

F R E E D O M H O U S E

NATIONS
IN
TRANSIT
2005

DEMOCRATIZATION

FROM

CENTRAL EUROPE

TO

EURASIA

NATIONS IN
TRANSIT 2005

NATIONS IN TRANSIT 2005

Democratization in East Central
Europe and Eurasia

Edited by Jeannette Goehring and Amanda Schnetzer

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Methodology

Nations in Transit 2005 measures progress and setbacks in democratization in 28 countries and territories from Central Europe to the Eurasian region of the Former Soviet Union. A report on Kosovo appears as an addendum to the Serbia and Montenegro report. This volume, which covers events from January 1 through December 31, 2004, is an updated edition of surveys published in 2004, 2003, 2002, 2001, 2000, 1998, 1997, and 1995.

Country Reports

The country reports in *Nations in Transit 2005* follow an essay format that allowed the report authors to provide a broad analysis of the progress of democratic change in their country of expertise. Freedom House provided them with guidelines for ratings and a checklist of questions covering seven categories: electoral process; civil society; independent media; national democratic governance; local democratic governance; judicial framework and independence (formerly constitutional, legislative, and judicial framework); and corruption. With the 2005 edition of *Nations in Transit*, Freedom House introduces separate analysis and ratings for national democratic governance and local democratic governance. Previous editions included only one governance category. The purpose of the new categories is to provide our readers with more detailed and nuanced analysis of these two important subjects. The ratings for all categories reflect the consensus of Freedom House, the *Nations in Transit* advisers, and the report authors. Each country report is organized according to the following outline:

- **National Democratic Governance.** Considers the democratic character and stability of the governmental system; the independence, effectiveness, and accountability of legislative and executive branches; and the democratic oversight of military and security services.

- **Electoral Process.** Examines national executive and legislative elections, electoral processes, the development of multiparty systems, and popular participation in the political process.
- **Civil Society.** Assesses the growth of nongovernmental organizations (NGOs), their organizational capacity and financial sustainability, and the legal and political environment in which they function; the development of free trade unions; and interest group participation in the policy process.
- **Independent Media.** Addresses the current state of press freedom, including libel laws, harassment of journalists, editorial independence, the emergence of a financially viable private press, and Internet access for private citizens.
- **Local Democratic Governance.** Considers the decentralization of power; the responsibilities, election, and capacity of local governmental bodies; and the transparency and accountability of local authorities.
- **Judicial Framework and Independence.** Highlights constitutional reform, human rights protections, criminal code reform, judicial independence, the status of ethnic minority rights, guarantees of equality before the law, treatment of suspects and prisoners, and compliance with judicial decisions.
- **Corruption.** Looks at public perceptions of corruption, the business interests of top policy makers, laws on financial disclosure and conflict of interest, and the efficacy of anticorruption initiatives.

Ratings and Scores

For all 28 countries and territories in *Nations in Transit 2005*, Freedom House, in consultation with the report authors and a panel of academic advisers, has provided numerical ratings in the seven categories listed above. The ratings are based on a scale of 1 to 7, with 1 representing the highest and 7 the lowest level of democratic progress.

The ratings follow a quarter-point scale. Minor to moderate developments typically warrant a positive or negative change of a quarter (0.25) to a half (0.50) point. Significant developments typically warrant a positive or

negative change of three-quarters (0.75) to a full (1.00) point. It is rare that the rating in any category will fluctuate by more than a full point (1.00) in a single year.

As with *Freedom in the World*, Freedom House's global annual survey of political rights and civil liberties, *Nations in Transit* does not rate governments per se. Nor does it rate countries based on governmental intentions or legislation alone. Rather, a country's ratings are determined by considering the practical effect of the state and nongovernmental actors on an individual's rights and freedoms.

The *Nations in Transit* ratings, which should not be taken as absolute indicators of the situation in a given country, are valuable for making general assessments of how democratic or authoritarian a country is. They also allow for comparative analysis of reforms among the countries surveyed and for analysis of long-term developments in a particular country.

The ratings process for *Nations in Transit 2005* involved four steps:

1. Authors of individual country reports suggested preliminary ratings in all seven categories covered by the study.
2. The U.S. and CEE-NIS (Central and Eastern Europe–Newly Independent States) academic advisers evaluated the ratings and made revisions.
3. Report authors were given the opportunity to dispute any revised rating that differed from the original by more than .50 point.
4. Freedom House refereed any disputed ratings and, if the evidence warranted, considered further adjustments. Final editorial authority for the ratings rested with Freedom House.

In previous years, Freedom House used two aggregate scores to assist in the analysis of reform in the countries covered by the *Nations in Transit* study. These were *democratization* (average of electoral process, civil society, independent media, and governance) and *rule of law* (average of corruption and constitutional, legislative, and judicial framework).

With the 2004 edition, Freedom House introduced a new *democracy score*, an average of the ratings for all categories covered by *Nations in Transit*. The 2005 edition continues to use the democracy score. Freedom House provides the aggregate for comparative and interpretive purposes of evaluating progress and setbacks in the countries under study. Analysis shows a high level of correlation between the previous scoring categories and the new democracy score.

Based on the democracy score and its scale of 1 to 7, Freedom House has defined the following regime types:

Democracy Score	Regime Type
1–2	Consolidated Democracy
3	Semiconsolidated Democracy
4	Transitional Government or Hybrid Regime
5	Semiconsolidated Authoritarian Regime
6–7	Consolidated Authoritarian Regime

Research Team and Data Sources

Freedom House developed the initial survey and subsequent editions after consultations with the U.S. Agency for International Development. Freedom House staff members and consultants researched and wrote the country reports. Consultants are regional or country specialists recommended by recognized authorities. The research team used a wide variety of sources in writing the reports, including information from nongovernmental organizations, multilateral lending institutions and other international organizations, local newspapers and magazines, and select government data.

The economic and social data contained in the country header pages of the 2005 edition were taken from the following sources:

Ethnic Groups: *The World Factbook 2005* (Washington, D.C.: Central Intelligence Agency, 2005).

GDP/capita at PPP (purchasing power parity): *Transition Report 2004* (London: European Bank for Reconstruction and Development, 2004).

Private Sector Share of GDP: *Transition Report 2004* (London: European Bank for Reconstruction and Development, 2004).
Population: *World Population Data Sheet 2004* (Washington, D.C.: Population Reference Bureau, 2004).

Checklist of Questions

(Items appearing in *italics* reflect changes or additions to the methodology since the last edition.)

National Democratic Governance

1. Is the country's governmental system democratic?

- Does the Constitution or other national legislation enshrine the principles of democratic government?
- Is the government open to meaningful citizen participation in political processes and decision-making in practice?
- Is there an effective system of checks and balances between legislative, executive, and judicial authority?
- Does a freedom of information act or similar legislation ensure access to government information by citizens and the media?
- Is the economy free of government domination?

2. Is the country's governmental system stable?

- Is there consensus among political groups and citizens on democracy as the basis of the country's political system?
- Is stability of the governmental system achieved without coercion, violence, or other abuses of basic rights and civil liberties by state or non-state actors?
- Do citizens recognize the legitimacy of national authorities and the laws and policies that govern them?
- Does the government's authority extend over the full territory of the country?
- Is the governmental system free of threats to stability such as war, insurgencies, and domination by the military, foreign powers, or other powerful groups?

3. Is the legislature independent, effective, and accountable to the public?

- Does the legislature have autonomy from the executive branch?
- Does the legislature have the resources and capacity it needs to fulfill its law-making and investigative responsibilities? (consider financial resources, professional staffs, democratic management structures, etc.).
- Do citizens and the media have regular access to legislators and the legislative process through public hearings, town meetings, published congressional records, etc.?
- Do legislative bodies operate under effective audit and investigative rules that are free of political influence?

- Does the legislature provide leadership and reflect societal preferences by providing a forum for the peaceful and democratic resolution of differences?
4. *Is the executive branch independent, effective, and accountable to the public?*
- Is the executive branch's role in policy making clearly defined vis-à-vis other branches of government?
 - Does the executive branch have the resources and capacity it needs to formulate and implement policies?
 - Do citizens and the media have regular access to the executive branch to comment on the formulation and implementation of policies?
 - Does a competent and professional civil service function according to democratic standards and practices?
 - Do executive bodies operate under effective audit and investigative rules that are free of political influence?
 - Does the executive branch provide leadership and reflect societal preferences in resolving conflicts and supporting democratic development?

Electoral Process

1. Is the authority of government based upon universal and equal suffrage and the will of the people as expressed by regular, free, and fair elections conducted by secret ballot?
2. Are there fair electoral laws, equal campaigning opportunities, fair polling, and honest tabulation of ballots?
3. Is the electoral system free of significant barriers to political organization and registration?
4. Is the electoral system multiparty based, with viable political parties, including an opposition party, functioning at all levels of government?
5. Is the public engaged in the political life of the country, as evidenced by membership in political parties, voter turnout for elections, or other factors?
6. Do ethnic and other minority groups have sufficient openings to participate in the political process?
7. Is there opportunity for the effective rotation of power among a range of different political parties representing competing interests and policy options?
8. Are the people's choices free from domination by the specific interests of power groups (the military, foreign powers, totalitarian parties, regional hierarchies, and/or economic oligarchies)?

9. Were the most recent national legislative elections judged free and fair by domestic and international election-monitoring organizations?
10. Were the most recent presidential elections judged free and fair by domestic and international election-monitoring organizations?

Civil Society

1. Does the state protect the rights of the independent civic sector?
2. Is the civil society vibrant? (Consider growth in the number of charitable, nonprofit, and nongovernmental organizations; improvements in the quality of performance of civil society groups; locally led efforts to increase philanthropy and volunteerism; the public's active participation in private voluntary activity; the presence of effective civic and cultural organizations for women and ethnic groups; the participation of religious groups in charitable activity; or other factors.)
3. Is society free of excessive influence from extremist and intolerant nongovernmental institutions and organizations? (Consider racists, groups advocating violence or terrorism, xenophobes, private militias and vigilante groups, or other groups whose actions threaten political and social stability and the transition to democracy.)
4. Is the legal and regulatory environment for civil society groups free of excessive state pressures and bureaucracy? (Consider ease of registration, legal rights, government regulation, fund-raising, taxation, procurement, and access-to-information issues.)
5. Do civil society groups have sufficient organizational capacity to sustain their work? (Consider management structures with clearly delineated authority and responsibility; a core of experienced practitioners, trainers, and the like; access to information on NGO management issues in the native language; and so forth.)
6. Are civil society groups financially viable, with adequate conditions and opportunities for raising funds that sustain their work? (Consider sufficient organizational capacity to raise funds; option of nonprofit tax status; freedom to raise funds from domestic or foreign sources; legal or tax environment that encourages private sector support; ability to compete for government procurement opportunities; ability to earn income or collect cost recovery fees.)
7. Is the government receptive to policy advocacy by interest groups, public policy research groups, and other nonprofit organizations? Do government officials engage civil society groups by inviting them to testify, comment on, and influence pending policies or legislation?
8. Are the media receptive to civil society groups as independent and reliable sources of information and commentary? Are they positive contributors to the country's civic life?

9. Does the state respect the right to form and join free trade unions?
10. Is the education system free of political influence and propaganda?

Independent Media

1. Are there legal protections for press freedom?
2. Are journalists, especially investigative reporters, protected from victimization by powerful state or nonstate actors?
3. Does the state oppose onerous libel laws and other excessive legal penalties for “irresponsible” journalism?
4. Are the media’s editorial independence and news-gathering functions free of interference from the government or private owners?
5. Does the public enjoy a diverse selection of print and electronic sources of information, at both the national and local level, that represent a range of political viewpoints?
6. Are the majority of print and electronic media privately owned and free of excessive ownership concentration?
7. Is the private media’s financial viability subject only to market forces (that is, is it free of political or other influences)?
8. Is the distribution of newspapers privately controlled?
9. Are journalists and media outlets able to form their own viable professional associations?
10. Does society enjoy free access to the Internet?

Local Democratic Governance

1. *Are the principles of local democratic government enshrined in law and respected in practice?*
 - Does the Constitution or other national legislation provide a framework for democratic local self-government?
 - Have substantial government powers and responsibilities been decentralized in practice?
 - Are local authorities free to design and adopt institutions and processes of governance that reflect local needs and conditions?
 - Do central authorities consult local governments in planning and decision-making processes that directly affect the local level?
2. *Are citizens able to choose local leaders in free and fair elections?*
 - Does the Constitution or other national legislation provide for local elections held on the basis of universal, equal, and direct suffrage by secret ballot?
 - Do local governments derive their power on the basis of regular, free, and fair local elections (either through direct election or through election by local assemblies or councils)?

- Are free and fair local elections held at regular intervals and subject to independent monitoring and oversight?
 - Do multiple candidates representing a range of views participate in local elections and in local government bodies?
 - Are voters' choices in local elections free from domination by power groups such as national political parties, central authorities, economic oligarchies, etc?
 - Are citizens engaged in local electoral processes, as evidenced by party membership, voter turnout, or other factors?
3. *Are citizens ensured meaningful participation in local government decision-making?*
- Do local governments invite input from civil society, business, trade unions, and other groups on important policy issues before decisions are made and implemented?
 - Do local governments initiate committees, focus groups, or other partnerships with civil society to address common concerns and needs?
 - Are individuals and civil society groups free to submit petitions, organize demonstrations, or initiate other activities that influence local decision-making?
 - Do women, ethnic groups, and other minorities participate in local government?
 - Does the media regularly report the views of local civic groups, the private business sector, and other nongovernmental entities about local government policy and performance?
4. *Do democratically elected local authorities exercise their powers freely and autonomously?*
- Do central authorities respect local decision-making authority and independence?
 - Are local governments free to pass and enforce laws needed to fulfill their responsibilities?
 - Do local authorities have the right to judicial remedy to protect their powers?
 - Do local governments have the right to form associations at the domestic and international level for protecting and promoting their interests?
5. *Do democratically elected local authorities have the resources and capacity needed to fulfill their responsibilities?*
- Are local governments free to collect taxes, fees, and other revenues commensurate with their responsibilities?

- Do local governments automatically and regularly receive resources that are due from central authorities?
 - Do local governments set budgets and allocate resources free of excessive political influences and central controls?
 - Are local authorities empowered to set staff salaries, staff size and staffing patterns, and is recruitment based on merit and experience?
 - Do local governments have the resources (material, financial, and human) to provide quality services, ensure a safe local environment, and implement sound policies in practice?
6. *Do democratically elected local authorities operate with transparency and accountability to citizens?*
- Are local authorities subject to clear and consistent standards of disclosure, oversight, and accountability?
 - Are local authorities free from domination by power groups (economic oligarchies, organized crime, etc) that prevent them from representing the views and needs of the citizens who elected them?
 - Are public meetings mandated by law and held at regular intervals?
 - Do citizens and the media have regular access to public records and information?
 - Are media free to investigate and report on local politics and government without fear of victimization?

Judicial Framework and Independence

1. *Does the constitutional or other national legislation provide protections for fundamental political, civil, and human rights? (Includes freedom of expression, freedom of conscience and religion, freedom of association, and business and property rights.)*
2. *Do the state and nongovernmental actors respect fundamental political, civil, and human rights in practice?*
3. Is there independence and impartiality in the interpretation and enforcement of the constitution?
4. Is there equality before the law?
5. Has there been effective reform of the criminal code/criminal law? (Consider presumption of innocence until proven guilty, access to a fair and public hearing, introduction of jury trials, access to independent counsel/public defender, independence of prosecutors, and so forth.)

6. Are suspects and prisoners protected in practice against arbitrary arrest, detention without trial, searches without warrants, torture and abuse, and excessive delays in the criminal justice system?
7. Are judges appointed in a fair and unbiased manner, and do they have adequate legal training before assuming the bench?
8. Do judges rule fairly and impartially, and are courts free of political control and influence?
9. Do legislative, executive, and other governmental authorities comply with judicial decisions, and are judicial decisions effectively enforced?

Corruption

1. Has the government implemented effective anticorruption initiatives?
2. *Is the country's economy free of excessive state involvement?*
3. Is the government free from excessive bureaucratic regulations, registration requirements, and other controls that increase opportunities for corruption?
4. Are there significant limitations on the participation of government officials in economic life?
5. Are there adequate laws requiring financial disclosure and disallowing conflict of interest?
6. Does the government advertise jobs and contracts?
7. Does the state enforce an effective legislative or administrative process—particularly one that is free of prejudice against one's political opponents—to prevent, investigate, and prosecute the corruption of government officials and civil servants?
8. Do whistle-blowers, anticorruption activists, investigators, and journalists enjoy legal protections that make them feel secure about reporting cases of bribery and corruption?
9. Are allegations of corruption given wide and extensive airing in the media?
10. Does the public display a high intolerance for official corruption?

Nations in Transit 2005 Ratings Guidelines

The following broad guidelines were used to assist Freedom House staff and consultants in determining the ratings for electoral process; civil society; independent media; governance; constitutional, legislative, and judicial framework; and corruption.

