to perform a considerable share of public tasks, in their own right and under their own responsibility (Articles 16 and 169);
- fair, direct and secret elections for local councils, the legal personality of local authorities, property rights and other economic rights (Article 165);
- the opportunity for citizens to take direct decisions, by referendum, on matters concerning their local authority, including dismissal of the council (Article 170);
- resources deriving from an appropriate share of national government revenue – defined by law – adequate for the tasks assigned to local authorities; local budgets are financed from authorities' own income as well as government grants and subsidies; local authorities are entitled to set local taxation rates in accordance with statutory regulations (Articles 167 and 168);
- judicial protection of local authorities' autonomy (Article 165); only the legality of their actions is subject to review, except for tasks delegated by the state (Articles 166 and 171);
- the right to associate, to join international associations of local and regional authorities and to conduct co-operation programmes with local and regional authorities in other countries (Article 172).

1.2. Main legislation

- Act of 8 March 1990 on Municipalities;
- Act of 6 April 1990 on Employees of Local and Regional Authorities;
- Act of 12 January 1991 on Local Rates and Taxes;
- Act of 11 October 1991 on Municipal Referendums;
- Act of 7 October 1992 on Regional Audit Offices;
- Act of 25 March 1994 on the Administrative Structure of the City of Warsaw;
- Act of 7 July 1994 on Physical Planning;
- Act of 12 October 1994 on the Appeal Boards of Local and Regional Authorities;
- Act of 5 June 1998 on *Powiats*;

- Act of 5 June 1998 on Voivodeships;
- Act of 16 July 1998 on Election Procedures for Municipalities, *Powiats* and Voivodeships;
- Act of 24 July 1998 on Amendments to certain Legislation governing the Distribution of Government Responsibilities, as a result of the reform of state organisation;
- Act of 28 July 1998 on Division of the Country into Three Tiers of Local Government;
- Act of 13 October 1998: Provisions introducing Legislation to Reform Public Administration;
- Act of 9 November 1998 on Sources of Income for Local and Regional Authorities;
- Act of 26 November 1998 on Public Finances.

2. STRUCTURE OF LOCAL AND REGIONAL AUTHORITIES

2.1. Main subdivisions

Since 1 January 1999, the system of territorial subdivisions has comprised three types of authority; the basic level, that of municipalities (revived by the act of 8 March 1990), has been supplemented by two intermediary levels – *powiats* and voivodeships – introduced by the acts of 5 June 1998.

2.2. Statistical data

Number of local and regional authorities on 1 January 1999

Municipalities	2 489 (including 65 unattached cities enjoying the same rights as <i>powiats</i>)
<i>Powiats</i> (not including cities enjoying the same rights)	308
Voivodeships	16

Poland did not have any local authorities in 1950.

Area of local and regional authorities

Authorities	Average area (km ²)	Largest area (km ²)	Smallest area (km ²)
Municipalities	117.4	635 (municipality of Pisz in the <i>powiat</i> of Pisz in the voivodeship of Warmia-Mazuria)	3 (municipality of Gorowo llaweckie in the <i>powiat</i> of Bartoszyce in the voivodeship of Warmia-Mazuria)
<i>Powiats</i>	995.0	2 987 (<i>powiat</i> of Bialystok in the voivodeship of Podlasie)	156 (<i>powiat</i> of Tychy in the voivodeship of Silesia)
Voivodeships	19 565.0	35 715 (voivodeship of Mazovia)	9 412 (voivodeship of Opole)

Population of local and regional authorities

Authorities	Average	Largest	Smallest
Municipalities	15 575	927 696 (municipality of Warsaw-centre)	1 279 (municipality of Krynica Morska in the voivodeship of Pomerania)
<i>Powiats</i>	82 800	244 970 (<i>powiat</i> of Poznan in the voivodeship of Wielkopolska)	22 149 (<i>powiat</i> of Sejny in the voivodeship of Podlasie)
Voivodeships	2 416 998	5 068 494 (voivodeship of Mazovia)	1 019 695 (voivodeship of Lubuskie)

Classification of municipalities according to the number of inhabitants

Number of inhabitants	Number of municipalities
1 000-4 999	579
5 000-9 999	1 074
10 000-49 999	736
50 000-99 999	55
100 000-500 000	40
Over 500 000	5

2.3. Special structures in particular areas and structural changes

2.3.1. Unattached cities enjoying the same rights as *powiats*

Under the Act of 5 June 1998 on *Powiats*, the order of the Council of Ministers of 7 August 1998 established – in addition to the 308 *powiats* – sixty-five unattached cities which enjoy the same rights as *powiats* while retaining the status of municipalities.

The Act of 5 June 1998 on *Powiats* provides that cities of over 100 000 inhabitants which cease to be the seat of a voivodeship on 31 December 1998 shall have the status of unattached cities enjoying the rights of *powiats*, unless the Council of Ministers decides otherwise, in accordance with the law:

- at the request of a city's municipal council, where the latter does not wish to have the status of an unattached city enjoying the rights of a *powiat*;
- where the status of an unattached city enjoying the rights of a *powiat* would restrict access to supra-municipal public services for local authorities which, without such an exemption, would be part of the *powiat*.

The Council of Ministers may also grant the status of unattached city enjoying the rights of a *powiat* to a city of fewer than 100 000 inhabitants, at the request of its municipal council, where the city possesses the necessary infrastructure to perform *powiat* tasks, provided that this is not likely to restrict access to supra-municipal public services for local authorities which, without such a decision by the Council of Ministers, would be part of the *powiat*.

In any event, the law requires the Council of Ministers to consult the municipal councils concerned, the *powiat* council and the voivodeship *diet* before taking a decision.

In unattached cities enjoying the same rights as *powiats*, the responsibilities of *powiat* organs are exercised by the city's municipal council and administrative board.

2.3.2. City of Warsaw

The administrative structure of Warsaw constitutes a special case, based on the following instruments:

- the Act of 25 March 1994 on the Administrative Structure of the City of Warsaw (with subsequent amendments);
- the Act of 5 June 1998 on *Powiats*;
- the Order of the Council of Ministers of 7 August 1998 on the establishment of *powiats*.

Under the act of 25 March 1994, the eleven Warsaw municipalities (Warsaw-centre, Warsaw-Bemowo, Warsaw-Bialoleka, Warsaw-Bielany, Warsaw-Rembertow, Warsaw-Targowek, Warsaw-Ursus, Warsaw-Ursynow, Warsaw-Wawer, Warsaw-Wilanow and Warsaw-Wlochy), while retaining their status as municipalities and the associated rights (including the right to conclude agreements on the joint exercise of certain municipal responsibilities), form a compulsory association of municipalities – the capital city of Warsaw – with legal personality. (For other Polish municipalities, the act of 8 March 1990 provides for the voluntary establishment of such associations, based on an agreement to perform specific municipal tasks on a joint basis.)

The organs of this association consist of the Council of the capital city of Warsaw, which acts as its deliberative body, and the administrative board, which acts as its executive body (each municipality in the authority retains its own municipal council and administrative board).

The Council of the capital city of Warsaw has sixty-eight members, directly elected by the inhabitants of the municipalities belonging to the association. The council presidency comprises the president and three deputies. Exclusive powers of the council include:

- adopting the statute of the city of Warsaw;
- setting guidelines for the work of the administrative board and approving its activity reports;
- adopting the city's budget and approving reports on its implementation;
- adopting development programmes and urban land-use plans for the city.

The association's executive body, the administrative board, is chaired by the president of the capital city of Warsaw, with the assistance of three deputies. The prerogatives of the administrative board include:

- preparing draft decisions and implementing decisions taken by the Council of the capital city of Warsaw;
- dealing with day-to-day business.

The mayor of the Warsaw-centre municipality, elected by its municipal council, automatically becomes president of the capital city (municipal association) of Warsaw. He or she also acts as the executive organ of the Warsaw-centre municipality, a task which is assigned to the administrative board in other Polish municipalities.

In the Warsaw-centre municipality, the act of 25 March 1994 provides for seven compulsory districts; although these subsidiary territorial units do not possess legal personality, each has its own district council (directly elected by inhabitants) and budget (appended to the budget of the Warsaw-centre municipality). Each district's executive body is made up of a director and two deputies, elected by the district council.

In other Polish municipalities, the establishment of similar subsidiary units is allowed under the Act of 8 March 1990 on Local and Regional Authorities, but is not compulsory.

The legislative provision on compulsory subsidiary units in the Warsaw-centre municipality is based on the large size of this municipality, which has an area of 120 km² and approximately 930 000 inhabitants (whereas the total area of the 11 Warsaw municipalities making up the association is 494 km², with 1 625 097 inhabitants).

Under the act of 5 June 1998 and the Order of the Council of Ministers of 7 August 1998, since 1 January 1999 these eleven municipalities have also formed the *powiat* of Warsaw; its deliberative body is the *powiat* council, which is distinct from the Council of the capital city (municipal association) of Warsaw. (Warsaw-centre does not have the status of an unattached city enjoying the rights of a *powiat*.)

These instruments also establish the Warsaw-West *powiat*, made up of seven outlying municipalities (Blonie, Izabelin, Kampinos, Leszno, Lomianki, Ozarow Mazowiecki and Stare Babice), which has its headquarters in Warsaw.

2.4. General units of state administration at local/regional level and their relations with local and regional authorities

The establishment of new local and regional authorities – *powiats* and voivodeships – necessitated significant changes in the distribution of responsibilities between the state administration and such authorities, as well as in the structure and *modus operandi* of decentralised government.

The Act of 24 July 1998 (on Amendments to certain Legislation governing the Distribution of Government Responsibilities, resulting from the reform of state organisation) transferred a series of tasks and powers, for which the state administration had been responsible prior to 1 January 1999, to the new local and regional authorities. The act also transferred the institutions and bodies responsible for performing these tasks – which had been answerable to, or subject to the supervision of, the relevant ministers, central government organs, voivodes (state representatives) or other government bodies prior to 1 January 1999 – to local and regional authorities. A list of such institutions and bodies is specified in an Order of the president of the Council of Ministers.

The “winding-up” of the forty-nine former voivodeships – units of regional government – went hand in hand with the “winding-up” of general administrative bodies operating in those voivodeships. New units (sixteen new voivodeships) were set up on 1 January 1999. Changes were also made to special (sectoral) administrative bodies.

Under the Act of 5 June 1998 on State Administration in Voivodeships, this administration is exercised:

- by the voivode;
- under the voivode's authority, by the heads of departments, inspectorates and wards of the general (unified) administration, who discharge the duties and responsibilities stipulated by law:
 - on behalf of the voivode, with statutory authorisation;
 - in their own right, where this is provided for by law;
- by special administrative organs (which are not part of the unified administration, and thus not answerable to the voivode);
- by local government organs, where government tasks are performed on the basis of legislation or an agreement.

Special administrative organs and decentralised ministerial agencies can only be set up by legislation, where this is warranted by the national nature of the tasks to be performed or where an activity's geographical scope goes beyond voivodeship boundaries. A list of special administrative organs is set out in the appendix to the act.