RATING	POLICY CRITERIA	PRACTICE CRITERIA
1	Existence of policies that adhere to basic human rights standards, democratic norms, and the rule of law.	Existence of best practices that adhere to basic human rights standards, democratic norms, and the rule of law.
2	Existence of policies that adhere to basic human rights standards, democratic norms, and the rule of law.	Existence of most practices that adhere to basic human rights standards, democratic norms, and the rule of law.
3	Existence of many policies that adhere to basic human rights standards, democratic norms, and the rule of law.	Existence of many practices that adhere to basic human rights standards, democratic norms, and the rule of law.
4	Existence of many policies that adhere to basic human rights standards, democratic norms, and the rule of law.	Existence of some practices that adhere to basic human rights standards, democratic norms, and the rule of law.
5	Existence of many policies that adhere to basic human rights standards, democratic norms, and the rule of law.	Absence of many practices that adhere to basic human rights standards, democratic norms, and the rule of law.
6	Existence of some policies that adhere to basic human rights standards, democratic norms, and the rule of law.	Absence of most practices that adhere to basic human rights standards, democratic norms, and the rule of law.
7	Absence of policies that adhere to basic human rights standards, democratic norms, and the rule of law.	Absence of practices that adhere to basic human rights standards, democratic norms, and the rule of law.

Nations in Transit 2005

Outlook for a New Democratic Spring

Jeannette Goehring and Amanda Schnetzer

This is the ninth edition of *Nations in Transit*, Freedom House's comprehensive, comparative study of post-communist transitions from Central Europe to Eurasia. Covering 27 countries, plus Kosovo, *Nations in Transit 2005* observes a 12-month period, from January 1 to December 31, 2004, and provides comparative ratings and in-depth analysis of electoral processes, civil society, independent media, governance, judicial framework and independence, and corruption. Owing to the growing influence of local government and its relation to the reform process, this year's study provides an in-depth analysis of democratic governance at the local level, separate from the national level.

The fall of the Berlin Wall in 1989 and the subsequent dissolution of the Soviet Union ushered in a democratic spring that was marked by rapid and positive political change in many parts of the post-Communist world. Since 1995, the *Nations in Transit* series has monitored the status of that change and pinpointed for policymakers, researchers, journalists, and democracy advocates alike the greatest reform challenges and reform opportunities facing the countries and territories that make up this vast geographic space. Owing to the design of its methodology, the study has drawn important linkages between democratic accountability, good governance, and the rule of law. In doing so it has made clear the essential nature of all of these elements to the development of stable, free, and prosperous societies.

Since 1995, *Nations in Transit* has documented several historic moments in Central Europe and the Balkans, including the collapse of strongman regimes in Croatia, Slovakia, and Yugoslavia and the eastward expansion of

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NATO and the European Union. To be sure, challenges in these regions still remain. For the eight new members of the EU—Czech Republic, Hungary, Estonia, Latvia, Lithuania, Poland, Slovakia, and Slovenia—sustained efforts are still needed to deepen and widen democracy’s place in society by actively engaging citizens in the political life of their country; to cultivate mature, financially stable, and independent media outlets; and to instill values that shun corruption at all levels of government and society. For the countries of the Balkans—Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Macedonia, Romania, and Serbia and Montenegro—consolidating the democratic gains of the last decade remains their greatest challenge, with *Nations in Transit 2005* highlighting such issues as the susceptibility of the judiciary to political influence in Albania, the continued strength of nationalist parties in Bosnia, the struggle to prosecute war crimes cases in Croatia, and the potential for outbreaks of ethnic violence in Kosovo.

The historic milestones noted above acknowledge the success of the Central European and Balkan countries in confronting the bitter legacies of the past, and overall the findings of *Nations in Transit 2005* reinforce this notion by continuing to note overall positive movement in the establishment and democratic policies and practices. That similar milestones have largely eluded the 12 non-Baltic states of the former Soviet Union, however, is a matter of serious concern.* Rather than build on the democratic momentum and enthusiasm of the early 1990s, the events of the past decade have given way to a growing divide between Central Europe and Eurasia and cast considerable doubt on the prospects for these post-Soviet states to relinquish authoritarian tendencies and reverse course toward democracy. *Until now.*

Overall, *Nations in Transit* continues to document a pattern of anti-democratic practice in the non-Baltic former Soviet states, and in 2004 the examples were abundant. Yet the findings of this year’s study also suggest that, taken together, the Rose Revolution in Georgia in 2003 and the Orange Revolution in Ukraine in 2004 may have opened a new wave of democratic expansion in Eurasia. More recent events in Kyrgyzstan give this idea added reinforcement.

Put simply, the peaceful mobilization of Georgia’s citizens to demand democratic reform and to get rid of an ineffective leadership marked a turning point in 2003. The success of thousands of peaceful Ukrainian protesters in denouncing a fraudulent presidential vote and ultimately electing a pro-democracy reformer to the post did the same for Ukraine in 2004. What the events in Ukraine also did was signal the potential for a new democratic spring for the former Soviet states as a whole. Whether these societies can consolidate that potential and build modern democratic states remains to be

*The 12 non-Baltic Soviet states are Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

seen. What is clear is that sustained engagement and support from Europe, the United States, and the rest of the community of democratic states will be essential to Georgia and Ukraine's success and will have important implications for the fate of democracy in the rest of the post-Soviet space.

Nations In Transit 2005: Ratings And Scores

Produced annually, the *Nations in Transit* study provides ratings that serve as signposts of progress and regression in the 28 countries and territories under study. Although the ratings for electoral processes, civil society, independent media, national democratic governance, local democratic governance, judicial framework and independence, and corruption are not absolute indicators of conditions in a given country, they are valuable for making general assessments of how democratic or authoritarian a country is. They also facilitate comparative analysis of post-Communist change from Central Europe to Eurasia.

The *Nations in Transit* ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic development, and 7 the lowest. Each country's Democracy Score is the average of ratings for all categories covered by the study. These scores follow a 1 to 7 scale as well. Changes in ratings and scores are reflective of events that occurred during the period under study: January 1 through December 31, 2004.

The eight countries that joined the European Union on May 1, 2004, remained the highest-ranking countries in the study. Overall, they continued to show the strongest levels of performance in terms of the creation of democratic policies and institutions and their implementation in practice. However, the incidence and perception of widespread corruption remained important challenges for all eight countries.

Ukraine and Bosnia-Herzegovina showed the most progress in 2004, as evidenced by ratings improvements in four out of seven *Nations in Transit* categories—the highest number in the study. Ukraine's ratings improvements in the categories of electoral process, civil society, independent media, and judicial framework and independence were substantial owing to the extraordinary challenges the country overcame in late 2004 and the success of pro-democracy supporters in reinvigorating and jumpstarting democratic political development in the country. As in previous years, democracy in Bosnia-Herzegovina continued its slow advance, with more modest ratings improvements noted in the categories of electoral process, independent media, judicial framework and independence, and corruption. It is not clear how Bosnia-Herzegovina will perform as international oversight diminishes.

Russia and Azerbaijan experienced the most substantial declines in ratings for 2004 owing to the efforts of presidents in both countries to consolidate authoritarian-based governments. In Azerbaijan, fraudulent municipal elections, pressure on civil society groups and the media, and government intimidation of the judiciary led to falling ratings for electoral process,

civil society, independent media, and judicial framework and independence. Russia experienced even more substantial declines in the same categories due to fraudulent presidential elections, the revocation of direct elections for governors, the tightening of control over civil society and the media, and the blatant manipulation of the court system for political ends. In both countries, leadership continues to give lip service to supporting democratic practices but consistently take actions to the opposite. Russia's anti-democratic performance in 2004 stands in stark contrast to the pro-democratic changes noted in neighboring Ukraine.

Overall, improvements outpaced setbacks in ratings in *Nations in Transit 2005*. Changes by category were documented as follows:

Electoral Process

- (+) Nine countries or territories experienced ratings improvements for electoral process: Bosnia-Herzegovina, Croatia, Georgia, Kosovo, Macedonia, Montenegro, Serbia, Slovakia, and Ukraine.
- (-) Five countries or territories experienced declines in electoral process: Azerbaijan, Belarus, Poland, Russia, and Tajikistan.

Civil Society

- (+) Eight countries or territories showed gains for civil society: Albania, Bulgaria, Kosovo, Latvia, Montenegro, Romania, Tajikistan, and Ukraine.
- (-) Three countries or territories experienced setbacks for civil society: Azerbaijan, Russia, and Slovenia.

Independent Media

- (+) Seven countries or territories experienced improvements for independent media: Bosnia-Herzegovina, Czech Republic, Kyrgyzstan, Poland, Serbia, Slovenia, and Ukraine.
- (-) Eight countries or territories showed declines in independent media: Albania, Armenia, Azerbaijan, Georgia, Hungary, Romania, Russia, and Tajikistan.

New Governance Ratings

- Eight countries or territories showed better national democratic governance than local democratic governance: Armenia, Croatia, Estonia, Georgia, Hungary, Latvia, Slovakia, and Ukraine.
- Thirteen countries or territories showed better local democratic governance than national democratic governance: Albania, Belarus, Czech Republic, Kazakhstan, Kosovo, Kyrgyzstan, Montenegro, Poland, Romania, Serbia, Slovenia, Tajikistan, Uzbekistan.
- Eight countries or territories received the same ratings for national and

local democratic governance: Azerbaijan, Bosnia-Herzegovina, Bulgaria, Lithuania, Macedonia, Moldova, Russia, and Turkmenistan.

Judicial Framework And Independence

- (+) Nine countries or territories had ratings improvements in this category: Bosnia-Herzegovina, Estonia, Kosovo, Latvia, Macedonia, Romania, Slovenia, Ukraine, and Uzbekistan.
- (-) Seven countries experienced setbacks in their ratings for this category: Albania, Armenia, Azerbaijan, Georgia, Moldova, Poland, and Russia.

Corruption

- (+) Five countries or territories showed improvements in their ratings for corruption: Bosnia-Herzegovina, Bulgaria, Georgia, Romania, and Slovakia.
- (-) Four countries or territories showed regression in their ratings for corruption: Belarus, Lithuania, Poland, and Turkmenistan.

Fighting corruption remains one of the most significant challenges for all countries and territories covered by *Nations in Transit*. Even among the new EU member, problems of both petty and high-level corruption continue to come to light, with *Nations in Transit* ratings worsening for two of these countries—Lithuania and Poland—in the latest study. The fact that underlying systems are still not in place or are unable to tackle corruption suggests that the EU's incentives may be insufficient for new members to moderate behavior to meet expected standards of good governance.

In the 2004 edition of *Nations in Transit*, Freedom House introduced a new Democracy Score to enhance its ability to compare and interpret change in the countries under study. The latest democracy scores generally follow a previously established pattern in which the new EU members hold steady, the countries of the Balkans exhibit slow but sustained progress, and the 12 non-Baltic former Soviet states continue a backward slide. Two Democracy Scores yielded a change in regime classification between 2004 and 2005: Moldova, which moved from Transitional Government or Hybrid Regime to Semiconsolidated Authoritarian Regime, and Macedonia, which moved from Transitional Government or Hybrid Regime to Semiconsolidated Democratic Regime. Among these 12 post-Soviet countries, only Ukraine showed any meaningful positive change in the trajectory of its Democracy Score. Georgia's Democracy Score remained the same, reflecting both the successes and difficulties the country's new leadership has met in consolidating the gains of the Rose Revolution. As *Nations in Transit* analyst Ghia Nodia puts it, the necessity of "strengthening the state [in 2004] was accompanied by certain setbacks in democratic freedoms and the balance of political power....The new government, eager to maintain the momentum of revolutionary change

and achieve fast results, has not always respected existing laws and procedures in pursuing its policies.”

Nations in Transit 2005: What the findings say

Three important themes emerge from the findings of *Nations in Transit 2005*. First, the results point to the renewed potential for the peaceful spread of liberal democracy to former Soviet countries currently suffering under corrupt and authoritarian regimes. Second, they highlight the need for clear and consistent focus on democratic consolidation in the Balkans. Third, they suggest that the new members of the European Union should no longer be considered “in transit” to democracy.

Prospects for a New Democratic Spring. The extraordinary return of Ukraine to the path of freedom in 2004 may have opened the door to a new democratic spring in the 12 non-Baltic post-Soviet states. Under the leadership of President Leonid Kuchma, Ukraine had found itself on a decade-long downward spiral into authoritarianism. Rigged elections, a stifled media, a judicial system beholden to the executive, and rampant corruption had made a mockery of the democratic principles espoused in Ukraine’s Constitution.

In 2004, Ukraine turned an important page in its history as an independent state when thousands of peaceful protesters took to the streets in November and December to denounce the results of the country’s presidential elections. Leonid Kuchma was not on the ballot, but the official tally handed victory to Viktor Yanukovich, a former prime minister and Kuchma’s preferred successor, in a second-round vote against reformer and opposition candidate Viktor Yushchenko. When domestic and international observers deemed the vote fraudulent, citizens took to the streets clad in orange—Yushchenko’s campaign color—to defend their basic political rights and demand another vote. The Supreme Court rejected the official results and called for a new election. Yushchenko ultimately proved victorious.

Ukraine’s Orange Revolution—as the events of 2004 came to be known—take on added significance when considered in the context of the pro-democracy Rose Revolution that occurred in Georgia a year earlier. Although some observers viewed the peaceful mobilization of Georgia’s pro-democracy advocates to denounce fraudulent parliamentary elections as a turning point in the country’s political development, there was little sense that the events of 2003 were more than an aberration in a part of the world increasingly hostile to basic political rights and civil liberties. Overall, the democracy gap between Central Europe and Eurasia appeared to be widening, not narrowing.

Although Ukraine’s Orange Revolution now casts doubt on this gloomy assessment and points to the potential for a new democratic wave, substantial obstacles still stand in the way. For example, overall setbacks in *Nations in*

Transit ratings for the 12 non-Baltic Soviet states outnumber improvements 2 to 1 for the period covered by this report. In Belarus, for example, the rating for electoral process bottomed out at 7.00 owing to a rigged referendum that lifted presidential term limits and, according to analyst Vitali Silitski, “eliminated the last legal restrictions on [President Aleksandr Lukashenka’s] authority.” Likewise, in Azerbaijan ratings for electoral process, independent media, and judicial framework and independence reached their lowest levels yet—at 6.25, 6.00, and 5.75, respectively—owing to flawed municipal elections, political pressure on independent media, and government intimidation of the judiciary. Turkmenistan, consistently the worst performer in the *Nations in Transit* series, pushed ever closer to receiving a 7.00 in all categories covered when its rating for corruption dropped to 6.50 owing to growing levels of embezzlement and bribery. Even in Georgia, where democratic forces swept to victory in parliamentary elections and new anticorruption policies proved effective, NIT analyst Ghia Nodia finds that “independent media became less critical and pluralistic” while “prosecutors became less likely to follow due process.”

Nations in Transit documents the most significant setbacks in 2004 in Russia, thus continuing a pattern of decline since Vladimir Putin became president in 2001 and promised to promote democracy and clean up the chaos of the Yeltsin years. Instead, after five years in office, Putin’s self-described “dictatorship of law” has squelched the political rights and civil liberties of Russia’s citizens and failed to deliver on promises to increase stability and create conditions for sustained economic growth and prosperity.

The Putin years offer irrefutable evidence that stability and prosperity cannot be achieved at the expense of fundamental rights and the rule of law. Unfortunately, Russia did not change course in 2004, with *Nations in Transit* analyst Robert Orttung documenting a host of incidents. According to Orttung, “In 2004, Putin’s antidemocratic policies became more pronounced. In response to a wave of bloody terrorist attacks, culminating in the school siege at Beslan in September that left 330 civilians dead, the president accelerated his campaign to concentrate power in the Kremlin by revoking the population’s right to elect governors directly. ...Throughout the year, the Kremlin [also] continued tightening the screws on media and civil society.” Orttung also points to the entrenchment of a judicial and law enforcement system that is rife with political manipulation and corruption.

The fate of Russian democracy has important implications for the rest of the former Soviet region. From Azerbaijan to Belarus to Kazakhstan and Uzbekistan, Moscow continues to wield substantial political and economic influence and its failure to make democracy a priority at home has certainly prevented it from playing a constructive role in supporting democratic practices in the countries of the so-called “near abroad.”

In addition, geopolitical considerations, such as the strategic importance of Russia and the Central Asian states in the global war on terrorism, have resulted in mixed signals being sent to authoritarian leaders about the importance of democratic reforms to long-term and stable relations with the United States. Secretary of States Condoleezza Rice took an important step in June 2005 when she stated during a speech in Cairo that “For 60 years, my country, the United States, pursued stability at the expense of democracy...in the Middle East—and we achieved neither. Now, we are taking a different course. We are supporting the democratic aspirations of all people.” A similarly definitive statement—backed up by renewed commitments to democracy assistance—should be directed to the 12 non-Baltic former Soviet States and the millions of democracy advocates and citizens who still struggle for their basic political rights and civil liberties.