Article 7 of the act defines voivodes as:

- representatives of the Council of Ministers in their voivodeships;
- senior officials in the general state administration;
- the organ responsible for supervising local and regional authorities;
- the highest authority in administrative procedures;
- representatives of the State Treasury, in accordance with statutory principles.

The act also specifies the duties associated with the office of voivode, emphasising that as representatives of the Council of Ministers voivodes are responsible for implementing government policy in their voivodeships.

As senior officials of the unified government administration, voivodes oversee and co-ordinate the activities of the latter, ensure the necessary conditions for its efficient operation and take responsibility for the consequences of its actions.

Voivodes discharge their duties with the assistance of deputy voivodes, heads of unified departments, the general director of the voivode's office and divisional directors. The general organisation of government in each voivodeship is laid down in its statute, issued by the voivode, which is subject to approval by the president of the Council of Ministers.

The Act of 5 June on *Powiats* places certain government tasks – relating primarily to organising services, inspections and policing – within the remit of the relevant powiat council. The act also provides that legislation may specify certain other government tasks that might be performed by *powiats*.

Powiats may also conclude agreements with government organs concerning the performance of public tasks falling within the competence of the state administration.

In cases specified by law, appropriate government organs may require *powiats* to perform certain tasks, particularly in order to eliminate direct threats to security and public order, reimbursing them for the costs incurred.

The Act of 8 March 1990 on Municipal Authorities provides that government tasks may only be imposed on municipalities by law or by an agreement between a given municipality and the appropriate government organ.

3. ORGANS OF EACH CATEGORY OF LOCAL AND REGIONAL AUTHORITIES

3.1. Deliberative body

Municipal councils, *powiat* councils and voivodeship *diets* serve as the deliberative and supervisory bodies of their respective local and regional authorities.

3.1.1. Municipal councils

Municipal councils have between fifteen and a hundred members.

Relationship between the number of inhabitants in a municipality and the number of municipal councillors

Number of inhabitants in the municipality	Number of municipal councillors
Under 4 000	15
4 001-7 000	18
7 001-10 000	20
10 001-15 000	22
15 001-20 000	24
20 001-40 000	28
40 001-60 000	32
60 001-80 000	36
80 001-100 000	40
100 001-200 000	45

Where a municipality has over 200 000 inhabitants, five councillors are added for each subsequent band or fraction thereof, up to a maximum of 100 councillors.

Each municipal council elects a president and between one and three vice-presidents from among its members, in a secret ballot. The president organises the council's work and chairs its meetings. In the president's absence, his or her duties are discharged by the vice-president.

A supervisory committee is appointed by the municipal council from among its members. The municipal council may also set up other standing or *ad hoc* committees for specific tasks, with a defined membership and terms of reference.

3.1.2. *Powiat* councils

Powiat councils have twenty members in *powiats* of up to 40 000 inhabitants; five councillors are added for each subsequent band of 20 000 inhabitants, up to a maximum of sixty councillors.

Each *powiat* council elects a president and one or two vice-presidents from among its members, in a secret ballot. The president organises the council's work and chairs its meetings. In the president's absence, his or her duties are discharged by the vice-president.

A supervisory committee is appointed by the *powiat* council from among its members. The *powiat* council may also set up other standing or *ad hoc* committees to perform specific tasks, with a defined membership and terms of reference.

3.1.3. *Diets*

Voivodeship *diets* have forty-five members in voivodeships of up to 2 000 000 inhabitants; five members are added for each new band of 500 000 inhabitants.

Each voivodeship *diet* elects a president and between one and three vice-presidents from among its members, in a secret ballot. The president organises the *diet's* work and chairs its meetings. In the president's absence, his or her duties are discharged by the vice-president.

A supervisory committee is appointed by the voivodeship *diet* from among its members. The voivodeship *diet* may set up standing or *ad hoc* committees to perform specific tasks. The voivodeship's statute defines the purpose of committees convened by the voivodeship *diet*, their tasks and rules governing their membership, internal organisation and *modus operandi*.

3.2. Method of election

The electoral system is governed by the Act of 16 July 1998 on Election Procedures for Municipal Councils, *Powiat* Councils and Voivodeship *Diets*.

3.2.1. Provisions common to all three tiers of local government

All Polish citizens over the age of 18 (on election day at the latest) and permanently resident within the boundaries of a given local authority have the right to vote and to stand for office (except for persons deprived of this right by a court sentence).

Elections are organised and supervised by the National Election Commission and voivodeship election commissioners. Elections are conducted by local and regional election commissions (in voivodeships, *powiats* and five municipalities) and constituency election committees. The duties of these bodies and procedures for convening them are defined by law.

Elections must be announced no later than thirty days before the term of office of local government deliberative bodies is due to expire; the election date must be a non-working day, no later than sixty days after the end of their term of office.

Electoral constituency boundaries are decided by municipal councils in accordance with statutory provisions; there are normally between 500 and 3 000 inhabitants in each constituency, but smaller constituencies are allowed in some cases.

In all electoral constituencies, voter lists are prepared by municipal departments no later than fourteen days before the elections; voters are guaranteed access to this information, and have the right to check the data and lodge appeals.

The election campaign begins on the date the elections are called and closes twenty-four hours before polling day. Principles governing the conduct of election campaigns are established by law.

3.2.2. Specific provisions for municipal elections

Political parties, associations, other community organisations and voters are entitled to nominate candidates. Political parties, associations and organisations may set up electoral coalitions in order to put forward joint candidate lists. Election committees, set up by voters to propose candidate lists, must comprise at least five members. Each election committee may propose only one candidate list.

Every candidate list put forward must be endorsed by the signatures of at least twenty-five voters in municipalities of up to 20 000 inhabitants, and the signatures of at least 150 voters in municipalities of over 20 000 inhabitants.

A person may stand for election in only one electoral constituency and may appear on no more than one candidate list.

Provisions concerning municipalities of up to 20 000 inhabitants:

- between one and five councillors are elected in each constituency set up for the municipal council elections;
- candidate lists for municipal councils may not contain more candidates than the number of councillors to be elected in the constituency in question;
- voters record their votes on a single list of candidates, by placing a cross (x) next to the names of candidates they support on that list;
- in order to determine the outcome of elections, those candidates having obtained the greatest number of valid votes – in consecutive order – are considered to be elected.

Where candidates from the same list receive equal numbers of votes, the selection of the winning candidate is based on the order in which their names appear on the list. Should candidates' names be listed in alphabetical order, the chair of the committee draws lots in the presence of committee members and plenipotentiaries.

Where equal numbers of votes are obtained by candidates from different lists, the person from the list whose candidates have received the greatest number of votes in the electoral district as a whole is considered to be elected. Should this number of votes be equal, lots are drawn.

Provisions concerning municipalities of over 20 000 inhabitants:

- for municipal council elections, electoral constituencies are set up in which between five and ten councillors are to be elected;
- the list of candidates may not contain less than five names and the number of candidates must not exceed twice the number of councillors to be elected in the electoral constituency in question;
- voters vote on a single candidate list, by placing a cross (x) next to the name of one single candidate;
- positions are distributed among candidate lists in proportion to the number of valid votes obtained by candidates from each list, according to Hondt's method.

The mandates assigned to a particular list are allocated to those candidates on the list having obtained the highest number of valid votes. Where the number of votes is equal, the selection is based on the candidate's position on the list; should names be listed in alphabetical order, lots are drawn.

In unattached cities enjoying the rights of *powiats*, seats are distributed among those candidate lists having obtained at least 5% of valid votes in the city as a whole.

3.2.3. Specific provisions for *powiat* council elections

To a large extent, *powiat* council elections are subject to the same legislative provisions as municipal elections.

Between three and ten councillors are elected in each electoral constituency.

The seats are distributed among candidate lists in proportion to the total number of votes received by candidates from each list having obtained at least 5% of valid votes in the *powiat* as a whole, according to Hondt's method.

Each electoral constituency normally corresponds to a municipality; a municipality may only be divided into two or more electoral constituencies where more than five *powiat* councillors have to be elected. Likewise, where the number of *powiat* councillors to be elected in a municipality is less than three, a joint electoral constituency may be set up for two or more municipalities. Such adjustments are made following consultation with the municipal councils concerned.

Each nomination must be endorsed by the signatures of at least 200 voters.

Voters record their votes on a single list of candidates, placing a cross (x) next to one candidate to indicate their preference.

The seats obtained by a particular list are assigned to candidates according to a ranking based on the number of votes obtained. Where the number of votes is equal, the selection is based on the person's position on the list; should names be listed in alphabetical order, lots are drawn.

3.2.4. Specific provisions for voivodeship *diet* elections

Voivodeship *diet* elections generally follow the same rules as *powiat* council elections.

In each electoral constituency, seats are distributed among candidate lists in proportion to the total number of votes obtained by each list. They are distributed among those lists having received at least 5% of valid votes in the voivodeship as a whole.

Electoral constituencies cover a *powiat* or part of a *powiat*. A constituency may only be set up for two or more *powiats* where the number of voivodeship councillors assigned to the *powiat* (in accordance with rules on representation) is less than five.

Between five and fifteen councillors are elected in each constituency. The number of councillors elected in a single constituency must be less than three fifths of the total number of councillors.

Each candidate list put forward must be endorsed by at least 300 voters.

Voters record their votes on a single list of candidates, placing a cross (x) next to one candidate to indicate their preference.

In each electoral constituency, seats are distributed among candidate lists in proportion to the number of valid votes obtained by each list, according to Hondt's method.

Votes for a given list are assigned to candidates according to a ranking based on the individual number of votes obtained. Where the number of votes is equal, the selection is based on the candidate's position on the list; should names be listed in alphabetical order, lots are drawn.

3.3. Executive body

3.3.1. Municipalities

The municipal administrative board is the executive body of the municipality. It is made up of the mayor (*wojt* in rural municipalities, *burmistrz* in towns or cities of fewer than 100 000 inhabitants and president in municipalities of over 100 000 inhabitants), who acts as its chair, and of his or her deputy and the other board members.

The administrative board comprises between five and seven people. It discharges its duties with the assistance of the municipal office. It is elected by the municipal council within six months after the date on which election results are confirmed by the appropriate electoral body. Its members do not necessarily have to be councillors.

At the mayor's proposal, one or more deputy mayors and the other administrative board members are elected by a simple majority of votes cast by the municipal council, in a secret ballot held with at least half the councillors present.

3.3.2. Powiats

The *powiat's* administrative board is the executive body of the *powiat*. It is made up of the *staroste*, who acts as its chair, the vice-*staroste* and between two and four other members.

On a proposal by the *staroste*, the other members of a *powiat's* administrative board are elected by an absolute majority of the *powiat* council, in a secret ballot held within three months after the date on which election results are confirmed.

3.3.3. Voivodeships

The voivodeship's administrative board is the executive body of the voivodeship. It is made up of the marshal, who acts as its chair, his or her deputies (maximum two) and other members (five people in all).

On a proposal from the marshal, the vice-marshals and the other members of the administrative board are elected by an absolute majority of the voivodeship *diet* in a secret ballot.

3.4. Political and administrative heads of local and regional authorities

3.4.1. Municipalities

The mayor (*wojt*, *burmistrz* or president) is elected by an absolute majority of the municipal council. The mayor may also be dismissed by a majority of two thirds of the municipal councillors, in a secret ballot. Dismissal of the mayor automatically results in dismissal of the other members of the administrative board.

On a well-founded motion by the mayor, individual members of the administrative board may also be dismissed by the municipal council, in a secret ballot held with at least half the councillors present.

The mayor acts as the municipality's public representative. He or she is the director of the municipal office and the head of both its staff and those of other municipal institutions.

The mayor also organises the work of the administrative board and oversees the day-to-day running of municipal affairs, in accordance with decisions of the municipal council. Within the limits set by the administrative board, the mayor may entrust the day-to-day running of municipal affairs to the municipal secretary.

In urgent matters entailing a direct threat to the public good, the mayor may take action in areas that normally fall within the remit of the administrative board (except in certain cases stipulated by law); such action must be approved retrospectively at the board's next meeting.

The mayor takes decisions on individual matters of public administration (he or she may authorise his or her deputies – or other employees of the municipal office – to take such decisions on his or her behalf). Decisions of the municipal administrative board must be signed by the mayor. They must also include the first names and surnames of those board members having taken part in the decision.

3.4.2. *Powiat*

The *staroste* is elected by an absolute majority of the *powiat* council in a secret ballot. Dismissal of the administrative board or its individual members, including the *staroste* or vice-*staroste*, requires a majority of three fifths of the *powiat* councillors in a secret ballot.

The *staroste* acts as the *powiat's* public representative. He or she organises the work of its administrative board and is responsible for the day-to-day running of *powiat* affairs. He or she is the director of the *staroste's* office and the head of staff of the latter and of other *powiat* institutions.

In urgent matters entailing a direct threat to the public good, the *staroste* may take action in areas that normally fall within the remit of the administrative board (except in certain cases stipulated by law); such action must be approved retrospectively at the board's next meeting. The *staroste* takes decisions on individual matters of public administration (he or she may authorise his or her deputies – or other employees of the *staroste*'s office – to take such decisions on his or her behalf).

3.4.3. Voivodeships

The marshal of the voivodeship is elected by an absolute majority of the *diet* in a secret ballot. He or she may be dismissed by a qualified majority of three fifths of the *diet*'s members, in accordance with statutory requirements. Dismissal of the marshal also results in dismissal of the voivodeship's administrative board.

The marshal of the voivodeship organises the work of the voivodeship's administrative board, oversees the day-to-day running of the voivodeship and acts as its public representative. He or she is the director of the marshal's office and the head of staff of the latter and of other voivodeship institutions.

In urgent matters entailing a direct threat to the public good, the marshal may take action in areas that normally fall within the remit of the administrative board (except in certain cases stipulated by law); such action must be approved retrospectively at the board's next meeting.

3.5. Distribution of powers and responsibilities among the different organs of local and regional authorities

3.5.1. Municipalities

The following responsibilities fall within the exclusive competence of the municipal council:

- adopting the municipal statute;
- appointing and dismissing the administrative board, setting guidelines for its work and approving its activity reports;
- appointing and dismissing the municipal treasurer (who is also the chief accountant) and municipal secretary on a proposal from the chair of the administrative board;
- approving the municipal budget, considering reports on its implementation and discharging (or otherwise) the administrative board;
- approving local land development plans;
- approving economic programmes;
- determining the spheres of activity of subsidiary units (villages and districts), establishing principles for the use and disposal of municipal assets and of budgetary resources for carrying out appropriate tasks;
- decisions on rates and taxes, within statutory limits;

- decisions on property matters going beyond mere management, such as:
 - a. laying down principles for the acquisition, sale and exchange of property, including leases of over 3 years, where legislation does not provide otherwise; until these principles are established, the administrative board may not engage in such activities without obtaining the municipal council's consent on a case-by-case basis;
 - b. issuing bonds and establishing principles for their sale and purchase;
 - c. granting long-term loans and credit;
 - d. setting maximum levels for short-term loans and credit and for guarantees and other obligations entered into by the administrative board during the budgetary year;
 - e. investments and repairs whose value exceeds the yearly limit set by the municipal council;
 - f. the establishment, membership and dissolution of companies and co-operatives, as well as withdrawal from such bodies;
 - g. establishing principles for the management of stocks and shares by the administrative board;
 - h. setting up, fitting out, reorganising and winding up municipal businesses, institutions and similar bodies;
- decisions to take on additional delegated government tasks (by signing an agreement);
- decisions on co-operation with other municipalities and the allocation of appropriate resources for this purpose;
- decisions on the municipal emblem, names of streets and public squares and the erection of monuments;
- taking decisions on other matters assigned to the municipal council by law.

The municipal council sets up a special review committee to supervise the activities of the administrative board and other municipal institutions.

The administrative board implements the decisions of the municipal council and performs tasks assigned to it by law. These tasks include:

- preparing draft decisions of the municipal council;
- prescribing how municipal council decisions will be implemented;
- administering municipal property;
- implementing the budget;
- appointing and dismissing heads of municipal institutions.

The administrative board is answerable solely to the municipal council for the discharge of its duties.

3.5.2. *Powiats*

The following responsibilities fall within the exclusive competence of the *powiat* council:

- adopting local standard-setting instruments, including the *powiat's* statute;
- appointing and dismissing the administrative board;
- appointing and dismissing the secretary and treasurer of the *powiat*, on the proposal of the *staroste*;
- setting guidelines for the *powiat's* administrative board and examining its activity reports;
- adopting the *powiat's* budget;
- examining budget implementation reports and deciding whether or not to discharge the administrative board;
- establishing rates and taxes, within statutory limits;
- decisions on *powiat* property matters which go beyond mere management, such as:
 - a. principles for the acquisition, sale and exchange of property, as well as for leases of over three years, where legislation does not provide otherwise;
 - b. issuing bonds and establishing principles for their sale and purchase;
 - c. granting long-term loans and credit;
 - d. setting maximum levels for short-term loans and credits raised by the administrative board during the budgetary year, and for guarantees and other obligations entered into by it during that period;
 - e. investments and redevelopment whose value exceeds the yearly limit set by the *powiat* council;
 - f. the establishment, membership and dissolution of associations, unions, foundations and co-operatives, as well as withdrawal from such bodies;
 - g. the establishment, membership and dissolution of companies, as well as withdrawal from them, and principles for the supply, acquisition and sale of stocks and shares;
 - h. co-operation with other *powiats* and municipalities for the disposal of property;
 - i. setting up, fitting out, reorganising and winding up *powiat* economic units and institutions;
 - j. decisions on the *powiat's* emblem and flag;
 - k. taking decisions on other matters assigned to the *powiat* council by law.

The *powiat* council supervises the activities of the administrative board and other *powiat* units and institutions, setting up a review committee for this purpose.

The *powiat's* administrative board implements decisions of the *powiat* council and performs the tasks assigned to it by law. These tasks include:

- preparing draft decisions of the *powiat* council;
- administering *powiat* property;
- implementing the *powiat's* budget;
- recruiting and dismissing the heads of *powiat* institutions.

The administrative board is answerable solely to the *powiat* council for the discharge of its duties.

3.5.3. Voivodeships

Exclusive competencies of the voivodeship *diet* include:

- adopting standard-setting instruments, such as:
 - a. the voivodeship's statute;
 - b. principles for the administration of voivodeship property;
 - c. principles for the use of voivodeship facilities and community assets;
- approving the voivodeship's development strategy and long-term programmes;
- approving the land development plan;
- approving the voivodeship's budget;
- establishing principles for the grant of subsidies from the voivodeship's budget;
- appointing an independent auditor and deciding to close the voivodeship's budgetary accounts;
- considering budget implementation reports, the voivodeship's financial reports and reports on the implementation of long-term programmes; discharging (or otherwise) the voivodeship's administrative board for its implementation of the budget;
- passing provisions on local rates and taxes, within statutory limits;
- taking decisions on the delegation of voivodeship tasks to other local and regional units;
- approving a list of priorities for international co-operation by the voivodeship; taking decisions on participation in international associations of regions and other forms of inter-regional co-operation;
- appointing and dismissing the voivodeship's administrative board;
- appointing and dismissing the voivodeship's treasurer, on a proposal from the marshal of the voivodeship;
- taking decisions on the establishment, membership and dissolution of unions, associations and foundations, as well as withdrawal from such bodies;
- taking decisions on voivodeship property matters, including:
 - a. principles for the acquisition, sale and exchange of property, as well as leases of over three years;
 - b. issuing bonds and establishing principles for their sale and acquisition;
 - c. raising long-term loans;
 - d. setting maximum levels for short-term credit raised by the voivodeship's administrative board during the budgetary year, as well as for guarantees and other obligations entered into by it during that period;
 - e. the establishment and membership of commercial companies, and principles for the issue, acquisition and sale of stocks and shares;
- taking decisions on other matters assigned to the *diet* by law or by the voivodeship's statute;
- passing provisions on the internal organisation and working methods of voivodeship organs.

The voivodeship's *diet* supervises the activities of its administrative board and other voivodeship institutions, setting up a review committee for this purpose.

The voivodeship's administrative board implements decisions of the *diet* and performs other tasks stipulated by law. These tasks include:

- administering voivodeship property;
- preparing and implementing the voivodeship's budget;
- preparing and implementing a draft development strategy, land development plan and other voivodeship programmes;
- arranging co-operation with regional authorities in other countries and international associations of regions;
- directing, co-ordinating and supervising the activities of voivodeship units and institutions, including the appointment and dismissal of their heads;
- issuing organisational regulations for the marshal's office.

The voivodeship's administrative board is answerable solely to the *diet* for the discharge of its duties.

3.6. Internal structure of local and regional authorities

The internal organisation and *modus operandi* of municipal bodies are set out in the municipal statute, which is published in the voivodeship's official gazette.

Municipalities are entitled to set up subsidiary territorial units, such as villages and districts, by a decision of the municipal council following consultation with citizens or at the instigation of the latter. Principles for the establishment, consolidation, separation and winding-up of subsidiary units are laid down in the municipal statute.

In municipalities of over 300 000 inhabitants, the draft municipal statute must be approved by the president of the Council of Ministers.

The structure and *modus operandi* of *powiat* units are set out in the *powiat's* organisational regulations, adopted by its administrative board.

Voivodeship administration is centralised in a single office, under the authority of one official.

The internal structure of the voivodeship as a regional authority is set out in its statute, which is adopted once it has been approved by the president of the Council of Ministers.

4. DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING

4.1. Local referendums

4.1.1. Municipalities

Under Article 170 of the Constitution, members of a local community can have a say on matters concerning their community by referendum, including the dismissal of directly elected bodies. Principles for the conduct of local referendums are established by law.

Under the act of 8 March 1990, municipal referendums are compulsory for matters relating to self-imposed taxation of inhabitants for public purposes (see 8.1.2.) or dismissal of the municipal council before the end of its term of office. However, referendums may also be held on any other matter of importance to the municipality.

All permanent residents of a municipality who have the right to vote in municipal council elections are also entitled to take part in referendums.