The Russian and Ukrainian examples of 2004 represent clear choices in the direction Eurasia can turn. For a new democratic spring to firmly take root, however, democracy advocates from Astana to Minsk will require external assistance and support. In particular, leaders concerned with promoting democratic practices and good governance in the region should be encouraged to continue:

- *Assisting governments in building democratic institutions and consolidating important gains.* Georgia, for example, has been deemed eligible for enhanced support under the Millennium Challenge Account, the U.S. Government effort to make additional levels of foreign assistance available to governments that meet established criteria for ruling justly, combating corruption, and investing in the health and social welfare of their citizens. At a time when Georgia’s new pro-reform government is being challenged to meet the expectations and demands of democratic consolidation, the United States should make every effort to deliver much needed assistance for Tbilisi.
- *Engaging and providing incentives to countries whose leaders communicate a desire for greater integration with Western democracies.* In Moldova, for example, President Vladimir Voronin has communicated a desire for closer ties with the Western democracies. At the same time, though, the *Nations in Transit* series has observed antidemocratic tendencies in the current leadership, including increasing levels of pressure on civil society, the media, and the judiciary. The European Union and the United States should work closely to coordinate the right mixture of carrots and sticks to encourage improved democratic policies and practices in Moldova.
- *Supporting civil society and nonviolent civic movements.* In 2004, thousands of Ukrainian citizens took to the streets against fraudulent

presidential elections and through sustained nonviolent protest changed the course of the country's history. The real heroes of those momentous winter days are the students, pro-democracy activists, and ordinary citizens who had finally had their fill of a government that paid lip service to democratic principles. External support organizations had their part to play and should be encouraged to maintain an active presence in the post-Communist space. These include the international media that kept the spotlight on Ukraine for days, the Western governments and NGOs that had provided assistance and training to pro-democracy advocates and independent media in Ukraine for more than a decade, and other former Communist states—especially Poland—that stood by their neighbor and helped bring about a peaceful end to the standoff.

- *Devising new strategies to deal with consolidated authoritarian regimes and countries that are backsliding.* The dramatic changes in Georgia and Ukraine have prompted two divergent lines of response. On the one hand, democracy advocates in Kyrgyzstan, Uzbekistan, and other post-Soviet states have taken inspiration from their counterparts in Tbilisi and Kyiv. According to *Nations in Transit* analyst Bhavna Dave, for example, the Rose and Orange Revolutions have “revitalized the opposition and civil society” in Kazakhstan and generated “unanticipated challenges” for President Nursultan Nazarbaev in the January 2006 presidential campaign. On the other hand, officials in these countries see the recent events in Georgia and Ukraine as a threat to their power, and they have begun to respond accordingly.

As the May 2005 violence in Andijan, Uzbekistan, makes clear, citizens in the post-Soviet states may be willing now more than ever to push back against authoritarian regimes. This, in turn, suggests a growing urgency for the development of new strategies to promote peaceful democratic openings within some of the world's most repressive states.

Renewing Focus on Democratic Consolidation in the Balkans.

In *Nations in Transit 2005*, the average ratings for the Balkan states improved year over year in four out of seven categories surveyed: electoral process (from 3.42 to 3.19), civil society (from 3.19 to 3.06), judicial framework and independence (from 4.36 to 4.28), and corruption (from 4.97 to 4.89). The average rating for independent media held steady at 3.94. (This is the first year that ratings for national democratic governance and local democratic governance were included.)

Overall, the findings of *Nations in Transit 2005* suggest that there was increased stability in the Balkans in the period under study. The findings also underscore a previously established pattern of slow, albeit often unsteady,

democratic development and continue to suggest a positive long-term outlook for democracy in the region.

Nevertheless hurdles remain. For example, *Nations in Transit 2005* highlights the susceptibility of the judiciary to political influence in Albania, high ethnic tensions and the continued incidence of communal violence in Macedonia, the use of political pressure against independent media in Romania, and the lack of substantial success in fighting corruption in Serbia. In addition, the outbreak of ethnic violence in Kosovo in 2004 underscored the fragility of peace in the Balkans and the imperative of resolving the region's weighty territorial questions.

Taken as a whole, these and other challenges point to the need for a clearer and more consistent focus on democratic consolidation in the Balkans and suggest several potential policy steps. First, European and U.S. leaders must make clear that entry into NATO and the EU remains open to the Balkans. The diversion of attention to the passage of an EU constitution and to democracy building in Iraq should not become excuses for delaying the admission of any Balkan country that meets the criteria for membership.

Second, clear goals and timelines must be established for resolving important territorial and governance issues in the Balkans. For example, the state union between Serbia and Montenegro is clearly in trouble, and the government of Montenegro is actively pursuing a referendum on independence in 2006. As *Nations in Transit* analyst Dusan Pavlovic suggests, "the confederal character of the State Union's joint institutions has given preference to the priorities of the individual member states and has allowed them to block decisions deemed contrary to their interests. This, in turn, has resulted in poor governance and transformed the joint state into an obstacle to—rather than a vehicle for—[European] integration."

The status of Kosovo also demands timely resolution, with a failure to do so risking further instability in the region. As *Nations in Transit* analyst Arben Qirezi writes, the outbreak of ethnic violence in Kosovo in March 2004 "threatened to undo four years of post-conflict development." Although the situation was quickly stabilized and the fighting halted, Qirezi argues that "high interethnic tensions continue to test the foundations of the governmental system established by the UNMIK. This in turn highlights the lack of sustainable UN policies in Kosovo and the need for the timely resolution of its final status."

Similar challenges still exist for Bosnia-Herzegovina, where, according to *Nations in Transit* analyst Florian Bieber, "interethnic trust remains low, even if it has improved in recent years, and political parties continue to derive legitimacy from antagonistic, ethnically exclusive political agendas."

Bieber goes on to note that "the risk of a renewed conflict appears to be small" but suggests that "the long-term stability of the country depends

to a large degree on ... the ability of Bosnia to participate in the EU integration process.” Another key to Bosnia-Herzegovina’s democratic success is the ongoing transfer of responsibilities from international to domestic authorities.

Third, continued efforts should be made to develop regional approaches to strengthening, mobilizing, and supporting democratic policies and practices in the Balkans. Already, the European Union, the Stability Pact, and international NGOs are working to encourage regional cooperation in the pursuit of political and economic reforms. Yet given current EU and U.S. distractions, as well as generally declining levels of international donor support for the region, the success of democracy will increasingly depend on the ability of the Balkan countries themselves to keep the democratic vision in focus and thus further processes of Euro-Atlantic integration.

The New EU Members: No Longer “In Transit.” The findings of *Nations in Transit 2005* make clear that the EU’s newest members must continue to deepen and widen the reach of democracy within their borders. Yet formal enlargement of the EU in 2004 acknowledges the tremendous success of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia in consolidating vibrant democratic states and suggests that the time has come to declare them no longer “in transit.” Going forward, the EU’s newest members will continue to offer meaningful and measurable benchmarks for assessing progress and setbacks in the other 20 post-Communist states and territories. In addition, these countries are likely to play an increasingly active role in promoting democracy outside their borders. In the Czech Republic, for example, civil society leaders have assumed an important leadership position in advancing the cause of democracy and human rights in Cuba. As Petr Pithart, chairman of the Czech Senate and a former dissident, noted in 2004, “Now we can repay our debt, we can pay it back to those who need our solidarity today.”*

Likewise, as *Nations in Transit* analyst Bartosz Jalowiecki writes, Poland “worked hard in 2004 to support a democratic election process in neighboring Ukraine... [demonstrating] both the vibrancy of Polish civil society and the country’s commitment and sense of responsibility to promote further democratic expansion in Europe.” Indeed, it is more than symbolic that Viktor Yushchenko invited former Polish president and celebrated Solidarity trade union leader Lech Walesa to mediate in Ukraine’s disputed presidential election. As Yushchenko noted at the time, “I am convinced that if [Walesa] came to Kiev it would be an exceptional moment for my country which would give new strength to the opposition, and would inspire us to fight

*“Czech Rights Summit Hails Cuban Dissidence,” Agence France Presse, September 17, 2004.

for the final victory for democracy.”**

Yushchenko was right, and with the assistance of Walesa, Vaclav Havel and other international leaders, Ukraine succeeded in returning to democracy’s path. Similar efforts by the EU’s newest members to promote democratic openings and to share their knowledge and experience of transition with Belarus, Moldova, Georgia, and other eastern neighbors should be vigorously encouraged and supported. A new democratic spring from Central Europe to Eurasia could hang in the balance.

**“Ukraine Opposition Leader Calls on Poland’s Walesa to Mediate,” Agence France Presse, November 23, 2004.

Nations in Transit 2005

Country Summaries*

WESTERN COMMONWEALTH OF INDEPENDENT STATES (CIS)

6.64 Belarus. In 2004, President Alexander Lukashenka continued to tighten his grip on power in Belarus. A referendum on lifting presidential term limits defined the year's political agenda. Held concurrently with parliamentary elections, the rigged vote eliminated the last legal restrictions on presidential authority. Pro-government candidates took all seats in the lower house of the Parliament. The government's attack on academic freedom reached new heights with the closure of the European Humanities University. The murder of a leading independent journalist highlighted the dangers faced by independent reporters, while the imprisonment of two opposition leaders underscored the role of the judiciary as subordinate to the presidency. Evidence of the serious problems related to corruption continued to mount. The *Nations in Transit 2005* ratings for electoral process and corruption both deteriorate.

5.61 Russia. Russia experiences the greatest decline of any country covered in *Nations in Transit 2005*, with ratings falling in the categories of electoral process, civil society, independent media, and judicial framework and independence. In response to a wave of bloody terrorist attacks, culminating in the school siege at Beslan, Putin accelerated his campaign to concentrate power by revoking the population's right to elect governors directly. Putin's associates expanded their efforts to bring Russia's lucrative energy sector under their personal control, destroy-

*The 2005 Democracy Scores are sorted within regions from worst to best performers. The Democracy Score represents an average of subcategory ratings for electoral process; civil society; independent media; national democratic governance; local democratic governance; judicial framework and independence; and corruption. *Nations in Transit* ratings and scores are based on a 1 to 7 scale, with 1 representing the highest level of democratic development and 7 the lowest.

ing Yukos, one of Russia's largest companies. The Kremlin continued tightening the screws on media and civil society and manipulating the court system for political ends. Having won a second four-year term in 2004 in fraudulent elections, Putin stated that he would step down in 2008. However, many speculate that he will rewrite the Constitution to extend his stay in office.

5.07 Moldova. Major events in 2004 were shaped by the anticipation of parliamentary elections in 2005 and tensions over Transnistria. During the year, the opposition crystallized around a broad coalition of parties, while civil society groups and independent media showed willingness to oppose governmental pressure and contribute to a more or less fair electoral campaign. However, government authorities failed to improve their attitude toward independent groups or decrease pressure on independent media. Evidence of further deterioration within the judicial system—including political pressure on the Constitutional Court and other judicial bodies and an admission by the Ministry of Interior that its personnel have committed human rights abuses—results in a slight setback in Moldova's *Nations in Transit 2005* rating for judicial framework and independence. Tensions around Transnistria increased in 2004, with rights abuses in the region directed against Moldovan schools and Russia showing an increasingly assertive stance regarding its military presence in the region.

4.50 Ukraine. In 2004, Ukraine overcame extraordinary challenges to revitalize and jumpstart democratic political development. The country showed the most significant progress of any country covered in *Nations in Transit 2005*, with ratings improving substantially in four categories: electoral process, civil society, independent media, and judicial framework and independence. Ukraine's trend of national development was changed dramatically in late 2004, when people voted for democratic changes and after massive fraud in the second voting efficiently protected their choice in peaceful rallies lasting seventeen days. The falsified vote was canceled by the Supreme Court, and pro-Western democratic leader Victor Yushchenko was elected. The presidential campaign achieved the highest level of civil engagement in Ukraine since the country's independence. Likewise, the events could hardly have happened without a breakthrough in the media sphere, where some of the largest TV channels refused to accept censorship and resumed a balanced news policy. Ukraine's judiciary gained increased independence in 2004, mainly owing to the role of the Supreme Court in the aftermath of the election fraud. Pervasive corruption remained Ukraine's biggest problem.

THE CAUCASUS

- 5.86 Azerbaijan.** President Ilham Aliyev consolidated his authority in 2004. Democratic performance further deteriorated, resulting in declining *Nations in Transit* ratings in four categories: electoral process, civil society, independent media, and judicial framework and independence. Observers deemed the December municipal election fraudulent and below international standards. Civil society groups continued to face registration, tax, and funding problems, as well as government intervention into grassroots activity. The media still operated under pressure, with most opposition outlets facing substantial financial hardship in the face of unreasonably high libel penalties. The government persisted in intimidating the judiciary through politically driven investigations and other forms of harassment. Corruption continued to permeate society.
- 5.18 Armenia.** Widespread corruption and weak governance remained defining features of Armenia's political system in 2004. Little progress was made in reducing the powers of the presidency, despite international pressure. The opposition continued to press for a referendum vote of confidence in President Robert Kocharian, but its weak parliamentary position and the general public's disillusionment with the political class prevented success. A disturbing rise in the number of assaults on journalists results in a deterioration of Armenia's *Nations in Transit 2005* rating for independent media. The use of so-called administrative arrests, torture within the police system, and a new Law on Demonstrations in 2004 results in a lower rating in the category of judicial framework and independence.
- 4.96 Georgia.** In 2004, the government was challenged to respond to the high expectations for change that resulted from the pro-democracy Rose Revolution of 2003. Contrasting positive and negative developments result in improved *Nations in Transit 2005* ratings for electoral process and corruption, yet worsening ratings for independent media and judicial framework and independence. Early in 2004, the political forces behind the Rose Revolution united into a single political party that quickly consolidated its power in free and fair elections and embarked on an ambitious reform program. Resolute anticorruption measures, for example, included the arrest of several corrupt officials and legislative changes to facilitate the prosecution of corruption cases. At the same time, independent media became less critical and pluralistic in 2004, and prosecutors became less likely to follow due process. The courts rarely dared to disagree with the prosecution.

CENTRAL ASIA

- 6.93 Turkmenistan.** In 2004, the Turkmen government continued its long-standing practices of repressing political opponents, maintaining strict state control over the media and the Internet, denying civil rights and liberties, undertaking regular purges of senior governmental officials, and maintaining a foreign policy characterized by isolationism. The government reversed legislation criminalizing the activities of both unregistered nongovernmental organizations and unregistered religious communities and abandoned its policy of requiring its citizens to obtain exit visas to travel abroad. Nevertheless, President Niyazov's authoritarian regime remained firmly entrenched. The accelerated pace at which governmental officials are replaced has led to steadily rising levels of embezzlement and bribery. As a result, Turkmenistan's *Nations in Transit 2005* rating for corruption deteriorates slightly.
- 6.43 Uzbekistan.** Newly emerged terrorist threats and growing Islamic radicalism hardened government policies against the opposition in 2004 and further limited space for political pluralism and civic activism. The right to freedom of assembly, for example, remained severely restricted, particularly on the eve of the parliamentary elections. These elections failed to offer real political contest because the government denied registration to all opposition political parties. Fears that civil resistance similar to that in Georgia and Ukraine could be repeated in Uzbekistan prompted Uzbek officials to introduce more restrictions for domestic and international civic organizations. On the positive side, Uzbekistan made its first steps in addressing the systematic use of torture by improving oversight of law enforcement agencies and the penitentiary system, instigating provisions for inadmissibility of coerced evidence, and opening a dialogue with human rights activists. Owing to these developments, Uzbekistan's *Nations in Transit 2005* rating for judicial framework & independence receives a slight improvement.
- 6.29 Kazakhstan.** The 2004 elections to Parliament affirmed the growing consolidation of President Nursultan Nazarbaev's authoritarian regime. Beneath the overt indicators of socioeconomic and political stability, discord is growing, along with a mounting power struggle among figures and groups within the establishment. Although electoral legislation was improved and opposition candidates enjoyed more freedom to campaign, the 2004 parliamentary elections still fell short of international standards. Likewise, although 2004 saw some marginal improvements in the area of independent media, a systematic media bias in favor of pro-regime parties remained in place. Unchanged was the subordination of the judiciary to political interests and the presence of

rampant corruption at all levels of society. There were no changes in Kazakhstan's *Nations in Transit 2005* ratings.

5.79 Tajikistan. In 2004, the government began a harassment campaign against active opposition parties and continued to prevent the registration of new opposition groups. It also arrested current and former officials who may have posed obstacles to President Imamali Rahmonov's re-election plans. The government maintained its dominance over the media and put forth obstacles for outlets associated with the opposition. These events resulted in a worsening of *Nations in Transit 2005* ratings for both electoral process and independent media. Civil society actually strengthened and expanded during 2004, thus leading to an improvement in Tajikistan's rating for this category. For example, women-run NGOs successfully introduced legislation against domestic violence and human trafficking. While NGOs welcomed the introduction of a moratorium on capital punishment, they acknowledged the large amount of reform still necessary in the country's judicial system. Corruption remained widespread.