Local referendums are held at the instigation of the municipal council or at the request of at least one tenth of those inhabitants with the right to vote in local elections. Referendums concerning the dismissal of the municipal council before the end of its term of office are conducted solely at the request of local inhabitants.

For a referendum to be valid, at least 30% of those inhabitants with voting rights must take part.

4.1.2. *Powiats*

The Act of 5 June 1998 on *Powiats* provides for *powiat* referendums, stating that:

- inhabitants of a *powiat* shall take decisions by means of direct voting in elections and *powiat* referendums or through the *powiat's* organs;
- inhabitants may dismiss the *powiat* council before the end of its term of office by means of a referendum;
- matters falling within the *powiat's* competence may be decided by referendum.

Powiat referendums are conducted at the instigation of the *powiat* council or at the request of at least 10% of those inhabitants with voting rights. For a referendum to be valid, at least 30% of those inhabitants with voting rights must take part.

Principles for the organisation of *powiat* referendums are established by law.

4.1.3. Voivodeships

The Act of 5 June 1998 on Voivodeships provides that matters within a voivodeship's remit may be decided by referendum.

Voivodeship referendums are conducted at the instigation of the voivodeship *diet* or at the request of at least 10% of those inhabitants with voting rights.

Principles governing the organisation of voivodeship referendums are established by law.

4.2. Other forms of direct participation

Opportunities for citizen participation are greatest at municipal level. Another form of direct participation is consultation with inhabitants of a local or regional community.

The amendments to the Act on Municipalities introduced by the act of 2 February 1996 added a new Article 5, to the effect that local inhabitants may be consulted in situations provided for by law and in relation to other matters of importance to the municipality. Principles and procedures for consulting local inhabitants must be established in a decision of the municipal council.

Inhabitants and their organisations may also submit various proposals to the municipal council, such as suggestions for the municipal development plan or new projects.

When the municipal council is framing its draft plan of activities, the authors hold meetings with local inhabitants to ascertain their opinions.

Inhabitants may attend meetings of the municipal council and its committees.

Similar forms of direct participation exist in *powiats* and voivodeships.

5. STATUS OF LOCAL AND REGIONAL ELECTED REPRESENTATIVES

5.1. Positions and activities incompatible with elected office as a local or regional representative

Municipal councillors may not be employed in the office of the municipality in which they have been elected. Service as a municipal councillor is also incompatible with a post as head of a municipal unit or institution or as a government employee.

No-one may hold more than one local or regional elected office simultaneously: the offices of municipal representative, *powiat* representative (*powiat* councillor or member of a *powiat's* administrative board) and voivodeship representative are mutually incompatible.

Members of the administrative board of a *powiat* or voivodeship may not serve as either the president or vice-president of the *powiat* council, or be employed by the state administration. A position as member of a voivodeship's administrative board is also incompatible with office as a senator or member of the *Sejm*.

Both simultaneous office-holding and inclusion in more than one candidate list at the same level or at different levels are prohibited.

Municipal representatives may not engage in extraneous activities or receive donations liable to reduce voters' trust in them. They may not conduct business activities using municipal assets (either in their own right or in conjunction with others), oversee such activities or act as representatives or agents in the conduct of such activities.

Municipal representatives may not serve as members of the governing or supervisory boards of commercial companies owned (fully or partially) by municipal corporations, or act as their commercial agents. This does not apply to local representatives appointed to such companies to represent municipal interests; the same person may not be appointed as a municipal representative to more than two companies.

These provisions on business activities apply *mutatis mutandis* to *powiat* councillors and administrative board members and to members of the *diets* and administrative boards of voivodeships.

5.2. Financing of election campaigns

The cost of organising elections is covered by the state budget, in accordance with statutory principles.

Costs incurred by candidates and their support organisations (parties, associations and election committees) are financed from their own resources. They may organise public collections of funds for election purposes, in accordance with statutory principles. The law prohibits donations of financial or material resources for such purposes from:

- the state budget or the budgets of local and regional authorities, municipal associations and other municipal corporations;
- government bodies;
- state companies, or companies in which the state has a stake;
- companies owned by local authorities, municipal associations or other municipal corporations;
- bodies receiving grants from the state or from local authorities;
- foreigners.

Information about election financing shall be made public. Election committee representatives have to draw up financial reports in accordance with detailed statutory provisions, stating their sources of finance.

The National Election Committee, in conjunction with the National Radio and Television Broadcasting Authority, establishes principles governing free access to national radio and television broadcasts for political parties and groupings, citizens' committees and other organisations or institutions supporting nominated candidates.

Where the dissemination of information, press releases and programmes via the mass media is paid for by individual candidates, political parties and groupings, citizens' committees or other organisations supporting candidates, a statement must be included to that effect.

5.3. Duties and responsibilities of local and regional elected representatives

Local and regional councillors (of municipalities, *powiats* and *diets*) are not bound by instructions from their voters, but must work for the good of the community.

Local and regional councillors represent voters, maintain ongoing contact with inhabitants and their organisations, receive requests and submit them to the competent bodies for consideration.

Local and regional elected representatives may set up coalitions of councillors and board members, in accordance with the principles established in the municipal statute.

Local and regional councillors must contribute to the work of the council and its organs, as well as that of other local institutions to which they are elected or appointed.

5.4. End of term of office

Local and regional councillors (of municipalities, *powiats* and voivodeships respectively) are elected for a period of four years from polling day.

The administrative boards of municipalities, *powiats* and voivodeships continue to operate until a new administrative board has been elected.

A municipal council may be dismissed before the end of its term of office by means of a referendum, conducted at the request of at least 10% of those inhabitants with voting rights. Referendums may not be held less than twelve months after polling day. For a referendum to be valid, at least 30% of those inhabitants with voting rights must take part.

Should a municipal council fail to appoint its administrative board by the statutory deadline or to fulfil certain other statutory obligations, it is dissolved in accordance with the law.

The president and vice-presidents of a municipal council may be dismissed at the request of at least a quarter of the elected councillors; an absolute majority of votes is required in a secret ballot held with at least half the councillors present.

A decision by a municipal council not to discharge its administrative board is equivalent to a motion for the latter's dismissal. Votes on dismissal cannot be held less than fourteen days after such a motion, must be preceded by consultation with the regional audit office and require the votes of at least three fifths of the councillors.

A municipal council may dismiss individual members of its administrative board or the whole board (except the mayor) on other grounds at the request of a quarter of the municipal councillors. Requests must be made in writing and state reasons. The review committee (a statutory supervisory committee) must be consulted about such requests.

Procedures for dismissing administrative board members are outlined in paragraph 3.4. above.

Should an administrative board member submit his or her resignation, the municipal council takes a decision on his or her resignation by a simple majority of votes, within one month.

As a general rule, the same provisions apply *mutatis mutandis* to *powiats* and voivodeships.

5.5. Training for candidates and elected representatives

Training for elected representatives and candidates is provided by specialised institutes and programmes.

Some of the most comprehensive, in-depth training opportunities in this area are offered by the Centre for Studies on Local and Regional Authorities and Local Development, set up at Warsaw University in June 1992. Studies may be undertaken at the centre for a period of one to three years; a university degree may be awarded after a further two years of study. In most cases, such study consists of correspondence courses.

Various other courses are run by the central government, specialised agencies (such as the Local Development Agency), voivodeships, certain municipalities, municipal organisations and so on.

Training courses are often organised in co-operation with foreign countries, on either a bilateral or a multilateral basis.

5.6. Working conditions

Before taking up elected office, a person working for a municipality or as the head of a municipal institution must apply for unpaid leave within seven days after the date on which election results are announced by the appropriate electoral body. Such leave must be granted for a period ending three months after the expiry of that person's term of office.

Where a representative heads an institution that is taken over by the local or regional authority during his or her term of office, he or she is granted six months' unpaid leave from the date on which it is taken over.

Once a representative's term of office has expired, the local or regional office or institution (of the municipality, *powiat* or voivodeship respectively) re-employs him or her in the same post or an equivalent post, on the same salary as he or she would have received without taking leave. The former representative must declare his or her availability to return to work within seven days after the date on which his or her term of office expires.

The working hours of local and regional elected representatives vary according to their role in the local or regional authority and the size of the latter. There are no detailed municipal legislative provisions on this subject.

Employers must release local and regional representatives from work to enable them to take part in the activities of the local or regional authority in question. Local and regional elected representatives are not paid during their absence from work.

Local and regional representatives are entitled to daily allowances and reimbursement of expenses in accordance with principles established by the council of the local or regional authority to which they are elected.

Given that the position of local or regional representative does not constitute an employment relationship, it does not give rise to holidays. Local and regional representatives must justify any absences from meetings of their authority's organs, and require the consent of the organ in question.

5.7. Payment for elected office

Elected office as a local or regional councillor does not give rise to payment as such.

The general principle of paying allowances to representatives and reimbursing their expenses is established by law; more detailed principles are established in the local or regional authority's statute and in decisions of its council.

While daily allowances for local elected representatives are taxable, reimbursement of travel expenses incurred in the course of their duties is not.

Contributions to health and old-age insurance schemes are not levied on either allowances or reimbursements.

5.8. Balanced representation of the sexes

There is no detailed legislation requiring balanced representation of the sexes. Equal rights for men and women are guaranteed by the Constitution.

Changes in the status of local and regional elected representatives are not envisaged at present.

6. DISTRIBUTION OF POWERS AMONG THE VARIOUS CATEGORIES OF LOCAL AND REGIONAL AUTHORITIES

6.1. Principles governing the distribution of powers

The constitutional guarantees serving as a basis for the distribution of powers among the various tiers of local government are set out in paragraph 1.1. above.

Principles for the distribution of tasks are established by law.

A distinction may be drawn between compulsory and optional tasks. Whereas compulsory tasks must be imposed by law, optional tasks derive from a relevant decision by the council of a given local or regional authority (in the case of own tasks) or from an agreement between the relevant organs of the local or regional authority in question and the appropriate organ of a higher authority (in the case of delegated tasks). Such agreements are normally signed by the voivode on behalf of the state.

In listing areas of competence, the acts on municipalities, *powiats* and voivodeships often assign the same area to more than one authority (see 6.2. below). As a general rule, each tier performs those public tasks specified by law whose scope is appropriate to their territory. For example, *powiats* perform supra-municipal local tasks while voivodeships perform tasks relevant to their entire territory.

Under the Act of 8 March 1990 on Municipalities, all public matters of local importance not assigned to other authorities by law fall within the competence of the municipality. Municipalities perform public tasks in their own right and under their own responsibility. They possess legal personality. Municipal autonomy is subject to judicial protection.

Legislation (or agreements) may delegate government tasks, including the organisation of elections and referendums, to municipalities. The performance of delegated tasks may also derive from an agreement between a municipality and a government body. In both cases, the municipality receives the necessary financial resources to perform such tasks.

Under the Act of 5 June 1998 on *Powiaty*, the latter perform public tasks stipulated by law, in their own right and under their own responsibility. They possess legal personality. Their autonomy is subject to judicial protection.