5.64 Kyrgyzstan. With President Askar Akaev having expressed his intention to step down in 2005, preparations for his succession dominated political developments in 2004. Some observers grew optimistic that fissures in the ruling elite and new linkages between opposition politicians and renegades from the president's team would bring about a democratic transfer of power. However, as the year closed, President Akaev issued statements to intimidate the opposition and rally the population behind the ruling elite. Pro-government newspapers intensified their campaign against foreign-supported nongovernmental organizations. However, there were fewer lawsuits against opposition newspapers, and a private printing press continued to offer an alternative to the state-run printing house. These conditions lead to a slight improvement in Kyrgyzstan's *Nations in Transit* rating for independent media. Despite major changes in judicial personnel and a diminution of clan and financial influences on judicial decision making, it was not clear that the organizational revamping of the court system would alter judicial behavior. Corruption remained widespread.

THE BALKANS

4.18 Bosnia-Herzegovina. Modest advances in 2004 in the democratic performance of Bosnia-Herzegovina result in improved *Nations in Transit 2005* ratings in the categories of electoral process, independent media, judicial framework & independence, and corruption. The unifi-

cation of Mostar ended the administrative division of the city between Bosniak- and Croat-dominated municipalities and represented a major symbolic step in overcoming a 10-year stalemate in the city. Yet free and fair elections for municipal councils and mayors continued the reign of nationalist parties in most parts of Bosnia. Reforms in the public broadcasting system included the establishment of a state-level public television broadcaster. The unification of the High Judicial and Prosecutorial Councils into one state-level independent body supervising the appointment of judges and prosecutors provided a foundation for greater professional competency. The Serb Republic (RS) government acknowledged war crimes in Srebrenica, and the first suspected war criminals indicted by the International Criminal Tribunal for the Former Yugoslavia were arrested by the RS police. Auditing organizations showed increasing success in revealing corruption and abuse of funds.

4.04 Albania. Strained efforts to preserve the fragile equilibrium among different factions within the ruling Socialist Party severely limited the ability of the government to curb corruption, push for reforms, and accelerate EU integration in 2004. Civil society organizations became more active, mobilizing popular support through public protests on issues ranging from ecology to consumer rights. Courts ruled against independent media and in favor of important politicians in a number of important cases, and, in general, the judiciary remained susceptible to political influence. The events of 2004 lead to an improved *Nations in Transit 2005* rating in the category of civil society but worsening ratings in the categories of independent media and judicial framework and independence.

3.89 Macedonia. In 2004 Macedonia formally applied to join the EU and began postconflict reforms in earnest. The most important change was the passage of local government reforms that redrew municipal borders and sought to provide for more equitable political representation of minorities at the local level. In general, though, social tensions remained high and sparked roadblocks, street riots, and other forms of communal violence during the year. Local media organizations remained divided along ethnic lines and many were found to have violated coverage regulations during the 2004 presidential campaign to replace President Boris Trajkovski, who died in an airplane accident in February. Branko Crvenkovski of the ruling Social Democratic Alliance of Macedonia (SDSM) was elected in voting deemed generally consistent with international standards. Owing to the successful implementation of the elections and the favorable assessments from international

observers, Macedonia's *Nations in Transit 2005* rating for electoral process improves. Improvements to the citizenship law and in the legal protection of citizens' rights, as well as the passage of major legislation guaranteeing the representation of national minorities and the use of minority languages leads to an improvement in Macedonia's rating for judicial framework and independence.

- 3.75 Croatia.** In 2004, Prime Minister Ivo Sanader signed agreements with representatives of the national minorities, initiated judicial reform, and extradited to The Hague eight suspects accused of war crimes and atrocities during the conflicts of the 1990s. Croatia was also granted EU membership candidacy status but received a warning from Brussels that significant reform challenges lay ahead. The government took its first steps toward systemic judicial reform in 2004 and began preparing to deal with war-crimes cases expected to be transferred from the Hague. Although the Sanader government took office declaring its commitment to greater transparency, it was drawn into several affairs during the year that shook public confidence. With presidential elections set for January 2005, a novelty of the race during 2004 was a new law aimed at increasing transparency in campaign financing. Despite some noted deficiencies, the overall effect of the new law leads to an improved *Nations in Transit 2005* rating for electoral process.

Serbia and Montenegro (including Kosovo).

- 3.75 Serbia.** In 2004, a four-party coalition formed a new government and Vojislav Kostunica was named prime minister of Serbia. The government further eased pressure on the media in 2004—a lingering effect of the 2003 state of emergency—and pushed through long-awaited amendments to Serbia's electoral legislation that finally enabled the election of a president. These developments lead to improved *Nations in Transit 2005* ratings for electoral process and independent media. However, the government failed to create consensus for passing a new constitution, remained reluctant to cooperate with the International Criminal Tribunal for the Former Yugoslavia, and contributed little to resolving problems related to Kosovo and its future status. The government was also unsuccessful in fighting corruption.
- 3.79 Montenegro.** The government of Montenegro focused its efforts in 2004 on undermining the State Union's joint institutions and laying the groundwork for a 2006 referendum on independence. The opposition's boycott of parliament, which had aimed since 2003 to weaken the government of Prime Minister Milo Djukanovic, foundered when the Socialist People Party broke ranks and returned to the parliament. The Montenegrin government remained under the constant watch of NGOs,

which now appear to be more influential than the opposition political parties. Owing to the civil sector's growing activism and its potential for increased influence on policymaking, Montenegro's *Nations in Transit 2005* rating for civil society improves. Its electoral process rating also improves slightly due to the successful conduct of local elections.

- 5.32 Kosovo.** The year 2004 in Kosovo was marked by an outbreak of ethnic violence that threatened to undo four years of post-conflict development. Although the fighting was quickly halted, the incident forced the international community to rethink its policy and ultimately to accelerate the transfer of powers to Kosovo institutions. Positive developments are reflected in improved *Nations in Transit 2005* ratings for electoral process, civil society, and judicial framework and independence. Elections to the Kosovo Assembly were free and fair; NGOs were more active and engaged in policy-oriented activities; and the new Provisional Criminal Code provided improved protections for the rights of the accused. Minority access to Kosovo courts was enhanced owing to the opening of municipal court liaison offices in Serb-majority areas. Anticorruption efforts were undermined by weak transparency and inconsistent implementation of corruption-related legislation.
- 3.39 Romania.** Romania's *Nations in Transit 2005* ratings for civil society, judicial framework & independence, and corruption all improve slightly owing to events in 2004. However, the rating for independent media worsens. Civil society boosted its activity and played an instrumental role in identifying parliamentary election candidates associated with corruption. The government rescinded the prosecutor-general's right to extraordinary appeal, which for most of the post-Communist transition had provided the primary instrument for government interference with the Supreme Court. It also made some efforts to improve the regulatory framework of anticorruption, such as adopting a code of conduct for civil servants. Despite these improvements, radio and TV stations were subject to political pressure and Parliamentary and presidential elections followed a disputed campaign in which many irregularities were documented.
- 3.18 Bulgaria.** In 2004, Bulgaria officially became a NATO member, and the European Commission reconfirmed a target date of 2007 for the country's entry into the European Union. NGO presence in public life remained significant, with governmental structures, the National Assembly, and the media increasingly tapping the expertise of civil society groups. This positive trend results in an improvement in Bulgaria's *Nations in Transit 2005* rating for civil society. Bulgaria's continued efforts to deepen the regulatory and administrative framework for fighting corruption also lead to an improved rating in the category of

corruption. Nevertheless, the events of 2004 made clear that attention is still needed to reforming the judiciary, fighting corruption and organized crime, engaging the public in the political life of the country, and increasing media independence.

NEW EU MEMBERS

- 2.29 Czech Republic.** The Czech Republic's entry into the European Union (EU) in 2004 capped off an impressive push to meet the requirements of membership. Czech media showed improvement in 2004 in terms of political balance and overall quality—a trend that is noted with an improved *Nations in Transit 2005* rating for independent media. In the civil society sector, volunteerism and donations were both on the upswing. At the same time, it was a disappointing year for civic engagement in political processes, as low voter turnout tarnished all three of the country's elections. Although accession to the EU sparked the beginning of a revolution in the judicial sphere, the country still has serious work to do, such as speeding up court cases, combating discrimination, and safeguarding property rights. The level of corruption in the lives of ordinary citizens is slowly being reduced, but much of Czech society still believes that graft is widespread.
- 2.21 Lithuania.** In 2004, Lithuania joined NATO and became a member of the EU. In April, the Parliament removed President Rolandas Paksas from office on charges of violating the Constitution and his presidential oath. The scandal shook public and political confidence in the system of governance and confirmed concerns about rampant political corruption. These events lead to a slight worsening of Latvia's *Nations in Transit 2005* rating for corruption. The newly founded populist Labor Party won the most votes in parliamentary elections, beating the ruling Lithuanian Social Democratic Party (LSDP) and other established parties. No party secured a majority, and a coalition government was formed. The Constitutional Court delivered several pivotal rulings in 2004 on the presidential impeachment crisis and the duties of elected politicians. Legislation on nongovernmental organizations was overhauled, eliminating a number of restrictions that had impeded civil society's growth.
- 2.14 Latvia.** Expectations for economic growth and security were raised in 2004 by Latvia's entry into the European Union (EU) and its membership in NATO. In elections to the European Parliament, turnout was relatively low at 41.2 percent but significantly higher than in other new EU member states. There was a noticeable increase in the activity and visibility of NGOs in 2004, particularly among ethnic Russian groups.

Growing NGO influence on policymaking was also apparent. Latvia took giant steps in 2004 in creating an administrative court system and administrative code that will enable the participation of public organizations as “friends of the court” in trials. Criminal liability for defaming state officials was also removed. Positive developments like these result in improved *Nations in Transit 2005* ratings for civil society and judicial framework and independence.

- 2.00 Poland.** In 2004, after 15 years of transition and the implementation of difficult reforms, Poland joined the European Union. Although Poles have already started to feel and see the positive effects of membership, the country still has a variety of challenges to address. This fact is reflected in worsening *Nations in Transit 2005* ratings in three categories: electoral process, judicial framework & independence, and corruption. Poland’s rating for independent media improves. In 2004, Poles took part in elections to the European Parliament, but the turnout was only 20.9 percent. In addition, then prime minister Leszek Miller and President Kwasniewski both pledged to hold early parliamentary elections in the spring, yet voters were confused when balloting did not occur. The legal system is Poland’s weakest branch of government, and, despite frequent calls for reform, the changes in the judiciary appear to be largely cosmetic. While 2004 marked a breakthrough in bringing incidents of high-level corruption to light, the scale of the problem remained large and punishment remained lax. On a positive note, the release of official investigation reports into the Rywingate and Orlengate scandals contributed to an increase in the media’s independence.
- 2.00 Slovakia.** Slovakia’s democratic institutions were sufficiently stable in 2004. Although the government lost a formal majority in the Parliament, it continued to pursue a range of reforms, including unpopular socioeconomic measures. In April, Slovakia held free and fair presidential and European Parliament elections. Parliament passed an array of reform measures, including a new Law on Parliamentary Elections, a Law on Equal Treatment and Protection Against Discrimination, and a series of laws related to fiscal decentralization and the strengthening of control mechanisms of self-government. Parliament and the cabinet also adopted a constitutional Law on Conflicts of Interest. New laws on Slovak Television and Slovak Radio strengthened their independence. Owing to the positive developments described above, Slovakia’s *Nations in Transit 2005* ratings improve in the categories of electoral process and corruption.
- 1.96 Estonia.** In 2004, Estonia completed its “return to Europe,” joining the North Atlantic Treaty Organization (NATO) in March and

the European Union (EU) in May. The most glaring weaknesses in Estonian democratic development remained the sizeable portion of the population—mainly ethnic Russians—without citizenship and the relatively low levels of public trust in government institutions. Elections to the European Parliament were marked by low turnout. The new Code of Criminal Procedure took effect in 2004 and judges worked to familiarize themselves with the act. Owing to continued progress like this, Estonia's *Nations in Transit 2005* rating for judicial framework & independence improves slightly. Although the government and society remain relatively free from corruption, the public continues to perceive corruption as an area of real concern.

- 1.96 Hungary.** In 2004, Hungary continued to consolidate its democratic practices and institutions. Although the country experienced a turbulent constitutional challenge resulting in the resignation of the prime minister, political forces stood up for the rule of law and worked in concert toward the smooth formation of a new government. Issue-based NGO coalitions undertook a number of successful advocacy campaigns, but policy makers remained largely unreceptive to their work. Libel continued to be a criminal offense, and the high number of such suits raised concern. This, combined with manifest signs of the media's financial vulnerability, results in a slight worsening of Hungary's *Nations in Transit 2005* rating for independent media. In civil proceedings, government-sponsored public defenders began providing free or government-credited legal counsel to the needy. Stories of the fraudulent practices of public servants and politicians dominated the news.
- 1.68 Slovenia.** The year 2004 was marked by both successes and setbacks, as seen in a lowered *Nations in Transit 2005* rating for civil society yet improved ratings for independent media and judicial framework and independence. Voters for the first time elected EU Parliamentarians in 2004. They also ousted the incumbent government in free and fair parliamentary elections. In the run-up to elections, however, political parties and leaders were seen as improperly using civil society groups and civic initiatives to promote their agendas. In contrast, new laws and initiatives increased public access to the Internet by making it cheaper and more accessible. Also worth mentioning is the new e-Government portal offering citizens direct communication links to top decision-makers. Slovenia's judiciary showed important improvements in the protection of religious, community, and minority rights. Although progress was made on the adoption of a national anticorruption strategy, the state bureaucracy remained vast and red tape excessive.

TABLES

Table 1. Nations in Transit 2005**RATING AND SCORE SUMMARY**

Country, Territory	EP	CS	IM	NGOV	LGOV	JFI	CO	Democracy Score
Albania	3.75	3.25	4.00	4.25	3.25	4.50	5.25	4.04
Armenia	5.75	3.50	5.50	5.00	5.50	5.25	5.75	5.18
Azerbaijan	6.25	4.75	6.00	6.00	6.00	5.75	6.25	5.86
Belarus	7.00	6.75	6.75	6.75	6.50	6.75	6.00	6.64
Bosnia	3.25	3.75	4.00	4.75	4.75	4.25	4.50	4.18
Bulgaria	1.75	2.75	3.50	3.50	3.50	3.25	4.00	3.18
Croatia	3.00	3.00	3.75	3.50	3.75	4.50	4.75	3.75
Czech Rep.	2.00	1.50	2.00	2.50	2.00	2.50	3.50	2.29
Estonia	1.50	2.00	1.50	2.25	2.50	1.50	2.50	1.96
Georgia	4.75	3.50	4.25	5.50	6.00	5.00	5.75	4.96
Hungary	1.25	1.25	2.50	2.00	2.25	1.75	2.75	1.96
Kazakhstan	6.50	5.50	6.50	6.50	6.25	6.25	6.50	6.29
Kosovo	4.75	4.00	5.50	5.75	5.50	5.75	6.00	5.32
Kyrgyzstan	6.00	4.50	5.75	6.00	5.75	5.50	6.00	5.64
Latvia	1.75	1.75	1.50	2.25	2.50	1.75	3.50	2.14
Lithuania	1.75	1.50	1.75	2.50	2.50	1.75	3.75	2.21
Macedonia	3.00	3.25	4.25	4.00	4.00	3.75	5.00	3.89
Moldova	4.00	4.00	5.00	5.75	5.75	4.75	6.25	5.07
Montenegro	3.25	2.50	3.25	4.50	3.50	4.25	5.25	3.79
Poland	1.75	1.25	1.50	2.50	2.00	2.00	3.00	2.00
Romania	2.75	2.25	4.00	3.50	3.00	4.00	4.25	3.39
Russia	6.00	4.75	6.00	5.75	5.75	5.25	5.75	5.61
Serbia	3.25	2.75	3.25	4.00	3.75	4.25	5.00	3.75
Slovakia	1.25	1.25	2.25	2.00	2.25	2.00	3.00	2.00
Slovenia	1.50	1.75	1.50	2.00	1.50	1.50	2.00	1.68
Tajikistan	6.00	4.75	6.00	6.00	5.75	5.75	6.25	5.79
Turkmenistan	7.00	7.00	7.00	7.00	7.00	7.00	6.50	6.93
Ukraine	3.50	3.00	4.75	5.00	5.25	4.25	5.75	4.50
Uzbekistan	6.75	6.50	6.75	6.50	6.25	6.25	6.00	6.43
Average	3.83	3.39	4.15	4.40	4.28	4.17	4.85	4.15
Median	3.25	3.25	4.00	4.50	4.00	4.25	5.25	4.04

The ratings are based on a scale of 1 to 7, with 1 representing the highest level and 7 the lowest level of democratic development. The 2005 ratings reflect the period January 1 through December 31, 2004.

The Democracy Score is an average of ratings for Electoral Process (EP); Civil Society (CS); Independent Media (IM); National Democratic Governance (NGOV); Local Democratic Governance (LGOV); Judicial Framework and Independence (JFI); and Corruption (CO).

In Nations in Transit 2005, Freedom House provides separate ratings for Serbia, Montenegro, and Kosovo in order to provide a clearer picture of processes and conditions in the three different territories. Doing so does not indicate a position on the part of Freedom House regarding the territorial integrity of the State Union of Serbia and Montenegro; neither does it indicate a position on Kosovo's future status.

Table 2. Electoral Process

RATINGS HISTORY AND REGIONAL BREAKDOWN

	1997	1998	1999	2001	2002	2003	2004	2005
NEW EU MEMBERS								
Czech Rep.	1.25	1.25	1.75	1.75	2.00	2.00	2.00	2.00
Estonia	2.00	1.75	1.75	1.75	1.75	1.75	1.50	1.50
Hungary	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Latvia	2.00	2.00	1.75	1.75	1.75	1.75	1.75	1.75
Lithuania	2.00	1.75	1.75	1.75	1.75	1.75	1.75	1.75
Poland	1.50	1.25	1.25	1.25	1.25	1.50	1.50	1.75
Slovakia	3.75	3.50	2.50	2.25	1.75	1.50	1.50	1.25
Slovenia	2.00	2.00	2.00	1.75	1.75	1.50	1.50	1.50
Average	1.97	1.84	1.75	1.69	1.66	1.63	1.59	1.59
Median	2.00	1.75	1.75	1.75	1.75	1.63	1.50	1.63
THE BALKANS								
Albania	4.25	4.50	4.25	4.00	3.75	3.75	3.75	3.75
Bosnia	n/a	5.00	5.00	4.75	4.25	3.75	3.50	3.25
Bulgaria	3.25	2.75	2.25	2.00	2.00	2.00	1.75	1.75
Croatia	4.00	4.25	4.25	3.25	3.25	3.25	3.25	3.00
Macedonia	3.50	3.50	3.50	3.75	4.50	3.50	3.50	3.00
Romania	3.25	3.25	2.75	3.00	3.00	2.75	2.75	2.75
Yugoslavia	n/a	5.00	5.50	4.75	3.75	3.75	n/a	n/a
Serbia	n/a	n/a	n/a	n/a	n/a	n/a	3.50	3.25
Montenegro	n/a	n/a	n/a	n/a	n/a	n/a	3.50	3.25
Kosovo	n/a	n/a	n/a	n/a	n/a	n/a	5.25	4.75
Average	3.65	4.06	3.93	3.64	3.50	3.25	3.42	3.19
Median	3.50	4.25	4.25	3.75	3.75	3.50	3.50	3.25
NON-BALTIC FORMER SOVIET STATES								
Armenia	5.50	5.75	5.25	5.50	5.50	5.50	5.75	5.75
Azerbaijan	5.75	5.50	5.50	5.75	5.75	5.75	6.00	6.25
Belarus	6.00	6.25	6.75	6.75	6.75	6.75	6.75	7.00
Georgia	5.00	4.50	4.00	4.50	5.00	5.25	5.25	4.75
Kazakhstan	5.50	5.50	6.00	6.25	6.25	6.50	6.50	6.50
Kyrgyzstan	5.00	5.00	5.00	5.75	5.75	6.00	6.00	6.00
Moldova	3.25	3.50	3.25	3.25	3.50	3.75	4.00	4.00
Russia	3.50	3.50	4.00	4.25	4.50	4.75	5.50	6.00
Tajikistan	6.00	5.75	5.50	5.25	5.25	5.25	5.75	6.00
Turkmenistan	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
Ukraine	3.25	3.50	3.50	4.00	4.50	4.00	4.25	3.50
Uzbekistan	6.25	6.50	6.50	6.75	6.75	6.75	6.75	6.75
Average	5.17	5.19	5.19	5.42	5.54	5.60	5.79	5.79
Median	5.50	5.50	5.38	5.63	5.63	5.63	5.88	6.00

Table 3. Civil Society

RATINGS HISTORY AND REGIONAL BREAKDOWN

	1997	1998	1999	2001	2002	2003	2004	2005
NEW EU MEMBERS								
Czech Rep.	1.50	1.50	1.50	1.50	1.75	1.50	1.50	1.50
Estonia	2.25	2.25	2.50	2.25	2.00	2.00	2.00	2.00
Hungary	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Latvia	2.25	2.25	2.25	2.00	2.00	2.00	2.00	1.75
Lithuania	2.25	2.00	2.00	1.75	1.50	1.50	1.50	1.50
Poland	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Slovakia	3.25	3.00	2.25	2.00	1.75	1.50	1.25	1.25
Slovenia	2.00	2.00	1.75	1.75	1.50	1.50	1.50	1.75
Average	2.00	1.94	1.84	1.72	1.63	1.56	1.53	1.53
Median	2.13	2.00	1.88	1.75	1.63	1.50	1.50	1.50
THE BALKANS								
Albania	4.25	4.25	4.00	4.00	3.75	3.75	3.50	3.25
Bosnia	n/a	5.00	4.50	4.50	4.25	4.00	3.75	3.75
Bulgaria	4.00	3.75	3.75	3.50	3.25	3.25	3.00	2.75
Croatia	3.50	3.50	3.50	2.75	2.75	3.00	3.00	3.00
Macedonia	3.75	3.75	3.50	3.75	4.00	3.75	3.25	3.25
Romania	3.75	3.75	3.00	3.00	3.00	2.75	2.50	2.25
Yugoslavia	n/a	5.00	5.25	4.00	3.00	2.75	n/a	n/a
Serbia	n/a	n/a	n/a	n/a	n/a	n/a	2.75	2.75
Montenegro	n/a	n/a	n/a	n/a	n/a	n/a	2.75	2.50
Kosovo	n/a	n/a	n/a	n/a	n/a	n/a	4.25	4.00
Average	3.85	4.14	3.93	3.64	3.43	3.32	3.19	3.06
Median	3.75	3.75	3.75	3.75	3.25	3.25	3.00	3.00
NON-BALTIC FORMER SOVIET STATES								
Armenia	3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.50
Azerbaijan	5.00	5.00	4.75	4.50	4.50	4.25	4.50	4.75
Belarus	5.25	5.75	6.00	6.50	6.25	6.50	6.75	6.75
Georgia	4.50	4.25	3.75	4.00	4.00	4.00	3.50	3.50
Kazakhstan	5.25	5.00	5.00	5.00	5.50	5.50	5.50	5.50
Kyrgyzstan	4.50	4.50	4.50	4.50	4.50	4.50	4.50	4.50
Moldova	3.75	3.75	3.75	3.75	4.00	3.75	4.00	4.00
Russia	3.75	4.00	3.75	4.00	4.00	4.25	4.50	4.75
Tajikistan	5.50	5.25	5.25	5.00	5.00	5.00	5.00	4.75
Turkmenistan	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
Ukraine	4.00	4.25	4.00	3.75	3.75	3.50	3.75	3.00
Uzbekistan	6.50	6.50	6.50	6.50	6.75	6.50	6.50	6.50
Average	4.88	4.90	4.81	4.83	4.90	4.85	4.92	4.88
Median	4.75	4.75	4.63	4.50	4.50	4.38	4.50	4.75

Table 4. Independent Media

RATINGS HISTORY AND REGIONAL BREAKDOWN

	1997	1998	1999	2001	2002	2003	2004	2005
NEW EU MEMBERS								
Czech Rep.	1.25	1.25	1.75	2.00	2.50	2.25	2.25	2.00
Estonia	1.75	1.75	1.75	1.75	1.75	1.75	1.50	1.50
Hungary	1.50	1.50	2.00	2.25	2.25	2.25	2.25	2.50
Latvia	1.75	1.75	1.75	1.75	1.75	1.75	1.50	1.50
Lithuania	1.75	1.50	1.75	1.75	1.75	1.75	1.75	1.75
Poland	1.50	1.50	1.50	1.50	1.50	1.75	1.75	1.50
Slovakia	4.25	4.00	2.25	2.00	2.00	2.00	2.25	2.25
Slovenia	1.75	1.75	1.75	1.75	1.75	1.75	1.75	1.50
Average	1.94	1.88	1.81	1.84	1.91	1.91	1.88	1.81
Median	1.75	1.63	1.75	1.75	1.75	1.75	1.75	1.63
THE BALKANS								
Albania	4.75	4.75	4.50	4.25	4.00	4.00	3.75	4.00
Bosnia	n/a	4.75	5.00	4.50	4.25	4.25	4.25	4.00
Bulgaria	3.75	3.50	3.50	3.25	3.25	3.50	3.50	3.50
Croatia	4.75	4.75	5.00	3.50	3.50	3.75	3.75	3.75
Macedonia	4.00	4.00	3.75	3.75	3.75	4.00	4.25	4.25
Romania	4.25	4.00	3.50	3.50	3.50	3.75	3.75	4.00
Yugoslavia	n/a	4.50	5.75	4.50	3.50	3.25	n/a	n/a
Serbia	n/a	n/a	n/a	n/a	n/a	n/a	3.50	3.25
Montenegro	n/a	n/a	n/a	n/a	n/a	n/a	3.25	3.25
Kosovo	n/a	n/a	n/a	n/a	n/a	n/a	5.50	5.50
Average	4.30	4.32	4.58	3.96	3.71	3.79	3.94	3.94
Median	4.25	4.50	4.50	3.75	3.50	3.75	3.75	4.00
NON-BALTIC FORMER SOVIET STATES								
Armenia	5.25	5.25	4.75	4.75	4.75	5.00	5.25	5.50
Azerbaijan	5.50	5.50	5.50	5.75	5.50	5.50	5.75	6.00
Belarus	6.25	6.50	6.75	6.75	6.75	6.75	6.75	6.75
Georgia	4.50	4.25	3.75	3.50	3.75	4.00	4.00	4.25
Kazakhstan	5.25	5.50	5.50	6.00	6.00	6.25	6.50	6.50
Kyrgyzstan	5.00	5.00	5.00	5.00	5.75	6.00	6.00	5.75
Moldova	4.00	4.25	4.00	4.25	4.50	4.75	5.00	5.00
Russia	3.75	4.25	4.75	5.25	5.50	5.50	5.75	6.00
Tajikistan	6.25	6.00	5.75	5.50	5.75	5.75	5.75	6.00
Turkmenistan	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
Ukraine	4.50	4.75	5.00	5.25	5.50	5.50	5.50	4.75
Uzbekistan	6.50	6.50	6.50	6.75	6.75	6.75	6.75	6.75
Average	5.31	5.40	5.35	5.48	5.63	5.73	5.83	5.85
Median	5.25	5.38	5.25	5.38	5.63	5.63	5.75	6.00

Table 5. Governance

RATINGS HISTORY AND REGIONAL BREAKDOWN									
	1997	1998	1999	2001	2002	2003	2004	2005	2005
	GOV	NGOV*	LGOV*						
NEW EU MEMBERS									
Czech Rep.	2.00	2.00	2.00	2.00	2.25	2.25	2.25	2.50	2.00
Estonia	2.25	2.25	2.25	2.25	2.25	2.25	2.25	2.25	2.50
Hungary	1.75	1.75	2.50	3.00	3.00	2.50	2.50	2.00	2.25
Latvia	2.50	2.50	2.50	2.25	2.25	2.25	2.25	2.25	2.50
Lithuania	2.50	2.50	2.50	2.50	2.50	2.50	2.50	2.50	2.50
Poland	1.75	1.75	1.75	1.75	2.00	2.00	2.00	2.50	2.00
Slovakia	3.75	3.75	3.00	2.75	2.25	2.25	2.25	2.00	2.25
Slovenia	2.50	2.50	2.25	2.50	2.25	2.25	2.00	2.00	1.50
Average	2.38	2.38	2.34	2.38	2.34	2.28	2.25	2.25	2.19
Median	2.38	2.38	2.38	2.38	2.25	2.25	2.25	2.25	2.25
THE BALKANS									
Albania	4.75	5.00	4.75	4.25	4.25	4.25	4.25	4.25	3.25
Bosnia	n/a	6.00	6.00	6.00	5.50	5.25	5.00	4.75	4.75
Bulgaria	4.25	4.00	3.75	3.50	3.50	3.75	3.75	3.50	3.50
Croatia	4.00	4.00	4.00	3.50	3.50	3.75	3.75	3.50	3.75
Macedonia	4.00	4.00	3.00	3.75	4.25	4.50	4.00	4.00	4.00
Romania	4.25	4.00	3.50	3.75	3.75	3.75	3.75	3.50	3.00
Yugoslavia	n/a	5.00	5.50	5.25	4.25	4.25	n/a	n/a	n/a
Serbia	n/a	n/a	n/a	n/a	n/a	n/a	4.00	4.00	3.75
Montenegro	n/a	n/a	n/a	n/a	n/a	n/a	4.00	4.50	3.50
Kosovo	n/a	n/a	n/a	n/a	n/a	n/a	6.00	5.75	5.50
Average	4.25	4.57	4.36	4.29	4.14	4.21	4.28	4.19	3.89
Median	4.25	4.00	4.00	3.75	4.25	4.25	4.00	4.00	3.75
NON-BALTIC FORMER SOVIET STATES									
Armenia	4.50	4.50	4.50	4.50	4.50	4.75	4.75	5.00	5.50
Azerbaijan	6.25	6.25	6.25	6.25	6.00	5.75	5.75	6.00	6.00
Belarus	6.00	6.25	6.25	6.25	6.50	6.50	6.50	6.75	6.50
Georgia	4.50	5.00	4.50	4.75	5.00	5.50	5.75	5.50	6.00
Kazakhstan	5.50	5.50	5.00	5.00	5.75	6.25	6.25	6.50	6.25
Kyrgyzstan	4.25	4.50	5.00	5.25	5.50	6.00	6.00	6.00	5.75
Moldova	4.25	4.50	4.50	4.50	4.75	5.25	5.50	5.75	5.75
Russia	4.00	4.50	4.50	5.00	5.25	5.00	5.25	5.75	5.75
Tajikistan	7.00	6.75	6.25	6.00	6.00	6.00	5.75	6.00	5.75
Turkmenistan	6.75	6.75	6.75	6.75	6.75	6.75	7.00	7.00	7.00
Ukraine	4.50	4.75	4.75	4.75	5.00	5.00	5.25	5.00	5.25
Uzbekistan	6.00	6.25	6.25	6.00	6.00	6.25	6.25	6.50	6.25
Average	5.29	5.46	5.38	5.42	5.58	5.75	5.83	5.98	5.98
Median	5.00	5.25	5.00	5.13	5.63	5.88	5.75	6.00	5.88

**Nations in Transit 2005* introduces ratings for both local and national democratic governance.

Table 6. Judicial Framework and Independence*

	1997	1998	1999	2001	2002	2003	2004	2005
RATINGS HISTORY AND REGIONAL BREAKDOWN								
NEW EU MEMBERS								
Czech Rep.	1.50	1.50	2.25	2.50	2.50	2.50	2.50	2.50
Estonia	2.25	2.25	2.00	2.00	1.75	1.75	1.75	1.50
Hungary	1.75	1.75	1.75	2.00	2.00	1.75	1.75	1.75
Latvia	2.25	2.25	2.00	2.00	2.00	2.25	2.00	1.75
Lithuania	2.25	2.00	2.00	1.75	2.00	1.75	1.75	1.75
Poland	1.50	1.50	1.50	1.50	1.50	1.50	1.50	2.00
Slovakia	4.00	4.00	2.50	2.25	2.00	2.00	2.00	2.00
Slovenia	1.75	1.50	1.50	1.50	1.75	1.75	1.75	1.50
Average	2.16	2.09	1.94	1.94	1.94	1.91	1.88	1.84
Median	2.00	1.88	2.00	2.00	2.00	1.75	1.75	1.75
THE BALKANS								
Albania	4.75	5.25	5.00	4.50	4.50	4.25	4.25	4.50
Bosnia	n/a	6.00	6.00	5.50	5.25	5.00	4.50	4.25
Bulgaria	4.25	3.75	3.50	3.50	3.50	3.50	3.25	3.25
Croatia	4.75	4.75	4.75	3.75	3.75	4.25	4.50	4.50
Macedonia	4.25	4.50	4.25	4.25	4.75	4.50	4.00	3.75
Romania	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.00
Yugoslavia	n/a	5.00	5.75	5.50	4.25	4.25	n/a	n/a
Serbia	n/a	n/a	n/a	n/a	n/a	n/a	4.25	4.25
Montenegro	n/a	n/a	n/a	n/a	n/a	n/a	4.25	4.25
Kosovo	n/a	n/a	n/a	n/a	n/a	n/a	6.00	5.75
Average	4.45	4.79	4.79	4.46	4.32	4.29	4.36	4.28
Median	4.25	4.75	4.75	4.25	4.25	4.25	4.25	4.25
NON-BALTIC FORMER SOVIET STATES								
Armenia	4.75	5.00	5.00	5.00	5.00	5.00	5.00	5.25
Azerbaijan	5.50	5.50	5.50	5.25	5.25	5.25	5.50	5.75
Belarus	6.00	6.25	6.50	6.75	6.75	6.75	6.75	6.75
Georgia	5.00	4.75	4.00	4.00	4.25	4.50	4.50	5.00
Kazakhstan	5.00	5.25	5.50	5.75	6.00	6.25	6.25	6.25
Kyrgyzstan	4.50	4.50	5.00	5.25	5.25	5.50	5.50	5.50
Moldova	4.25	4.00	4.00	4.00	4.00	4.50	4.50	4.75
Russia	4.00	4.25	4.25	4.50	4.75	4.50	4.75	5.25
Tajikistan	6.25	6.00	5.75	5.75	5.75	5.75	5.75	5.75
Turkmenistan	6.75	6.75	6.75	7.00	7.00	7.00	7.00	7.00
Ukraine	3.75	4.00	4.50	4.50	4.75	4.50	4.75	4.25
Uzbekistan	6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.25
Average	5.19	5.23	5.27	5.35	5.44	5.50	5.56	5.65
Median	5.00	5.13	5.25	5.25	5.25	5.38	5.50	5.63