In addition to their own tasks, *powiaty* may perform certain government tasks, as stipulated by law, in exchange for the necessary financial resources. Delegated tasks may also be performed under an agreement between the state and a *powiat*.

A *powiat* may delegate tasks within its remit to a municipality on a well-founded request from the latter, in accordance with conditions set out in an agreement on the matter.

Powiat tasks must not infringe on the municipal sphere of activity.

Under the Act of 5 June 1998 on Voivodeships, the activities of voivodeships must not violate the autonomy of *powiaty* or municipalities. Voivodeships are responsible for performing specific public tasks not exclusively assigned to government organs by law.

Voivodeships possess legal personality and perform public tasks stipulated by law in their own right and under their own responsibility. Their autonomy is subject to judicial protection.

Legislation may also specify government competencies that are to be exercised by voivodeships.

6.2. *Ipso jure* competencies of local and regional authorities

6.2.1. Municipalities

Municipalities' own tasks include the following:

- physical planning and environmental conservation;
- municipal roads, streets, bridges and squares and the organisation of road traffic;
- municipal water supply networks, sewage networks, refuse collection, cleaning of public places, electricity supply and heating;
- local public transport;
- health protection;
- welfare support, including welfare centres and institutions;
- council housing;
- education, including primary schools, nursery schools and other educational institutions;
- culture, including municipal libraries;
- sport, including recreation areas and sporting facilities;
- marketplaces including covered markets;

- municipal parks and woods;
- municipal cemeteries;
- law and order and fire fighting;
- maintenance of municipal assets, community facilities and administrative buildings;
- welfare, medical and legal support for pregnant women.

Legislation stipulates which municipal tasks are compulsory.

6.2.2. *Powiats*

Powiats perform supra-municipal public tasks, as stipulated by law, in the following areas:

- state education;
- health promotion and protection;
- social welfare;
- family policy;
- support for people with disabilities;
- transport and public roads;
- culture and conservation of cultural assets;
- sport and tourism;
- geodesy, maps and the property registers;
- property management;
- physical planning and supervision of building work;
- water management;
- environmental and nature conservation;
- agriculture, forestry and river fishing;
- law and order and citizens' safety;
- protection against floods, fire and other exceptional threats to human life and safety or to the environment;
- efforts to combat unemployment and stimulate the local labour market;
- protection of consumer rights;
- maintenance of the *powiat's* assets, community facilities and administrative buildings;
- defence;
- promotion of the *powiat*;
- co-operation with non-profit organisations;
- tasks performed by *powiat* departments, inspectorates and wardens.

6.2.3. Voivodeships

Voivodeships frame development strategies, giving particular consideration to the following aims:

- fostering Polish identity and developing national, civic and cultural awareness among inhabitants;
- fostering business activity;
- making the regional economy more competitive and increasing the level of innovation;
- protecting the cultural and natural environment, while taking account of the needs of future generations;
- achieving and maintaining harmonious spatial development of the voivodeship.

Voivodeships implement strategic programmes to promote regional development policy, the main goals of which are:

- to establish a climate conducive to economic development, including stimulation of the labour market;
- to maintain and expand the region's social and technical infrastructure;
- to secure public and private financial resources for activities of benefit to the community;
- to support and conduct activities aimed at raising citizens' level of education;
- to use natural resources rationally and to conserve or rehabilitate the natural environment, in accordance with the principle of sustainable development;
- to encourage scientific development and co-operation between science and business, and to promote technological progress and innovation;
- to encourage cultural development, along with the conservation and rational use of the cultural heritage;
- to promote the voivodeship and its development potential.

Voivodeships perform tasks of regional scope, as stipulated by law, in the following areas:

- state education, up to university level;
- health promotion and protection;
- culture and conservation of cultural assets;
- welfare support;
- family support policy;
- modernisation of rural areas;
- physical planning;
- environmental conservation;
- water management;
- public roads and transport;
- sport and tourism;
- protection of consumer rights;
- defence;
- public security;
- efforts to combat unemployment and to stimulate to the labour market.

6.3. Participation by local and regional authorities in economic and physical planning at national level

The Act of 7 July 1994 on Physical Planning (with subsequent amendments) lays down rules governing the use of land for specific purposes, along with principles for land development; the basic criterion applied is one of harmonious development. The act also establishes principles and procedures for resolving conflicts in this area between the interests of citizens, local and regional authorities and the state.

Physical planning must take account of:

- requirements relating to town and country planning and architecture;
- architectural and landscape values;
- requirements relating to environmental conservation, health, security of human beings and property and the needs of people with disabilities;

- requirements relating to conservation of the cultural heritage and cultural assets;
- an area's economic value and ownership rights;
- national defence and security requirements.

Specification of the purpose of land and establishment of physical planning principles are included among municipalities' own tasks (except in connection with land-locked maritime waters and territorial waters). Associated municipal tasks include:

- preparing studies and setting guidelines for physical planning in the municipality;
- preparing and voting on the local land development plan in accordance with statutory procedure.

This plan must be consistent with the opinions and activities of the following bodies:

- the voivode, as regards the plan's compatibility with government tasks assigned to the voivodeship;
- the voivodeship's administrative board, as regards the plan's compatibility with designated voivodeship tasks;
- the administrative boards of neighbouring municipalities, where the area covered by the plan touches the boundaries of those municipalities or where planned activities may infringe upon their legitimate interests;
- the administrative board of a city constituting a compulsory association of municipalities, where the plan concerns a municipality within its boundaries, as regards the plan's compatibility with that city's land development plan;
- the appropriate military bodies and bodies responsible for border protection and state security, within their areas of competence;
- the director of the appropriate maritime office, as regards development of technical or protection zones in seaports;
- the appropriate road or railway authority, where land development may affect road or railway traffic.

Copies of local land development plans approved by municipal councils are forwarded to the voivode, the *staroste* of the *powiat* and the marshal of the voivodeship.

The framing and management of physical/spatial policy, including drafting of the voivodeship's development strategy, adoption of its land development plan and co-ordination of supra or intermunicipal programmes in this area, are voivodeship competencies. Related tasks consequently include:

- preparing analyses and studies and drawing up draft programmes based on the voivodeship's spatial policy;
- framing a development strategy that sets out conditions, aims and guidelines for the voivodeship's development;
- deliberating and voting on the voivodeship's land development plan. The plan incorporates government tasks in pursuit of supra-municipal public goals (within the voivodeship's sphere of activity) and specifies the land to be used in achieving those goals.

The voivodeship's draft land development plan is subject to:

- consultation with the director of the Housing and Urban Development Office; the opinions of municipal and *powiat* bodies;
- votes on the adoption of programmes for the pursuit of supra-municipal and regional public goals.

Information on the adoption of such programmes must be forwarded to the voivode.

The marshal of the voivodeship forwards the *diet*'s decision on adoption of the land development plan to the voivode, along with lists of government and voivodeship tasks, which are published in the voivodeship's official gazette.

The voivode prepares and maintains the register of government and voivodeship tasks, in accordance with principles set out in an order of the Council of Ministers.

Voivodeships may only perform those government tasks listed in the local land development plan. This necessitates negotiations with municipalities. The inclusion of a given task in the voivodeship's register forms the basis of negotiations on conditions for adding a government task to the local land development plan. The government is usually represented by the voivode in such negotiations. Where inclusion of a government task in the local plan is dependent upon an undertaking to provide financial resources, such undertakings are entered into by means of an appropriate agreement.

The same procedure is followed for voivodeship programmes. In negotiations with municipalities, a voivodeship is usually represented by the marshal of its *diet*.

Where negotiations fail to result in an agreement, the Council of Ministers – at the request of the body conducting the negotiations – decides whether or not the task in question should be included, stipulating how the aforementioned undertakings will be fulfilled.

An order of the Council of Ministers sets out principles designed to ensure that physical planning takes account of national defence and security needs.

In order to establish a basis and set guidelines for state spatial policy, ministers and central government bodies conduct analyses and studies and prepare policies and programmes in this area.

The director of the Government Centre for Strategic Studies prepares and updates a blueprint for the country's physical planning policy, including its side-effects, aims and objectives in terms of natural, cultural, social and economic factors. This blueprint is submitted to the Council of Ministers, which decides to what extent it will serve as a basis for drawing up programmes of government tasks in this area.

At the request of the minister responsible for housing and urban development, the president of the Council of Ministers submits the physical planning blueprint to parliament, along with periodical reports on the situation with regard to physical planning in Poland. At the minister's request, the president of the Council of Ministers convenes a meeting of the National Physical Planning Authority as the consultative body for matters connected with the framing of Poland's physical planning policy.

Ministers and central government bodies prepare programmes for the implementation of government tasks in pursuit of supra-municipal public goals. Such programmes are subject to the approval of the Council of Ministers, following consultation with the director of the Government Centre for Strategic Studies, the director of the Housing and Urban Development Office and the *diets* of the voivodeships concerned. These consultations are designed to ensure that the programme is consistent with:

- the blueprint for physical planning in Poland;
- the voivodeship's land development plan;
- approved programmes of government tasks and voivodeship programmes.

Approval of such programmes is conditional upon securing the necessary financial resources to fulfil the associated undertakings. Those parts of an approved programme concerning a given voivodeship are forwarded to the voivode.

A central register of government tasks is kept by the director of the Housing and Urban Development Office.

The following table summarises the distribution of public responsibilities among the various authorities.

*The competencies of local and regional authorities**POLAND*

Function	Competent authority				Type of competence				Exercise of the competence				Remarks
	State	Voivodeship	Powiat	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	
General administration													
Security, police	?	?	?	?		?	?		?	?	?	?	
Fire protection	?	?	?	?		?	?		?	?	?		
Civil protection	?	?	?	?		?	?				?		
Justice	?				?		?		?		?		
Civil status register	?			?		?	?			?		?	
Statistical office	?				?		?		?		?		
Electoral register	?	?	?	?	?	?	?		?	?	?		
Education													
Pre-school education				?	?		?		?		?		
Primary education				?	?		?		?		?		
Secondary education		?			?		?		?		?		
Vocational and technical education		?			?		?		?		?		
Higher education	?		?			?	?		?		?		
Adult education	?	?	?			?	?	?	?		?		
Special education		?			?		?		?		?		
Public health													
Hospitals	?	?	?	?		?	?	?	?		?		
Health protection	?	?	?	?		?	?		?		?		

*The competencies of local and regional authorities**POLAND*

Function	Competent authority				Type of competence				Exercise of the competence				Remarks
	State	Voivodeship	Powiat	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In its own right	For another authority	
Social welfare													
Kindergarten and nurseries				?	?		?		?		?		
Family welfare services		?		?		?	?		?		?		
Welfare homes	?	?	?	?		?	?		?		?		
Social security	?						?		?		?		
Other													
Housing and town planning													
Housing				?	?		?		?		?		
Town planning	?		?	?		?	?		?		?		
Regional/spatial planning	?	?	?	?		?	?		?		?		Co-operation
Environment, public sanitation													
Water & sewage				?	?		?		?		?		
Refuse collection and disposal				?	?		?		?		?		
Cemeteries & crematoria				?	?		?		?		?		
Slaughterhouses				?	?		?		?		?		
Environmental protection	?	?	?	?		?	?		?		?		
Consumer protection	?	?	?	?			?						
Culture, leisure and sport													
Theatres and concert	?	?	?	?		?	?	?	?		?		
Museums and libraries	?	?	?	?		?	?	?	?		?		
Parks and open spaces	?	?	?	?		?	?		?		?		
Sport and leisure		?	?	?		?	?	?	?		?		