*Formerly Constitutional, Legislative, & Judicial Framework

Table 7. Corruption

RATINGS HISTORY AND REGIONAL BREAKDOWN

	1999	2001	2002	2003	2004	2005
NEW EU MEMBERS						
Czech Rep.	3.25	3.75	3.75	3.50	3.50	3.50
Estonia	3.25	2.75	2.50	2.50	2.50	2.50
Hungary	2.50	3.00	3.00	2.75	2.75	2.75
Latvia	3.50	3.50	3.75	3.50	3.50	3.50
Lithuania	3.75	3.75	3.75	3.50	3.50	3.75
Poland	2.25	2.25	2.25	2.50	2.50	3.00
Slovakia	3.75	3.75	3.25	3.25	3.25	3.00
Slovenia	2.00	2.00	2.00	2.00	2.00	2.00
Average	3.03	3.09	3.03	2.94	2.94	3.00
Median	3.25	3.25	3.13	3.00	3.00	3.00
THE BALKANS						
Albania	6.00	5.50	5.25	5.00	5.25	5.25
Bosnia	6.00	5.75	5.50	5.00	4.75	4.50
Bulgaria	4.75	4.75	4.50	4.25	4.25	4.00
Croatia	5.25	4.50	4.50	4.75	4.75	4.75
Macedonia	5.00	5.00	5.50	5.50	5.00	5.00
Romania	4.25	4.50	4.75	4.50	4.50	4.25
Yugoslavia	6.25	6.25	5.25	5.00	n/a	n/a
Serbia	n/a	n/a	n/a	n/a	5.00	5.00
Montenegro	n/a	n/a	n/a	n/a	5.25	5.25
Kosovo	n/a	n/a	n/a	n/a	6.00	6.00
Average	5.36	5.18	5.04	4.86	4.97	4.89
Median	5.25	5.00	5.25	5.00	5.00	5.00
NON-BALTIC FORMER SOVIET STATES						
Armenia	5.75	5.75	5.75	5.75	5.75	5.75
Azerbaijan	6.00	6.25	6.25	6.25	6.25	6.25
Belarus	5.25	5.25	5.25	5.50	5.75	6.00
Georgia	5.00	5.25	5.50	5.75	6.00	5.75
Kazakhstan	6.00	6.25	6.25	6.25	6.50	6.50
Kyrgyzstan	6.00	6.00	6.00	6.00	6.00	6.00
Moldova	6.00	6.00	6.25	6.25	6.25	6.25
Russia	6.25	6.25	6.00	5.75	5.75	5.75
Tajikistan	6.00	6.00	6.00	6.00	6.25	6.25
Turkmenistan	6.00	6.25	6.25	6.25	6.25	6.50
Ukraine	6.00	6.00	6.00	5.75	5.75	5.75
Uzbekistan	6.00	6.00	6.00	6.00	6.00	6.00
Average	5.85	5.94	5.96	5.96	6.04	6.06
Median	6.00	6.00	6.00	6.00	6.00	6.00

Table 8. Democracy Score

YEAR-TO-YEAR SUMMARIES BY REGION

	1999	2001	2002	2003	2004	2005
NEW EU MEMBERS						
Czech Rep.	2.08	2.25	2.46	2.33	2.33	2.29
Estonia	2.25	2.13	2.00	2.00	1.92	1.96
Hungary	1.88	2.13	2.13	1.96	1.96	1.96
Latvia	2.29	2.21	2.25	2.25	2.17	2.14
Lithuania	2.29	2.21	2.21	2.13	2.13	2.21
Poland	1.58	1.58	1.63	1.75	1.75	2.00
Slovakia	2.71	2.50	2.17	2.08	2.08	2.00
Slovenia	1.88	1.88	1.83	1.79	1.75	1.68
Average	2.12	2.11	2.08	2.04	2.01	2.03
Median	2.17	2.17	2.15	2.04	2.02	2.00
THE BALKANS						
Albania	4.75	4.42	4.25	4.17	4.13	4.04
Bosnia	5.42	5.17	4.83	4.54	4.29	4.18
Bulgaria	3.58	3.42	3.33	3.38	3.25	3.18
Croatia	4.46	3.54	3.54	3.79	3.83	3.75
Macedonia	3.83	4.04	4.46	4.29	4.00	3.89
Romania	3.54	3.67	3.71	3.63	3.58	3.39
Yugoslavia	5.67	5.04	4.00	3.88	n/a	n/a
Serbia	n/a	n/a	n/a	n/a	3.83	3.75
Montenegro	n/a	n/a	n/a	n/a	3.83	3.79
Kosovo	n/a	n/a	n/a	n/a	5.50	5.32
Average	4.46	4.18	4.02	3.95	4.03	3.92
Median	4.46	4.04	4.00	3.88	3.83	3.79
NON-BALTIC FORMER SOVIET STATES						
Armenia	4.79	4.83	4.83	4.92	5.00	5.18
Azerbaijan	5.58	5.63	5.54	5.46	5.63	5.86
Belarus	6.25	6.38	6.38	6.46	6.54	6.64
Georgia	4.17	4.33	4.58	4.83	4.83	4.96
Kazakhstan	5.50	5.71	5.96	6.17	6.25	6.29
Kyrgyzstan	5.08	5.29	5.46	5.67	5.67	5.64
Moldova	4.25	4.29	4.50	4.71	4.88	5.07
Russia	4.58	4.88	5.00	4.96	5.25	5.61
Tajikistan	5.75	5.58	5.63	5.63	5.71	5.79
Turkmenistan	6.75	6.83	6.83	6.83	6.88	6.93
Ukraine	4.63	4.71	4.92	4.71	4.88	4.50
Uzbekistan	6.38	6.42	6.46	6.46	6.46	6.43
Average	5.31	5.41	5.51	5.57	5.66	5.74
Median	5.29	5.44	5.50	5.54	5.65	5.72

Table 9: Democracy Score Rankings 2005

CONSOLIDATED DEMOCRACIES	
Slovenia	1.68
Estonia	1.96
Hungary	1.96
Poland	2.00
Slovakia	2.00
Latvia	2.14
Lithuania	2.21
Czech Rep.	2.29

SEMICONCONSOLIDATED DEMOCRACIES	
Bulgaria	3.18
Romania	3.39
Croatia	3.75
Serbia	3.75
Montenegro	3.79
Macedonia	3.89

TRANSITIONAL GOVERNMENTS OR HYBRID REGIMES	
Albania	4.04
Bosnia	4.18
Ukraine	4.50
Georgia	4.96

SEMICONCONSOLIDATED AUTHORITARIAN REGIMES	
Moldova	5.07
Armenia	5.18
Kosovo	5.32
Russia	5.61
Kyrgyzstan	5.64
Tajikistan	5.79
Azerbaijan	5.86

CONSOLIDATED AUTHORITARIAN REGIMES	
Kazakhstan	6.29
Uzbekistan	6.43
Belarus	6.64
Turkmenistan	6.93

COUNTRY REPORTS

Albania

<i>Capital</i>	Tirana
<i>Population</i>	3,200,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$4,830
<i>Private sector as % of GDP</i>	75%
<i>Ethnic groups</i>	Albanian (95 percent), Greek (3 percent), other (2 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	4.25	4.50	4.25	4.00	3.75	3.75	3.75	3.75
Civil Society	4.25	4.25	4.00	4.00	3.75	3.75	3.50	3.25
Independent Media	4.75	4.75	4.50	4.25	4.00	4.00	3.75	4.00
Governance	4.75	5.00	4.75	4.25	4.25	4.25	4.25	n/a
National Democratic Governance	n/a	4.25						
Local Democratic Governance	n/a	3.25						
Judicial Framework and Independence*	4.75	5.25	5.00	4.50	4.50	4.25	4.25	4.50
Corruption	n/a	n/a	6.00	5.50	5.25	5.00	5.25	5.25
Democracy Score	4.55	4.75	4.75	4.42	4.25	4.17	4.13	4.04

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Albanian democracy is at a critical juncture; unless the upcoming 2005 parliamentary elections are free and fair, the country's fragile political stability can be seriously undermined along with its European Union (EU) integration prospects. After a series of elections that were continuously improving but did not qualify as completely free and fair, the international community made it clear that Albania's EU integration will proceed only if the country can show that it can hold free and fair elections. On the other hand, Albania's main political opposition, the Democratic Party, has declared that it will use protests to overthrow the ruling Socialist Party majority if it manipulates the upcoming elections. Albania held great promise in the early 1990s when the Communist system collapsed and the Democratic Party came to power. Two events, however, combined to wipe out some of the advances made during Democratic Party rule: the fraud-filled 1996 parliamentary elections and the chaos that ensued following the bankruptcy in 1997 of popular pyramid schemes, in which many Albanians had invested their life savings. The growing authoritarian tendencies of Democratic Party leader Sali Berisha also contributed to the deep unpopularity of the government, which lost to the Socialist Party in early elections held in 1997. The Socialist Party succeeded in rebuilding state institutions and reestablishing the rule of law, leading to economic growth and macroeconomic stability. In January 2003, in recognition of the progress made and to provide encouragement, the EU opened negotiations on a Stabilization and Association Agreement for Albania, a major step toward eventual accession. However, electoral processes that fell short of democratic standards, corruption, and state capture have continued and consolidated during Socialist Party rule. These phenomena now threaten the future of Albania's democratization as well as its prospects for EU integration.

Stagnation and scandals are the words that best describe the year 2004. A series of scandals widely aired in the media stirred protests by the opposition and civil society groups. Protracted fighting within the Socialist Party continued to dominate national politics. In September, Ilir Meta, a former Socialist Party prime minister, along with some other Socialist Party deputies, created the Socialist Movement for Integration, reducing the party's numbers in the Parliament. These developments diverted the focus from improving governance to preserving the fragile power balances within the Socialist Party, at a time when the Democratic Party began increasingly hostile attacks on

the ruling Socialists. In January 2004, the Democratic Party demanded the resignation of Prime Minister Fatos Nano through a campaign called Nano, Leave!, but the movement ultimately faded without tangible results. Progress on electoral reform and preparations for parliamentary elections have been slow, despite the fact that these elections will be a decisive test of Albania's democratization.

National Democratic Governance. Governance during 2004 has been characterized by a strained effort to preserve the fragile equilibrium among different factions within the ruling Socialist Party in order to avoid a government crisis that could result in early elections. Such distractions have severely limited the ability of the government to curb corruption, push for reforms, and accelerate the process of EU integration. The current cabinet has not lived up to its moniker—the Coalition for Integration—as the year showed few advances, capped by a failure to sign a Stabilization and Association Agreement with the EU. The country's governance system remains fragile, as demonstrated by the threat of the opposition to overthrow the ruling Socialist Party if the upcoming elections are not free and fair. A number of high-profile scandals within the executive have demonstrated that this branch remains unaccountable to the public, while the legislative branch has often failed to properly monitor the work of the executive. *The new rating for national democratic governance is set at 4.25 owing to fragility in the established democratic governmental system and only partial implementation of checks and balances and public accountability.*

Electoral Process. None of the electoral processes held in Albania since 1996 have qualified as completely free and fair, even though international observers have deemed them acceptable. A lack of political will has been the main culprit, although the relevant legislation—the Albanian electoral code—is currently undergoing improvements to remove unclear legal formulations, loopholes, and other technicalities that might sully the electoral process. The bipartisan commission that was set up to carry out electoral reform reached an impasse because of the refusal of Socialist Party representatives to agree to political balance in the Central Elections Committee. Even though the impasse was resolved in late October, a series of major issues concerning electoral reform remained unresolved by the end of 2004. *Overall, current electoral reform does not show any signs of real progress, meriting a rating that remains at 3.75.*

Civil Society. Civil society organizations in general became more active during 2004, mobilizing popular support through public protests on a variety of issues ranging from ecological matters to consumer rights. Nevertheless, some of the serious sustainability issues and structural problems that threaten the

efficiency of nongovernmental organizations (NGOs) have not been resolved. These groups still remain donor-dependent and at times reflect donor rather than local priorities. Other instruments of civil society, such as labor unions, show no observable progress. *Albania's civil society rating improves from 3.50 to 3.25 owing to increased activity aimed at influencing government policy.*

Independent Media. Albanian media continued to mushroom during 2004. New publications and electronic media outlets entered an already crowded market, while the existing ones made advances in terms of technology. Media continued to evolve within the constraints of a distorted market and problematic ownership structure. At the heart of these constraints remains the subordination of media outlets to special business and/or political interests that they are intended to promote and protect. Media owners directly decide on editorial policy according to their immediate political or business expediencies, meaning editorial independence is very limited. That, in turn, continues to undermine the credibility of the media, as reflected in low readership levels. During 2004, in a number of important cases, the courts ruled against independent media and in favor of high-ranking politicians. *Despite the increased number of media outlets, persistent challenges to editorial independence presented by ownership and court rulings against independent media that favor the political elite contribute to a decline in Albania's independent media rating from 3.75 to 4.00.*

Local Democratic Governance. On the positive side, decentralization made further advances during 2004. Financial autonomy, especially for the main municipalities, has been increasing steadily. The legislative framework has been updated and is conducive to a decentralization of competencies from the central to the local government. The ability of local governments to respond to citizens' needs has been improving, and in most national surveys, respondents rate the work of local authorities higher than that of the central government. However, local governments must do more to increase their openness to their constituencies. In addition, a number of important sectors, such as education and water supply, which should have been decentralized earlier, remain in the hands of the central government. The charged political climate has had a negative impact on local governments, especially in municipal (urban) and commune (rural) councils, where political agendas often override local priorities. *Albania's new rating for local democratic governance is set at 3.25. Although further decentralization of some basic services, along with increased capacities for local governments, are still needed to improve transparency and responsiveness, governance remains most effective at the local level.*

Judicial Framework and Independence. The Albanian judiciary continues to be perceived as one of the most corrupt institutions in the country. Little

or nothing changed in this regard during 2004—in terms of both public perceptions and concrete measures taken to increase its efficacy and reduce corruption. Also showing no sign of improvement and even a certain degree of deterioration were the lack of execution of court decisions, shortcomings in due process, and problematic detention conditions. Some court rulings in favor of powerful politicians cast doubts over the independence of the judiciary. *The rating for judiciary framework and independence falls from 4.25 to 4.50 owing to persistent failures to enforce judicial decisions and to the judiciary's continued functioning as a closed and unaccountable institution that remains susceptible to political influence.*

Corruption. On paper, Albania has an impressive legislative and institutional anticorruption framework. However, the government has shown little political will to fight corruption beyond its anticorruption rhetoric. During 2004, a number of scandals involving state institutions and officials have negatively impacted popular perceptions on corruption. The Law on Declaration and Control of Assets, an important legislative achievement, was first implemented in 2004. Although this in itself was a positive development, the declarations of assets by some top state officials and the consequent verification served to heighten rather than lower popular perceptions on corruption. *Albania's corruption rating remains at 5.25 owing to the persistence of scandals involving state institutions and individuals, the unsuccessful fight against corruption, and the public's growing perception of widespread corruption.*

Outlook for 2005. The most important events for 2005 are the parliamentary elections, which are scheduled to take place on July 3. On more than one occasion, the EU has made it clear that Albania's integration process will depend on whether the upcoming elections are free and fair. The opposition, on the other hand, has declared that it will no longer tolerate a compromised electoral process, citing the examples of Ukraine and Georgia as possible responses to emulate in the case of electoral fraud. The Democratic Party is desperate to return to power after eight long years in opposition—otherwise its political survival, along with that of the party's chairman, Sali Berisha, may be jeopardized. Similarly, the ruling Socialist Party seems frantic to hold on to power. Many high-ranking Socialist Party officials would like to protect their business fortunes and remain immune to the corruption charges they fear the opposition could use against them if it comes to power. The stakes are high, and the preelectoral period has been characterized by growing tensions and mistrust. Without an election that lives up to international expectations, the fragile fabric of Albanian democracy may tear and the country could easily relapse into instability.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	4.25						

Albania is a parliamentary republic. Its president, elected by the Parliament through a qualified majority of three fifths, has limited and largely symbolic powers. The Parliament is a unicameral body with 140 seats contested every four years. One hundred seats are filled through a first-past-the-post system, whereas the remaining 40 seats are filled through proportional voting. The threshold for gaining representation in the Parliament is 2.5 percent for political parties and 4 percent for political coalitions. The Albanian Constitution provides for a system of checks and balances among the legislative, executive, and judicial branches. In practice, the system remains fragile and the separation of powers is not yet complete, with the executive branch clearly having the upper hand over all the other institutions of government.

During 2004, the ruling Socialist Party experienced bitter infighting between two competing factions, one led by Prime Minister Fatos Nano and the other led by Ilir Meta, former deputy prime minister in Nano's cabinet. In September, nine parliamentary deputies of the Meta faction left the Socialist Party to form the Socialist Movement for Integration, reducing the Socialist Party majority in the Parliament. As a result, governance during 2004 was dominated by a strained effort to preserve the fragile equilibrium among different factions within the Socialist Party to avoid a government crisis that could result in early elections. All the distractions limited the ability of the government to push for reforms and accelerate the process of European Union (EU) integration. A declaration of the EU presidency on September 14 said that "insufficient progress is being made in reform implementation and in particular in areas that are vital for Albania's future and its successful integration." In the same fashion, the fight against corruption has produced much rhetoric but little real progress, as indicated by both a number of scandals involving public officials and a 2004 report by Transparency International, which rated Albania just as corrupt in 2003 as in 2004.

Following the drowning of 20 Albanians who were being smuggled to Italy on January 9, 2004, the opposition called for a parliamentary investigation, blaming the government for failing to act in a timely fashion to rescue the victims after they had requested help. The accident stirred much public reaction owing to the fact that despite news of the drowning, Prime Minister Nano did not interrupt his weekend holiday abroad to return to Albania. Public reaction culminated in a protest organized by the Mjaft! (Enough!) movement and a demand for a public apology from the prime

minister. The Democratic Party launched a “Nano, Leave!” campaign calling for the prime minister’s resignation. The first public protest took place in Tirana and was marked by clashes between protesters and security forces, without any casualties. The campaign eventually lost momentum without any concrete results.

Every political crisis in Albania sends ripple effects throughout the public administration. State institutions are not immune to political changes and pressure. The situation has improved since the passage in 1999 of the Law on Civil Service, which protects civil servants from arbitrary dismissal and mandated the establishment of a Civil Servant Commission. Government statistics show that the number of people who apply per position in public administration has increased significantly, from an average of 6 during the last three months of 2003 to an average of 10 for the first six months of 2004. More places in public administration were advertised in 2004 as compared with 2003, perhaps indicating that fewer employees owe their jobs to political patronage. Furthermore, the Institute for Training the Public Administration, a government agency, has educated a larger number of public administration employees in 2004 than in 2003.

However, public administration in Albania still faces a number of problems, such as lack of motivation on the part of civil servants owing to small salaries and poor organization. The number of employees who enjoy civil servant status remains very small compared with the number of people employed in public administration, which means that the Law on Civil Service actually still protects too few public administration employees. The passage in 1999 of the Law on the Right to Information on Official Documents, which mandates free access to public information, has not changed old habits of operating in a closed fashion. In 2004, the Center for the Democratization and Development of Institutions, an Albanian nongovernmental organization (NGO), published a study concluding that the existing law had rarely been implemented over the past year. According to the London-based Article 19, a press rights group, some 87 percent of state employees questioned in a poll did not even know the law existed. Civil servants are not yet in the practice of serving the people, so the government remains nontransparent and detached from the public at large.

The Albanian Parliament has been gaining steadily in importance and has become the main forum for political debates. During 2004, new rules of parliamentary procedure were finalized and ratified. They establish more comprehensive criteria on how parliamentary groups can be formed, how draft laws can be scrutinized more rigorously before they turn into laws, and how parliamentary commissions can better coordinate their operations. They are expected to further improve the work of the Parliament, especially with regard to the quality of the legislation that will be produced. Measured by the quantity of legislation passed, the Parliament has not substantially improved its level of efficiency (174 laws for 2004 compared with 176 for the previous

year). The process through which important new legislation is approved has not shown improvement, either. For example, the Law on Property, a key piece of legislation that aims to regulate and distribute landownership, was not passed consensually. The opposition boycotted the session after the Socialist Party parliamentary majority refused to incorporate into the law some of its recommendations pertaining to the amount of land restitution and financial compensation for landowners that was expropriated by the Communist regime. In the same fashion, no agreement was reached on electing the head of the Land Restitution Committee, undermining the successful implementation of such an important law.

The growing political tension between the two main parties, the ruling Socialist Party and the opposition Democratic Party, has also undercut the Parliament's ability to perform oversight of the executive. In November 2004, for instance, the opposition parties in the Parliament asked for the establishment of a parliamentary committee that would investigate allegations that Nikolle Lesi, a member of Parliament (MP), had made against Prime Minister Nano. Lesi, chairman of the Christian Democratic Party and publisher of the daily newspaper *Koha Jone*, accused Nano of involvement in arms-trafficking deals and of killing a citizen in a car accident, providing alleged secret service surveillance transcripts as evidence. But the Socialist Party majority voted against establishing the committee, even though the Constitution clearly stipulates that investigative commissions must automatically be set up upon request of one fourth of the MPs.

Civilian officials in the government have close oversight over the military and security services but interfere excessively in the selection of personnel for these forces. Appointments are often based not on meritocracy, but on political favoritism or nepotism, which undermines the efficacy of the military. The security services, just like the military, are also under control of the executive.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
4.25	4.50	4.25	4.00	3.75	3.75	3.75	3.75

Since the parliamentary elections held in 1996, there have been two national and two local elections in Albania, none of which has qualified as free and fair, although international monitoring organizations have deemed them acceptable. The monitoring mission of the Organization for Security and Cooperation in Europe (OSCE) labeled the last local elections, held in 2003, "a missed opportunity for significant progress toward compliance with...international standards for democratic elections." Compromised electoral processes have undermined the legitimacy of the governments

they have produced and their ability to conduct reforms successfully, while increasingly alienating the opposition from the democratic process and thus contributing to political polarization. The situation has deteriorated to the point that the main opposition, the Democratic Party, has often declared—in reference to the upcoming 2005 parliamentary elections—that it will no longer tolerate another term in power of the ruling Socialist Party based on elections that international observers do not judge free and fair. Given the election's potential for destabilization and its role as a further test of the country's maturity, Osmo Liponen, former OSCE ambassador in Albania, has called the vote “the ticket to [Albania's] integration, be it in the security structures or in the European Union.”

After the local elections of 2003, the Socialist Party and the Democratic Party set up a bipartisan ad hoc electoral commission in September 2004. The commission aimed to improve the electoral code according to recommendations provided by the Venice Commission and by the OSCE in its report on the local elections. The most important suggestion concerned the formation of a politically balanced Central Elections Committee (CEC)—instead of one that is dominated entirely by the Socialist Party—and improving the voter lists to include many people excluded during the local elections.

Once the bipartisan commission started work, however, no agreement could be reached on the actual recomposition of the CEC. The Socialist Party refused to accept the replacement of one of its members with one whom the Democratic Party proposed, arguing that the move would be unconstitutional because the individual's mandate would be terminated before the time stipulated in the Constitution. In retaliation, the Democratic Party boycotted the bipartisan commission. The impasse continued until the end of October, when the Socialist Party, pressured by the EU, agreed to accept one of the versions offered by OSCE experts, which called for the termination of a current CEC member's mandate and his replacement by a candidate whom the opposition had proposed. In October, the Parliament approved a transitory clause for the recomposition of the CEC, meaning the CEC will be politically balanced, with four members proposed by the Socialist Party and three members by the Democratic Party. Decisions on important issues require a five-out-of-seven vote, preventing either of the two main parties from taking important decisions without consent of the other. The Parliament also passed the Law on the Registration and Verification of Citizens, which regulates the registration process for the 2005 parliamentary elections. Local government units are now responsible for registering and identifying citizens in their areas and producing new voter lists, a duty that the Ministry of Local Government and Decentralization formerly performed.

In a November 5 press conference, Pavel Hacek, the current OSCE ambassador in Albania, called the process leading up to the elections painfully slow and short on results. He said that the Parliament still had to resolve

outstanding issues in reviewing and amending the provisions on election day voting procedures, electoral zones, allocation of proportional mandates, and some other issues.

Yet based on past experiences, improving certain shortcomings of the electoral code will not in itself produce free and fair elections. The code has been reformed after every major vote without producing a clean election. The only parliamentary elections that have qualified as free and fair in post-Communist Albania were those of 1992, when the electoral code had yet to be reformed but the ruling Labor (Communist) Party lacked the political will to manipulate the electoral process. Since then, the authorities have not demonstrated the resolve to hold a truly democratic vote, and the protracted process of the electoral reform in 2004 calls into doubt whether the situation will change in time for the upcoming elections.

One issue that changes in the electoral code will do little to solve is falling voter turnout. The 2003 local elections marked the lowest figure in post-Communist Albania, at 45.7 percent of the electorate. People have grown disenchanted with politics in general and the two main political parties in particular, which does not bode well for increased turnout in the upcoming parliamentary elections. No legal or other impediments prevent the creation of political parties—only 500 signatures are needed to establish and register a political party, and the state budget provides significant finances for parties. The primarily majority system, as in other countries and in combination with other sociological factors, has led to the domination of the political scene for the last 15 years by the Socialist Party and the Democratic Party.

The Albanian Human Rights Party represents minorities in the Parliament, focusing its efforts chiefly on defending the rights of the Greek minority, though it ostensibly lobbies for other minorities as well. The largest and least politically represented minority in Albania are the Roma.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
4.25	4.25	4.00	4.00	3.75	3.75	3.50	3.25

No civil society organizations existed in Communist Albania, so when the former regime collapsed, the country inherited neither NGOs nor a tradition in this area. International donors and NGOs introduced and developed the concept in the early 1990s, focusing mostly on humanitarian aid and emergencies and setting up local NGOs with which they could cooperate. The 1997 crisis, which followed a faulty election and the collapse of widespread pyramid schemes, temporarily disrupted the evolution of civil society organizations. They recovered, however, and have continued to grow in numbers and capacity. Still, almost 14 years after the fall of Communism,

the civil society sector in Albania still consists of a number of local NGOs almost entirely dependent on international donor funding and often more in touch with donor rather than local priorities.

During 2004, NGOs became increasingly active, at times confronting the government on specific issues, mobilizing the population in public protests, and expanding some of their efforts outside of Tirana, which remains the focus of their activities. Following the January 9, 2004, drowning of 20 Albanians who were being smuggled to Italy, the Mjaft! movement organized a demonstration that drew thousands of citizens in front of the prime minister's office. Capitalizing on the feeling prevalent at the time that Prime Minister Nano had shown indifference to the deaths, Mjaft! leaders called on Nano to make a public apology, but he refused.

Mjaft! also collaborated with a number of other NGOs and interest groups in the coordination of another high-profile protest, this time against a plan to set up a waste management plant in Albania that would import large quantities of waste from Italy. This was one of the rare cases when a number of Albanian NGOs worked together, without the encouragement of a donor, to protest a governmental decision. One reason may have been that Koco Kokedhima, a powerful Albanian businessman and owner of the biggest daily newspaper, *Shekulli*, had been a driving force behind the project. Kokedhima's offer to build a waste management power plant had been rejected by the government in favor of a bid by an Italian company. In addition to the negative environmental impact of the waste imports, the secrecy of the deal upset the protesters, as the local community where the government intended to locate the plant did not know the details of the deal. In the end, the government backed down and the plan was put on hold.

Another instance of the growing power of NGOs is the work of a local group, the Citizens Advocacy Office (CAO), which provides free legal support and advice to citizens. The CAO organized meetings with citizens around the country to protest unfair practices by major state and private telephone companies, and in particular the decision of the state monopoly Altelecom to raise tariffs for fixed telephone lines. The meetings served the double purpose of raising civic awareness and educating local communities on how to stand up for their rights, providing them with successful examples of collective action. Due to such pressure telephone tariffs did not increase.

Despite these recent success stories, the fundamental shortcomings of civil society organizations in Albania have not changed much. Most NGOs are still entirely dependent on funding from foreign donors. Domestic sources of funding are almost nonexistent, and there are no clear government policies to support the sector through public funding. In most cases, NGOs in Albania are one-man shows with practically no membership beyond their employees. Although most NGOs do have advisory and executive boards, in practice such organs do not function at all. Ultimately, donor dependency combined with

structural shortcomings undermines the ability of NGOs to represent local concerns and fulfill objectives that satisfy local priorities.

Cooperation among NGOs remains inefficient and takes place primarily because of donor funding. Pressured to work together from the outside, these coalitions rarely function well and fail to attract membership beyond a hard-core group of mostly aid-dependent NGO service providers. One of the coalitions that has often been cited as successful in Albania—the Albanian Coalition Against Corruption—derived almost all its legitimacy from its donor, the U.S. Agency for International Development (USAID), and was popularly seen as the USAID’s coalition rather than an indigenous movement to fight corruption. According to a report by the Center for Policy Studies at Central European University, the coalition dissolved immediately once donor funding ended, since it was neither sustainable nor attractive to the member organizations when it no longer offered them funding opportunities.

The activity of civil society organizations in Albania is regulated through the Law on Not-for-Profit Organizations and the Law on the Registration of Not-for-Profit Organizations, both of which the Parliament passed in May 2001. While experts consider this legislation up-to-date and progressive, as with a number of other laws, some shortcomings remain in its implementation. Numerous NGOs have failed to register under the new law, and the tax police continue to engage in unwarranted intrusions into the financial affairs of NGOs based upon business tax regulation rather than any existing or pending NGO tax regulation. In some cases, the government has used the financial police as a pressure tool to silence civil society organizations that have criticized government policies or ministers. In September 2004, 22 NGOs issued a press release accusing the financial police of starting a campaign against them after their critical stance on government corruption and bad governance. In other cases, the police have improperly deemed civil society group protests as illegal, and authorities have sometimes filed charges against the organizers. For example, on one occasion police prevented the Mjaft! movement from staging a protest, while in another instance the group was charged with violating the rules for holding a demonstration—although in both cases Mjaft! had notified the authorities on time, as the law requires.

No major developments took place in the labor movement over the course of 2004. The Constitution guarantees the right to form trade unions, and workers exercise this right in practice. The labor code, adopted in 1995, also affirms the right of workers to form trade union federations or confederations. A minimum of 20 people can form a trade union. The two main unions are the Confederation of Trade Unions of Albania (KSSH) and the Confederation of Independent Trade Unions of Albania (BSPSH). Together, they represent slightly under 200,000 workers, which constituted approximately 20 percent of the labor force in 2004. The KSSH has links with the ruling Socialist Party on the left, while the BSPSH supports the opposition Democratic Party on

the right. The Council of Employers Organization represents employers' interests. Since the economy remains based mainly on small, family-run businesses rather than larger industrial concerns, trade unions are not powerful actors in Albanian society. Combined with their organizational weaknesses, such as the low amount of dues collected, their political affiliations harm their credibility and their ability to promote membership interests, which in turn results in a limited capacity to mobilize human resources.

Universities and the educational system in general are free of political propaganda and influence, though cases have occurred in high schools of schoolmasters selected on the basis of their political sympathies. The quality of teaching in universities remains low, and deans and university administrations continue to run schools in a centralized, nontransparent, and inefficient way. Universities are still very dependent on the Ministry of Education for most of their funding and do not yet enjoy full autonomy in administering their own financial resources. With limited donor money spent within the university structure, meager financial resources have undermined the ability of institutions of higher learning to conduct research and play a greater role in Albanian social development.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
4.75	4.75	4.50	4.25	4.00	4.00	3.75	4.00

The year marked some improvements in terms of the quality and diversity of media outlets, as well as progress in creating media legislation that meets international standards. However, the media continued to evolve largely within the existing limitations of a distorted market and a problematic ownership structure. At the heart of these constraints remains the subordination of media outlets to special business and/or political interests that they are intended to promote and protect. Media outlets are run not as businesses in their own right, but as a means to attract and promote investments made elsewhere. One sign of that is the large and growing number of media outlets in such a small market (a population of a little more than 3 million and a readership of no more than 80,000). In a July 5, 2004, parliamentary debate on the media, Prime Minister Nano observed that Albania has the largest number of print media per capita in Europe, but the lowest circulation per capita.

An estimated 200 publications were available in 2003, including daily and weekly newspapers, magazines, newsletters, and pamphlets—and this number continued to grow during 2004. The number of daily papers in Albania increased from 19 in 2003 to 21 in 2004; licensed radio stations increased from 43 in 2003 to 49 in 2004; and TV stations, including cable TV channels, increased from 70 in 2003 to 85 in 2004.

The proliferation of media outlets has had a positive effect on the diversity of information offered in the media market, and enhanced competition has led to a marked improvement in quality and a greater degree of professionalism. Yet the freedom of media to investigate and report on sensitive issues, such as connections between high officials and organized crime, has not grown in proportion to the number of media outlets.

One of the common features of the electronic and print media in Albania is their concentrated ownership structure. According to the Law on Private and Public Radio and Television, no single owner may control more than 40 percent of the shares in a nationwide radio or television station. However, some media analysts have reported violations, with single owners controlling up to 50 percent. Print media ownership is often concentrated in the hands of a single family, shared mainly among siblings or between conjugal partners. In addition, owners often use their other businesses to finance their media holdings, hardly surprising since—according to the 2003 report of the National Council of Radio and Television (NCRT)—around half of the television stations operate with losses. According to the NCRT, the undeclared use of outside financial sources opens up the possibility for illegal financing and the use of media to promote special interests.