The competencies of local and regional authorities

POLAND[illegible]

7. CO-OPERATION AND OTHER LINKS BETWEEN LOCAL AND REGIONAL AUTHORITIES

7.1. Formal co-operation for the performance of tasks of common interest

7.1.1. Joint ventures by local and regional authorities

a. Municipalities

Under the act of 8 March 1990, municipalities can set up joint ventures to perform public tasks together. Decisions to set up a joint venture are taken by the municipal councils concerned. An obligation to set up a joint venture may also be imposed by legislation, which must also specify the tasks to be performed and the procedure for approving the relevant statute.

Joint ventures possess legal personality and perform public tasks in their own right and under their own responsibility.

b. *Powiats*

Under the act of 5 June 1998, *powiats* can set up joint ventures with other *powiats* in order to carry out public tasks together, including decisions on individual matters of public administration. Decisions to set up a *powiat* joint venture are taken by the *powiat* councils concerned.

These *powiat* joint ventures possess legal personality and perform public tasks in their own right and under their own responsibility.

7.1.2. Associations of local and regional authorities

The right of local and regional authorities to set up associations for the purpose of upholding local government and their own interests is enshrined in the acts on municipalities and *powiats*. *Powiats* may set up associations with one another, and with municipalities where appropriate.

The organisation, tasks and rules of procedure of such associations are set out in their statutes.

Under the act of 8 March 1990, the municipalities of a given voivodeship select representatives from among the members of the regional *diet*. This *diet* represents municipal interests with government bodies, as well as performing specific tasks of relevance to municipalities, such as:

- evaluating the activities of municipalities and municipal institutions;
- publicising experiments in local self-government;
- mediating between municipalities;
- consulting the government about candidates to the post of voivode and other matters of importance to the voivodeship.

7.1.3. Duties of joint ventures, associations and other groupings of municipalities

Municipalities often co-operate to perform public tasks which are beyond the scope of one municipality.

Local and regional authorities, joint ventures and associations of municipalities can help one another, including financially, in the event of natural disasters, exceptional threats to the environment, and so on.

Before the introduction of *powiats*, municipal joint ventures were usually responsible for investments in technical infrastructure. Such investments mainly concerned drinking water and natural gas networks, drains, local public transport and telephone networks. Certain joint ventures were set up for purposes such as municipal promotion, sanitation in of towns and villages and environmental conservation.

The introduction of *powiats* provided a new forum for the performance of supra-municipal public tasks, modifying the role of municipal joint ventures.

7.1.4. Organisation and operation of joint ventures

For a joint venture to be set up, its statute must be approved by the councils of the municipal or *powiat* authorities concerned, by an absolute majority of votes from the required number of councillors in each case.

A joint venture statute must contain:

- its name and headquarters;
- a list of members and the period for which it will operate;
- its tasks;
- its organs and their structure, sphere of activity and rules of procedure;
- rules governing use of its assets and facilities;
- arrangements for sharing the costs of joint activities;
- procedures for joining and withdrawing;
- the procedure for dissolution.

The joint assembly acts as its deliberative and supervisory body. As regards delegated tasks, the assembly enjoys the same competencies as municipal (or *powiat*) councils, as the case may be.

A municipal joint venture's assembly is made up of the mayors of the member municipalities.

In the case of *powiat* joint ventures, two representatives of each member *powiat* are members of the assembly. Rules for the appointment of *powiat* representatives are laid down by *powiat* councils.

Decisions by a municipal or *powiat* joint assembly are taken by an absolute majority of assembly members.

The joint administrative board acts as its executive body. The administrative board is usually appointed from among the members of the joint assembly, who may also dismiss it. Where permitted by the statute, one third of the administrative board members may be people who are not members of the assembly.

7.2. Co-operation between local authorities in different countries

Local authorities are free to establish and maintain contact with foreign partners. They may join international organisations of local authorities.

The Act of 5 June 1998 on Voivodeships provides that, in framing development strategies and pursuing development policies, voivodeships shall co-operate with bodies such as international organisations and regions in other countries, particularly neighbouring states.

General rules for foreign co-operation by voivodeships are also set out in the act. The voivodeship *diet* debates and votes on priorities for such co-operation. Foreign co-operation by voivodeships must comply with domestic law and the government's foreign policy and international obligations, in the context of the voivodeship's tasks and responsibilities. Voivodeships participate in the activities of international institutions and inter-regional associations; they are represented in accordance with rules set out in an agreement concluded by national associations of local and regional authorities. Decisions on priorities for foreign co-operation by voivodeships and on voivodeship projects in this area, particularly draft decisions on inter-regional co-operation and membership of international associations of regions, are taken in consultation with the minister for foreign affairs, whose authorisation is obtained via the voivode.

8. FINANCE

8.1. Taxes and charges

8.1.1. Taxes confined exclusively to local authorities

Under the Act of 26 November 1998 on the Income of Local Authorities in 1999 and 2000, specific municipal taxes include:

- property tax;
- farm tax;
- forestry tax;
- transport tax;
- taxes on business activities conducted by individuals, paid in accordance with the tax charter;
- taxes on inheritances and donations;
- dog ownership tax;

along with the following charges:

- charges for the use of resources, as stipulated in the Geological and Mining Act;
- local charges levied in accordance with the Act of 12 January 1991 on Local Taxes and Charges:
 - marketplace charges, paid by individuals, corporate bodies and units without legal personality which sell goods on market stalls;

- a daily tourist tax, paid by individuals visiting – for recreational, medical or tourism purposes – locations valued for their seaside facilities, climate or tourist attractions (the act provides for certain exceptions);
 - administrative charges for official documents drawn up by bodies subordinate to the municipal council (the municipal council may introduce such charges for documents not included in the tax regulations);
- additional charges levied on the basis of other legislation, where the latter provides that these charges constitute a source of municipal income.

8.1.2. Fiscal autonomy of municipal authorities

The main fiscal responsibility of municipal councils is that of setting annual tax rates.

Municipalities are not allowed to introduce new types of taxes (or charges). An exception is made for the system of self-imposed taxation of inhabitants to finance certain public needs, which must be approved by a local referendum. This system allows for the compulsory introduction, for a set period, of taxes earmarked for the financing of a specific project.

Decisions on these matters, along with administrative decisions by municipal bodies, generally lead to tax reductions and thus to a drop in municipal tax revenue. On no account may the consequences of such decisions be considered grounds for claiming increased general grants from the state budget.

The Act of 12 January 1991 on Local Taxes and Charges defines maximum tax rates. These rates are subject to annual revision in accordance with changes in the retail price index for consumer goods and services during the first three quarters of the previous year.

Municipal councils are allowed to set rates below the maximum rate, within certain limits, but do not have the right to exceed it. For example, the property tax rate set by a municipal council for a given year cannot exceed the maximum rate stipulated in the annual order of the Minister for Finance. At the same time, this rate may not be set at less than 50% of the maximum rate.

As regards taxes and charges constituting a source of municipal income which are collected by the national tax authorities, the latter may only grant rebates, deferments and exemptions at the request of the administrative board or with its consent.

8.1.3. Government taxation of which a share is paid to local and regional authorities

Municipalities receive a share of state tax revenue, including:

- a. 27.6% of income tax levied on individuals resident in the municipality; in 1999 this figure was calculated according to a method designed to equalise the different municipalities in each voivodeship. The level of equalisation was 25%.

- b. 5% of income tax levied on corporate bodies and units and institutions without legal personality whose headquarters are located in the municipality.

Where a corporate body or organisation without legal personality has separate branches in municipalities other than that of the taxpaying headquarters, such revenue is transferred to the budgets of those municipalities in proportion to the number of people working at each branch on the basis of employment contracts. Detailed rules and payment procedures are laid down by the minister for public finance.

Powiats' share of state tax revenue is equal to 1% of income tax levied on individuals resident in the *powiat*.

Voivodeships' share of state tax revenue consists of:

- a. 1.5% of income tax levied on individuals resident in the voivodeship;
- b. 0.5% of income tax levied on corporate bodies and units and institutions without legal personality whose headquarters are located in the voivodeship; as regards branches, the same rules apply as for municipalities' share of such taxation (described above).

8.2. Subsidies and grants to local and regional authorities

8.2.1. Grants

Municipalities

Under the Act of 26 November 1998 on Municipalities, general grants (unassigned financial transfers) from the state budget are distributed to municipalities. Municipalities are free to use them for operational expenses or investments.

Grants are divided into three components: a residual part, an education grant and a compensation grant:

- a. the residual part of the grant, paid to every Polish municipality and calculated according to an index based on the number of inhabitants.

The sum earmarked for the residual part of the general grant is made up of an amount equal to at least 1% of estimated state revenue together with horizontal equalisation payments from municipalities.

Four per cent of the total amount is used to constitute residual grant reserves. The Minister for Public Finance decides how these reserves are to be used, after consulting the local authority representatives. Reserves are allocated to municipalities not eligible for the compensatory portion of the residual part (explained below) which have lost income in the first half of the year in question as a result of changes in the rules for calculating each municipality's share of personal income tax.

The residual part also includes a compensation component. It is paid to municipalities whose basic tax revenue per inhabitant (G index) is less than 85% of a similar index calculated for all municipalities (P index).

In particular, basic municipal tax revenue includes the municipality's share of personal income tax, its share of corporate income tax and the proceeds of farm tax.

The amount of compensation owed to a given municipality is obtained by:

- i. calculating the difference between 85% of the P index and the G index;
- ii. calculating 90% of the difference obtained in Item i. above;
- iii. multiplying this 90% figure by the number of inhabitants in the municipality;
- iv. multiplying the result of item iii. above by the ratio between the estimated state revenues and the amount actually received during the first half of the year in question.

For the purposes of horizontal equalisation, municipalities whose G index is greater than 150% of the P index consequently finance the residual compensation fund of the general grant. The annual level of such payments is calculated by multiplying the number of inhabitants in the municipality by an index representing, for the year in question, the ratio between the estimated state revenue and the amount actually received in the first half of the year and by a sum calculated as follows:

- i. for municipalities whose G index is less than 200% of the P index: 20% of the difference between their G index and 150% of the P index;
 - ii. for municipalities whose G index is between 200% and 300% of the P index: 10% of the P index plus 25% of the difference between their G index and 200% of the P index;
 - iii. for municipalities whose G index is 300% or more of the P index: 35% of the P index plus 30% of the difference between their G index and 300% of the P index.
- b. the education grant, designed to finance schools whose administration has been transferred to municipalities;

The sum earmarked for education grants to all local and regional authorities is equal to at least 12.8% of estimated state budget receipts. One per cent of this amount is used to constitute reserves, at the disposal of the minister for public finance who allocates grants after consulting the minister for education and representatives of local and regional authorities.

The rest of this part of the general grant is distributed among municipalities, voivodeships and *powiats* according to principles set out in the order of the Minister for Education of 23 December 1998.

- c. the compensation grant, paid to municipalities in financial difficulty.

The compensatory part of the general grant is designed to offset:

- i. loss of income resulting from the partial abolition of the tax on means of transport;
- ii. loss of income caused directly by tax rebates and concessions imposed by legislation applicable to farm tax and certain other taxes and by the reduction in natural resources charges prescribed by the Geological and Mining Act.

The grant mentioned in item i. above is paid from a specific fund financed by at least 10.5% of the proceeds of fuel tax. Principles and detailed procedures for awarding this grant to municipalities are set out in the order of the Minister for Finance of 17 February 1999. The total amount allocated to all municipalities from the grant mentioned in Item ii. above is set by the annual Appropriations Act, on the basis of information provided by municipalities about the loss of such income.

Powiats

Under the Act of 26 November 1998 on Local Authorities' Income, a general grant from the state budget is distributed to *powiats*. The latter are free to use it for either operational expenses or investments.

The grant is divided into three components, covering education, highways and compensation.

a. Education

This component is distributed to *powiats* from the same fund and according to the same rules as a similar grant paid to municipalities (see above).

b. Highways

This component (for the construction, modernisation, maintenance, management and protection of roads in all *powiats* and voivodeships) is equal to 60% of an amount set by the Appropriations Act; that amount must be at least 30% of estimated proceeds from (excise) fuel tax in the year in question.

Ten per cent of this part of the grant is used to constitute reserves for investments. The minister for public finance decides how these reserves are to be used, after consulting the minister for transport and representatives of local and regional authorities.

Distribution of this part of the general grant among *powiats* and voivodeships is based primarily on the length and density of their road networks, technical highway infrastructure, the level of traffic and accidents and the need to harmonise highway development.

Detailed principles for calculating the part of the general grant earmarked for highways and for transferring it to *powiats* and voivodeships are set out in an order of the Council of Ministers, issued after consulting local and regional authority representatives.

c. Compensation

The amount earmarked for the compensatory part of the general grant for all *powiats* is specified each year in the Appropriations Act.

The compensatory component is paid to *powiats* whose index of basic tax revenue per inhabitant (S index, obtained by dividing the *powiat's* estimated receipts from personal income tax by the number of inhabitants in the *powiat*) is less than the average national value of this index in 1999 (Sw index).

The amount owed to a particular *powiat* is calculated by multiplying 85% of the difference between the Sw index and that *powiat's* S index by the number of inhabitants.

Voivodeships

The general grant for voivodeships is divided into three parts:

- education;
- highways;
- compensation.

The rules for the award or deprivation of the separate components for education and highways are similar to those applicable to *powiats*.

The compensatory part of the general grant is paid to voivodeships whose index of basic tax revenue (from the proceeds of personal and corporate income tax) per inhabitant (W index) is less than the average national index (Ww).

The amount owed to a particular voivodeship from the compensatory part of the general grant is calculated by multiplying 70% of the difference between the Ww index and that voivodeship's W index by the number of inhabitants.

8.2.2. Subsidies (earmarked transfers)

a. Co-financing of local and regional authorities' investments

The state can grant special subsidies to co-finance investments by local and regional authorities as part of their own tasks. Principles and criteria for distributing such subsidies are laid down by the voivode following consultation with the voivodeship. As a general rule, the total level of subsidies granted to co-finance investments by a local or regional authority cannot exceed 50% of the total outlay. Exceptions are made for investments by financially struggling municipalities with high levels of unemployment, and for investments to convert public property recovered from the army of the Russian Federation. In such cases, subsidies may be granted for up to 75% of the investment's cost.

A local or regional authority receiving a subsidy to co-finance an investment must provide the voivode with certain information within thirty days after the end of the budgetary year, including:

- a list of investments for which the subsidy was used;
- the preliminary estimated cost of those investments;
- the amounts of the grants and sums from the authority's budget used for the various investments during the year.

If a local or regional authority does not use all of the budget earmarked to finance a subsidised investment, it is required to repay a proportion of the subsidy commensurate with the unused part of the budget by the end of the following year.

Where investment co-financing subsidies are not used during the budgetary year for which they were allocated, they are paid back to the state budget.

b. Subsidies for tasks delegated to local and regional authorities

Local and regional authorities which perform delegated government tasks or other tasks delegated by law receive special subsidies from the state budget for that purpose. The level of these subsidies is calculated according to the principles adopted for calculating such expenses in the state budget. Subsidies are transferred by the voivodes (except in certain cases provided for by law). They must be transferred in accordance with procedures allowing delegated tasks to be performed fully within the allotted time.

c. Subsidies for local and regional authorities' own tasks

Special subsidies are granted by the state to finance or co-finance local and regional authorities' own tasks, as stipulated by law, in the following areas:

- welfare support;
- accommodation allowances, designed to offset part of the rent paid by low-income tenants, as stipulated by law (for municipalities);
- welfare support, in accordance with the law (for *powiats* and voivodeships);
- vocational secondary schools (for voivodeships);
- other tasks prescribed by law.

These subsidies are transferred by the voivodes.

d. Subsidies for the elimination of threats

The state allocates special subsidies to municipalities and *powiats* for the elimination of direct threats to security and law and order. Provisions setting limits on subsidies to finance investments are not applicable in such cases.

8.3. Other sources of income

Other sources of income for local and regional authorities include:

- rent;
- fees for the transfer of life-interest in, or management of, land owned by a local or regional authority;
- proceeds from the sale of property owned by a local or regional authority;
- associated payments and charges for undeveloped land which is not brought up to standard by a set deadline;
- income from institutions and companies owned by a local or regional authority;
- income from the privatisation of businesses owned by a local or regional authority;
- interest and dividends on capital invested in companies;

- interest on sums deposited in bank accounts;
- interest on credit granted by a local or regional authority;
- fines and interest on payments not received by a set deadline;
- inheritances, legacies and donations.

Repayable local and regional authority income includes:

- credit for the operational financing of a local or regional authority's activities (to be repaid during the budgetary year);
- medium- and long-term credit and loans;
- income from the issue of securities (especially bonds).

Under Polish law, credit and loans are not really part of a local or regional authority's "income". Nonetheless, local and regional authorities are allowed to resort to short, medium and long-term borrowing. They may use credit to cover budgetary deficits and to finance expenses not covered by income.

Short-term borrowing to cover a local or regional authority's annual budget deficit must be repaid in the same year.

Maximum levels for borrowing and bond issues are stipulated in each local or regional authority's budget.

When a local or regional authority applies for credit or intends to issue securities, the regional audit office – at the authority's request – gives its opinion on the authority's ability to repay the loan or buy back the securities.

Discounts on securities issued by a local or regional authority cannot exceed 5% of their face value. Interest cannot be capitalised.

9. SUPERVISION OF LOCAL AND REGIONAL AUTHORITIES

Firstly, a distinction must be drawn between internal and external supervision of local and regional authorities.

Internal supervision is exercised by the municipal council, *powiat* council or voivodeship *diet*, which supervises the activities of the administrative board and of local or regional bodies. To this end, the council (or *diet*) convenes a meeting of the review committee, which is made up of local or regional representatives other than the president or vice-presidents of the council (or *diet*) or members of the administrative board. The review committee gives its opinion on implementation of the local or regional authority's budget and submits a motion to the council (or *diet*) on the discharge or otherwise of the administrative board; this motion is then submitted to the regional audit office for an opinion.

9.1. Organs, types and measures of external supervision

The main purpose of external supervision is to ensure the lawfulness of local and regional authorities' actions. Criteria of expediency are only applied in external supervision of local authorities in relation to tasks delegated to those authorities by the state administration. The law clearly states how such criteria are to be applied, based primarily on a clear demarcation between authorities' own tasks and delegated tasks.

Under the Constitution and specific legislation, the president of the Council of Ministers, the voivodes and – in the area of financial audits – regional audit offices are the organs responsible for supervising the activities of local and regional authorities. The competencies of the Higher Authority for Supervision of Local Authorities are described in paragraph 9.3. of this text.

Supervision is only exercised retrospectively and is confined to those situations set out in the aforementioned legislation.

Supervision consists of:

- access to essential documents; local and regional authorities have an obligation to forward their decisions to the voivode within seven days and to provide him or her, on request, with all other necessary information for the purposes of supervision. Local and regional authorities must submit budgetary decisions to the regional audit office by the same deadline, along with decisions on discharge of the administrative board and other decisions in areas subject to the office's supervision;
- the right of supervisory bodies to inspect the administration of local and regional authorities and to attend meetings of local and regional organs;
- verification of the lawfulness of acts; decisions in breach of the law may be declared null and void within thirty days of receipt. They may be set aside either totally or partially. By declaring a decision null and void, the supervisory body stays its execution. The voivode refers partially set aside decisions to the council (or *diet*) for reconsideration within a set deadline;
- once that deadline (thirty days following receipt of the text of the decision in question) has expired, the supervisory body may challenge the decision of the local or regional council (or *diet*) before the administrative court; in such cases, the court decides whether or not to stay execution of the act in question;
- where the infringement is only minor, the supervisory body simply notes breaches without revoking the decision;
- in the supervision of tasks delegated to a local or regional authority by the state administration – where criteria of expediency are therefore applied in addition to those of legality – the voivode may stay execution of the decision and refer it for reconsideration, stating his or her objections and setting a deadline within which the matter must be resolved; if the ensuing new decision fails to address these concerns, the voivode may revoke it and issue an alternative order, of which he or she must inform the leadership of the local *diet* and the appropriate minister. This alternative order enters into force thirty days after it is issued, provided that the minister in question does not take a different decision on the matter within that period;
- at the Prime Minister's request, the parliament (*Sejm*) may vote to dissolve the council (or *diet*) of a local or regional authority's council (or *diet*) - resulting in the simultaneous dissolution of all other organs of the authority in question - if the latter repeatedly breaches constitutional or legislative provisions. In such cases, the Prime Minister designates a person to take responsibility, on a provisional basis, for exercising the functions of the council and other organs of the local or regional authority until fresh elections are held;

- a voivodeship *diet* may vote to dissolve a municipality's administrative board at the voivode's request (by an absolute majority of votes with at least half of the *diet*'s members present), if that board repeatedly breaches the Constitution or legislation and fails to comply with the voivode's demand that it take the necessary steps. In such cases, the president designates a person to take responsibility, on a provisional basis, for exercising the functions of the administrative board and the mayor;
- where a local or regional authority's organs have failed to perform their public tasks effectively for some time and there is no prospect of rapid improvement, the Prime Minister may suspend that authority's organs, instituting management by the government commissioner for a two-year period (unless council or *diet* elections are held within that time). Before instituting management by the government commissioner, the voivode must forward his or her comments to the local or regional authority, calling upon it to submit an amended programme immediately.

9.2. Redress for local and regional authorities in the event of improper exercise of administrative supervision

Local and regional authorities have the right to appeal to the administrative court against decisions of the supervisory body concerning them, on grounds of illegality, within thirty days. A decision of the council (or *diet*) constitutes the necessary basis for such an appeal. Municipal or *powiat* joint ventures (and other groupings of municipalities or *powiats*) whose legitimate interests, powers or competencies have been injured also have the right to lodge such appeals with the administrative court.

Lodging of a complaint does not stay execution of the decision in question. In urgent cases, however, the court may stay implementation of the decision, either on its own initiative or at a request from one party.

Where, in upholding a complaint, the administrative court sets aside a decision taken by a body responsible for supervising local or regional authorities, the court's ruling may be appealed on points of law.

9.3. Audits

9.3.1. Regional audit offices

External financial supervision is exercised primarily by regional audit offices. Procedures for such supervision are governed by the Act of 7 October 1992 (with subsequent amendments) on Regional Audit Offices.

Regional audit offices have the status of government supervisory bodies; the legality of their activities is monitored by the president of the Council of Ministers.

The organs of each regional audit office consist of the office's board and an adjudicating committee (for breaches of budgetary discipline). The board's chair (who also heads the regional audit office) is appointed and dismissed by the president of the Council of Ministers. In accordance with statutory procedure, half of the other board members are appointed and dismissed by the president of the Council of Ministers and the other half by the respective *diet*.

The role of regional audit offices is to supervise the activities of local and regional authorities in areas such as financial matters, financial management – including the collection of taxes – and public procurement. Municipal joint ventures, municipal associations, associations of municipalities and *powiats*, *powiat* joint ventures, associations of *powiats*, local and regional bodies possessing legal personality and other entities are also subject to their supervision in relation to the use of subsidies from local and regional budgets.

The basic criteria for such supervision are the compliance of acts with the law and the conformity of documentation with the actual situation. When supervising government tasks delegated to local and regional authorities, criteria of expediency, reliability and efficiency are also applied.

Regional audit offices have to inspect all aspects of a local or regional authority's financial management at least once every four years. Inspections may also be conducted at the request of local or regional authorities or joint ventures, or at the request of agencies and bodies responsible for administering special funds.

Regional audit offices examine quarterly reports on implementation of local and regional budgets, as well as motions to award the compensatory component of the general grant. They also monitor financial decisions taken by local and regional organs.

Should a local or regional authority's deliberative body fail to adopt its budget before 1 April of the budgetary year, the regional audit office prepares a budget for that authority by the end of April, covering its own tasks as well as government tasks performed on the basis of legislation or agreements.

In the event of a serious violation, before declaring a decision null and void the office informs the local or regional authority, indicating the necessary modifications. Should the competent organ of the local or regional authority fail to make those modifications before a set deadline, the office's board declares the decision totally or partially null and void. In the case of budgetary decisions, the budget or that part of it declared null and void is then prepared by the office's board.

In the event of a minor violation, the office does not declare the act in question null and void, but simply suggests the necessary modifications.

Regional audit offices also give opinions on matters within their competence, particularly:

- at the request of a credit broker, on an authority's ability to repay a loan;
- on an authority's ability to finance its budget deficit and on the estimated public debt;
- on local and regional authorities' draft budgets, submitted to the office together with information on the state of their property and explanatory notes;
- on information submitted to the office by local and regional administrative boards, concerning implementation of their budgets in the first half of the year;

- on reports by local and regional authorities concerning the implementation of financial plans for public tasks falling within the competence of the state administration;
- on reports concerning the implementation of financial plans for public tasks based on agreements between local or regional authorities;
- on applications for review (by the specialised committees of deliberative bodies) of decisions concerning discharge of financial responsibility;
- on matters concerning opinions of the treasurer (chief accountant for the local or regional authority's budget) where a signature is requested in writing by a superior.

9.3.2. Higher Supervisory Authority

The National Supervisory Authority, governed by the act of 23 December 1994 (with subsequent amendments), is the highest state body, itself subject to supervision by parliament, which monitors the activities of central government bodies, the National Bank of Poland, state corporations and other government bodies. It can also monitor local and regional organs, corporations and other local and regional bodies, focusing primarily on implementation of the state budget and the enforcement of acts and other legislation concerning the financial, economic, administrative and organisational activities of the legal entities subject to its supervision.

Supervision of local and regional authorities is based on criteria of legality, good economic management and reliability; in the case of tasks delegated to municipalities by the state administration, these are supplemented by criteria of expediency and efficiency.

The National Supervisory Authority has branches which forward the findings of their main inspections of the activities of local and regional authorities to the respective voivodes and the deliberative bodies of the authorities inspected.

Inspections may be conducted at the request of parliament, the president of the Republic or the Prime Minister, or at the National Supervisory Authority's own instigation. Ordinary inspections are carried out periodically according to a timetable drawn up by parliament, but additional inspections may also be conducted.

Detailed inspection procedures are set out in the aforementioned Act on the National Supervisory Authority. Its inspectors have:

- access to all documents concerning the activities of the bodies in question;
- free access to offices and objects inside them;
- the right to inspect buildings and all material objects used for the activity in question;
- the right to call and question witnesses;
- the right to ask staff members of the bodies in question for oral or written explanations;
- the right to seek assistance from experts and specialists;
- the right to organise meetings with staff of the bodies in question.

The National Supervisory Authority forwards a report on each inspection to the director of the body in question as well as the appropriate state, regional or local organs; this report contains an assessment of the activity being monitored, based on the findings of the inspection. It includes specific comments on any errors found, insisting that they be rectified as necessary.

Within fourteen days of receiving such a report, the recipient must inform the National Supervisory Authority of the measures it plans to take or has already taken, or explain why no such measure has been taken.

On the basis of the inspection and the report, the Supervisory Authority prepares a memorandum on the inspection's results, which is then sent to parliament, the President of the Republic and the Prime Minister. The Supervisory Authority also forwards the main findings of its inspections to the relevant voivodes, *diets* and local and regional councils.

State, local and regional bodies responsible for supervision, audits and inspections co-operate with the National Supervisory Authority and are obliged to:

- submit the findings of their inspections to the said authority on request;
- carry out inspections under the supervision of the National Supervisory Authority and in co-operation with it;
- conduct *ad hoc* inspections at the request of the National Supervisory Authority.

Evasion or hindrance of inspections by the National Supervisory Authority carries a prison sentence or fine.

10. INDIVIDUAL APPEALS AGAINST DECISIONS OF LOCAL AND REGIONAL AUTHORITIES

Any person whose legitimate interests or rights have been violated by the decision of a local or regional organ in a matter of public administration may bring a case before the administrative court. Proceedings may be brought on an individual or group basis.

The same applies where a local or regional organ fails to perform acts required by law or by the courts. The administrative court may ask the supervisory body to take appropriate measures; any costs incurred are borne by the local or regional authority concerned, at its own risk.

Since this report deals with matters of public administration, it excludes individual administrative decisions and civil-law matters, which come within the jurisdiction of the civil or criminal courts.

11. LOCAL GOVERNMENT STAFF

The Act of 22 March 1990 on Local Authority Employees (with subsequent amendments) defines, as the main source of law, the legal status and working conditions of staff employed:

- in the marshal's office and voivodeship bodies;
- in the *powiat staroste's* office and *powiat* bodies;
- in the municipal office, subsidiary municipal units and municipal budgetary bodies and institutions;
- in the offices of local and regional joint ventures and budgetary institutions set up by those authorities;
- in the offices of local and regional administrative units.

11.1. Main categories of staff

Staff of local and regional authorities are employed:

1. by election to the follow posts:
 - in the marshal's office: the marshal of the voivodeship, the deputy chair of the administrative board and other administrative board members, as stipulated in the voivodeship's statute;
 - in the *powiat staroste's* office: the *staroste*, the *vice-staroste* and other members of the *powiat's* administrative board, as stipulated in the *powiat's* statute; working relationships are established with all members of the *powiat's* administrative board not elected from among the *powiat* councillors;
 - in the municipal office: the mayor (president), his or her deputies and other members of the administrative board, as stipulated in the municipal statute;
 - in local and regional joint ventures: the chair and other members of the administrative board, as stipulated in the statute;
2. by appointment: staff employed in posts specified in the statute of the local or regional authority or joint venture;
3. by designation: the municipal secretary, the *powiat* secretary, the municipal treasurer (chief accountant for the budget), the *powiat* treasurer (chief accountant for the *powiat's* budget) and the voivodeship treasurer (chief accountant for the voivodeship's budget);
4. on the basis of employment contracts: all other employees of local and regional authorities.

11.2. Authority responsible for management

Decisions on working conditions and other labour-law matters are taken by:

1. the local or regional authority's deliberative body, in relation to the chair of that authority's administrative board;

2. the chair of the local or regional authority's administrative board, in relation to members of that board;
3. the president of the assembly of a local or regional joint venture, in relation to members of its administrative board;
4. the chair of the said administrative board, in relation to other employees of the office and heads of local or regional bodies, where the latter do not already hold any of the posts listed in items 1 to 3 above;
5. the head of a local or regional body, on behalf of another employer mentioned above.

11.3. Authority responsible for financial matters

Employees of local and regional authorities are entitled to remuneration commensurate with their position and qualifications. Remuneration includes:

- basic wages or salary;
- special duties allowances;
- length-of-service supplements;
- bonuses (only for employees under contract);
- allowances for work in unpleasant or difficult conditions;
- allowances for night work.

Principles governing remuneration are set out in the Act of 22 March 1990 on Employees of Local and Regional Authorities; detailed provisions, including pay rates, are set out in the order of the Council of Ministers of 9 July 1990 (with subsequent amendments) on remuneration for employees of local and regional authorities.

11.4. Recruitment

Under the Act of 6 April 1990 (with subsequent amendments) on Employees of Local and Regional Authorities, such employees must:

- possess Polish nationality (except for those appointed on the basis of an employment contract);
- have the necessary experience and qualifications;
- be entitled to exercise and enjoy civic rights (except for those appointed on the basis of an employment contract);
- have the necessary physical fitness for the post.

The election (and dismissal) of members of the administrative board, including its chair, and the appointment (or dismissal at the request of the chair of the administrative board) of the secretary and treasurer (who acts as chief accountant for the budget) of a local or regional authority fall within the exclusive competence of that authority's council.

Appointment and dismissal of heads of units and institutions run by local and regional authorities are the responsibility of those authorities' administrative boards.

Staff working for local and regional authorities on the basis of appointment, designation or employment contracts are often recruited by means of competitive examinations.

Competitive examinations are compulsory for the recruitment of candidates for the post of head of a local or regional budgetary institution.

12. CURRENT REFORMS

The reform of public administration established two tiers of local government at the intermediary level, *powiats* and voivodeships, which became operational on 1 January 1999.

A significant number of central government powers were thereby decentralised to the new local and regional authorities, bringing public administration closer to citizens and submitting it to democratic supervision.

The transfer of responsibilities to new local and regional authorities goes hand in hand with the allocation of a considerable share of budgetary resources. Nonetheless, Poland remains a unitary state. The main aspects of this reform have now been completed.

If it is to continue to be effective, however, the system must remain open to further modifications. At present (late 1999), for example, a number of changes are envisaged in the administrative structure of the capital city of Warsaw and the rules governing the income of local and regional authorities.