Overall, the lack of diverse ownership groups and the stress involved in defending the owners' business interests have severely limited editorial independence, especially given the lack of job security and contracts in the media sector (the majority of journalists and media workers are uninsured). The lack of transparency in financing various media also makes them vulnerable to government control and pressure. In their placement of print advertising, state officials already have a powerful carrot and stick to secure positive coverage, since these types of ads make up an estimated 60 percent of the limited advertisement market in print media. Government has little incentive to clean up the situation—partly because some officials own media, partly because politicians do not want to alienate media outlets and their financial backers, but mainly because preserving the status quo allows the state to exert greater control over the media. The end result are media that champion special interests rather than those of the public at large, which in turn has undermined the press's credibility. Not surprisingly, circulation rates remain remarkably low.

An inefficient distribution system—privately run and poorly organized—compounds the problem. Daily papers reach only some of the main urban centers and are completely absent in rural areas, while a subscriber-based system remains weak and largely nonexistent. Only if media become more market oriented, pushing them to increase their readership, will there be an incentive to expand and improve the distribution system.

Over the past year, the Parliament finally made some progress in anchoring the press rights enshrined in Article 22 of the Constitution, which states simply: "The press is free. The freedom of the press is guaranteed by law."

After almost one year of discussion and debate, the Parliamentary Commission on the Media approved a draft Law on Print Media in September, but it was not approved by the Parliament in the plenary session, mainly because of a controversial provision that stipulated a price floor for print media that should not fall below the production cost. The Albanian Authority on Competition and a number of local print media criticized this provision as unfair, arguing that it would interfere with price setting and would thus distort market competition. The international press watchdog Reporters Without Borders condemned this provision on the same grounds. Other initial provisions of the draft law—such as one that established an Order of Journalists that would license journalists and enforce some rules of ethics in the media—were widely debated and eventually eliminated after a series of local and international media organizations criticized them as instruments that could be used to curb media freedom.

Although the draft Law on Print Media was initially hailed as good news, a growing number of journalists and analysts have expressed doubts as to whether the legislation will improve the media market or provide safety for journalists. They argue instead for stronger measures to regulate the placement of official ads, which are used to reward sympathetic media outlets and punish critics. The current Law on Public Procurement stipulates that government advertisements should be allocated to the three papers with the largest circulation. However, given that there are no official figures on circulation beyond estimates by the papers themselves, this opens up room for subjective and arbitrary allocation.

Press rights defenders also charge that legislation that covers libel must be improved to provide greater protection for journalists. According to the current law, defamation of public officials can result in penalties ranging from a fine to three years in prison. Although no court in 2004 ruled in favor of a prison sentence, lawsuits that resulted in fines have frequently been filed against individuals who have been outspoken in their criticism of government policies and public officials. According to a report by the Albanian Center for Media Monitoring, eight such cases occurred during the first six months of 2004, including the most publicized one: Prime Minister Nano's lawsuit against Nikolle Lesi, owner of the daily paper *Koha Jone*. The district court ruled against Lesi, who is also a member of the Parliamentary Commission on the Media, and imposed a fine of 2 million leke (around US\$20,000) on the newspaper. In a letter to Nano, Andrew Puddephatt, executive director of the London-based press rights group Article 19, condemned the decision as politically motivated. The decision was criticized by Article 19 on several grounds, ranging from the exorbitant amount of the fine to certain procedural violations during the trial. Because of this case and similar developments, Albania's position in the Reporters Without Borders media freedom rankings dropped from 34th in 2003 to 50th in 2004.

Over the years, the Parliament has passed several laws designed to ensure the independence of public television. In 1997, after the Socialist Party came to power, the station's status was changed from that of a state institution to a public television station under parliamentary control. In 2003, the Parliament passed a special law mandating a balanced board of directors, five from each of the two major political parties and five representatives from the civil society sector. Despite these attempts, public television has continued to produce coverage favorable toward the government, because, many believe, the station's general director has close ties with Nano.

The year 2004 also showed the positive effects on the broadcast media market of a 2003 law aimed at reducing media piracy relating to stolen movies and television programs. Piracy in TV broadcasting dropped dramatically, and stations began to boost their offerings and improve their program production. Those developments, in turn, have stimulated and increased the advertisement market.

Internet usage remains limited in Albania, with only an estimated 30,000 citizens having an Internet connection—approximately 1 percent of the population. However, the actual percentage might be higher, since a growing number of people who do not enjoy connections at home or in the office frequently use Internet cafés or other Internet facilities.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	3.25						

Since the late 1990s, Albania has taken major strides in setting up a basic legal and institutional framework for the implementation of an accountable, decentralized, fiscal, and administrative structure. The 1998 Constitution established that local governments are founded on the principle of decentralization and that the relationship among the state, the regions, and the local governments is grounded on autonomy, legality, and cooperation. In 2000, the Parliament passed the Law on the Organization and Functioning of Local Government, which provides for local governmental autonomy and outlines the duties and responsibilities of local governments. The most important piece of legislation on local government, this law was followed by others that completed the legal framework for a functioning system of local government. In addition, Albania has ratified the European Charter of Local Government, which enshrines all the basic principles of democratic governance at the local level. At the moment, Albanian legislation on local government is in full compliance with at least 19 paragraphs of the charter, including 11 core sections that pertain to fundamental principles of democracy at the local level, such as local autonomy. Among others, the World Bank, in a 2004

report on decentralization, praised the country for possessing a solid legal framework that allows for functional decentralization.

Albania has two levels of local government. The first consists of 373 administrative divisions, of which 65 are urban municipalities and 308 are rural communes. The second consists of 12 regions. The communal, municipal, and regional councils are the representative organs of local government; the first two are elected directly, and together they elect the third. In municipalities, citizens directly elect the mayor; in communes, they choose the head of the commune. In each of the 12 regions, the central government appoints a prefect as its representative in the area.

Although many local governmental units, especially in rural areas, depend on funding from the central government, in general the financial autonomy of local governments has increased steadily since 2000. According to a study on fiscal decentralization commissioned by the Urban Institute, a well-known U.S. think tank, local governmental autonomous spending has increased from about 0.34 percent of gross domestic product in 2000 to nearly 2 percent in 2003. According to Stability Pact forecasts, this trend will continue. For 2004, the figure has been estimated to have risen to 2.11 percent; while small, this increase is a strong indicator of the government's commitment to fiscal decentralization. The improved numbers also reflect the advances made by local governments in raising their own resources through taxes and local fees, which has enhanced their ability to provide more and better services. This has resulted thanks to legislation that allows local government to collect their own taxes and their growing efficiency in collecting them. The major municipalities, with more resources to draw upon, have felt a greater impact than poorer cities and villages, which remain heavily dependent on financial inflows from the central government. These transfers consist of unconditional and conditional grants. The unconditional grants are delivered in a rather transparent manner through a formula that aims to avoid subjective allocation. The conditional transfer mechanism, on the other hand, is not transparent, and from the standpoint of local governments, these funds are far from certain. According to a World Bank report on decentralization, the Tirana authorities sometimes allocate these grants according to political preferences.

The areas where decentralization has proven difficult are education, water supply, and social assistance. Problems have arisen partly as a result of the ownership structure of these services and partly as a result of resistance from central government ministries and employees in these sectors. The government is preparing policy papers in these three areas with the assistance of local and international experts; the papers will be followed by pilot projects that should eventually lead to legislation for their decentralization.

The Constitution permits local governmental units to cooperate in order to represent their common interests domestically and internation-

ally. Three such associations represent local governments in Albania: the Association of Municipalities, the Association of Communes, and the Association of Regions. These organizations operate under their own statutes, and membership is voluntary. The Association of Municipalities, the most active group, is better structured and better off financially than the other two and has a greater impact in the decentralization process.

Local government elections are held every three years. In contrast with earlier campaigns, a calm atmosphere, especially in Tirana, reigned during the latest elections, in October 2003. The campaign focused on issues most pertinent to citizens and was less politically charged than earlier ones. A wide range of candidates ran for office, although cases still occurred of various financial groups or other powerful special interests dominating the field. However, advances made in terms of election campaigning, media coverage, and electoral reform were overshadowed by irregularities with voter lists and by violations in the administration of ballot boxes after election day in the capital, Tirana. The election report issued by the OSCE/Office for Democratic Institutions and Human Rights (ODIHR) spoke of a missed opportunity for significant progress toward compliance with OSCE commitments and other international electoral standards.

Local governments in Albania enjoy greater credibility with citizens in comparison with central institutions. In a national survey conducted by the Institute for Contemporary Studies, an Albanian think tank, 60.5 percent of the respondents said they were either satisfied or extremely satisfied with the work of local government, in contrast with 36.7 percent with the central government and 26 percent with the Parliament. A series of subsequent surveys has confirmed these results.

Despite the favorable opinion of local governments, turnout in the latest elections was the lowest in Albania's post-1991 electoral history: 45.7 percent. That figure represented, in absolute terms, a 14.6 percent decrease in voter turnout compared with the last local elections, held in 2000. This is quite a significant drop despite changes in the number of eligible voters. Participation in the functioning of local governments also remains low. Many citizens remain unaware that local council meetings, which are poorly attended, are open to the public. Citizens are also not very familiar with the institutions of local government in general and the municipal council in particular. According to a survey conducted by the Albanian Institute for International Studies in 2002, only 45 percent of the respondents were aware that they elect municipal council members, while the majority did not know the name of the head of their council. The manner in which members are elected is part of the reason for such ignorance: Citizens vote for closed party lists and not for individual council members. Politicians' loyalties thus rest mainly with the nominating political party, and the incentive to canvass the populace for votes and then seek input from the electorate is

very low. Debates within the councils are often overly politicized and less focused on community priorities.

This overdependence on political parties makes local governments vulnerable to political shocks that come from the center. During 2004, in at least two instances, party politics appeared to take precedence over the proper functioning of local governments. In the Kamza municipality, the new mayor from the Democratic Party fired a large number of state employees, allegedly because of political reasons. In the Korca municipality, where another Democratic Party member had won the election, the Socialist Party–dominated central government refused to transfer funds, citing a sizable debt (which had, however, been incurred under the previous Socialist Party mayor). These are not isolated cases: Local governments controlled by opposition parties often receive less funding than those in the hands of the ruling party.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.75	5.25	5.00	4.50	4.50	4.25	4.25	4.50

Albania has a three-layered court system: district courts, courts of appeal, and the Supreme Court. The president proposes the names of Constitutional Court and High Court judges, and the Parliament must give its approval. Judges then serve nine-year terms. The Constitutional Court interprets points of the Constitution after receiving a request from the Parliament or other state institutions. The High Court, on the other hand, is the last instance of appeal after the courts of appeals. The main role of the High Council of Justice (HCJ) is to appoint, transfer, discipline, and dismiss judges and to regulate the work of the judiciary in general. The HCJ comprises 15 members, including 9 judges elected by the National Judiciary Conference, which brings together all the judges in Albania. The remaining 6 become members automatically by virtue of their position, such as minister of justice or president of the Albanian Republic. Constitutional provisions guarantee the HCJ's independence from the executive and the legislative, but some legal experts believe that this autonomy might undermine accountability—especially because judges dominate the main body intended to discipline their colleagues.

The quality of appointed judges has been improving steadily, although the legal education offered in Albania remains poor. In addition to a four-year-long undergraduate education in law, the vast majority of new district court judges appointed after 1999 have completed studies at the Albanian School of Magistrates, an intensive three-year program of which the last year is a court internship. The school also offers continuing education through professional courses for active-duty judges.

The appointment of those who graduate from the magistrate school appears to be based largely on objective criteria, and political and personal influences seem to be the exception rather than the rule. Connections tend more to influence the particular court where judges are appointed than the appointment *per se*. Nevertheless, criteria for an appointment to courts other than the district ones are still vague, and according to the American Bar Association/Central European and Eurasian Law Initiative Judicial Reform Index, it is widely believed that advancement of judges through the judicial system sometimes results from personal connections rather than merit.

Albanian legislation is generally in line with European standards. Legislation, however, is too often passed just to please the international community, creating a gap between the law on paper and the law in reality, a conclusion reached by *Reinforcement of the Rule of Law*, a 2004 European Commission report. In addition to guaranteeing a wide range of human rights—including freedom of expression, religious freedom, freedom of association, and business and property rights—the Constitution invokes the European Convention on Human Rights (ECHR). In practice, adjudication of most alleged human rights violations initially takes place in the regular court system, where ECHR provisions are rarely applied. The right to a fair trial is not properly respected owing to a variety of shortcomings, such as excessive delays in judicial processes, poor public legal counseling, lack of publication of court decisions, violation of trial procedures, rulings made on insufficient evidence, and weak enforcement of court decisions. According to a survey conducted by the Albanian Helsinki Committee in 2004, only 40 percent of the interviewees confirmed that their defense lawyer had regularly attended their legal processes. In general, the state has made neither an effort to ensure fundamental human rights nor a systematic attempt to curb their violation.

Corruption remains one of the most urgent problems, undermining the credibility of the Albanian judiciary in the eyes of the public. A survey conducted by the Albanian Institute for International Studies in December 2003 revealed that almost half of the respondents believed courts were some of the most corrupt institutions in the country. Such perceptions are fueled also by the fact that no judges have been prosecuted on charges of corruption so far and that the number of disciplinary measures did not increase from 2003 to 2004. In each year, six disciplinary measures were taken, of which three consisted of discharging judges from their duties and three were warnings.

The Directorate of Inspection of the HCJ supervises judges. The Directorate of Inspection at the Ministry of Justice, however, seems to have overlapping competencies and functions, a cause of contention between the two bodies. While the HCJ claims that inspection by the executive violates the independence of the judiciary, the ministry argues that the judge-

dominated HCJ cannot properly perform oversight of the judiciary. In general, many analysts believe that the appeals for greater independence have allowed the judiciary to grow increasingly unaccountable and corrupt, which in turn has made it more susceptible to political threats and influences.

The poor execution of court decisions and pre-detention conditions are two other serious shortcomings of the Albanian justice system. According to data from the Ministry of Justice, in the first six months of 2004, the rate of execution of court decisions was 34 percent—considerably lower than the 2003 execution rate of 52 percent. However, of particular concern is the fact that state institutions do not respect court decisions and do not allocate part of their budget to compensate individuals or subjects against whom they have lost court cases, arguing that they do not have sufficient funds. This constitutes a violation of constitutional provisions.

Pre-detention conditions also remain a major concern. In many cases, police hold detainees in appalling conditions and overpopulated rooms. In violation of a number of legal provisions, juveniles are sometimes held in the same cells with adults. One recent incident concerned 12 juveniles who shared a cell with a group of adult prisoners, some of whom had been accused of committing serious crimes, such as murder and rape. The Albanian Human Rights Group (AHRG) a local NGO, also reported the case of a juvenile detainee who allegedly died because of police maltreatment. In large part, the Ministry of Public Order still manages pre-detention facilities, although legally the Ministry of Justice should play that role.

The Constitution includes measures designed to isolate the judiciary from political influence. In order to elect Constitutional Court and High Court judges, for example, a qualified majority of two thirds is needed in the Parliament. However, the ruling political party has always enjoyed a qualified majority since taking power in 1997. Both the opposition and factions within the ruling majority have often accused the Constitutional Court of politically motivated decisions. After the 2001 parliamentary elections, the OSCE/ODIHR criticized the court for inconsistent rulings that favored Socialist Party candidates in several contested electoral districts. The High Court has similarly not been free from allegations of political bias. The most recent case was the decision of the High Court to call on the Parliament to withdraw the immunity of Nikolle Lesi, an MP and owner of the daily newspaper *Koha Jone*, so that Lesi could be prosecuted in a case brought against him by the wife of the prime minister.

In an earlier ruling, the Tirana District Court imposed a fine of 2 million leke (about US\$20,000) on *Koha Jone* after the prime minister sued the paper for libel. A number of local and international press watchdogs and media associations labeled the decision politically motivated and an attempt to curb media freedom. The daily *Tema*, which is very critical of government policies, has faced similar pressures.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	5.50	5.25	5.00	5.25	5.25

In the realm of anticorruption initiatives, Albania's efforts since the fall of Communism appear, on paper, rather impressive. An October 2003 European Bank for Reconstruction and Development report found the Albanian legal framework to be among the most comprehensive in the region, and the country is a signatory to most of the international conventions against corruption. The government has set up a variety of structures and passed extensive legislation in the fight against corruption. A national strategy and an action plan have existed since 2000, with the action plan for 2003–2004 stressing the rule of law, prevention, and public participation. The Anticorruption Monitoring Group (ACMG)—comprising heads of legal departments in relevant ministries as well as the minister of state, Marko Bello—monitors the implementation of the strategy. A permanent secretariat to the ACMG provides administrative support and is responsible for the day-to-day implementation of the action plan. Every ministry has set up internal auditing controls. In addition, the State Audit Office performs regular auditing of public institutions. Legislation on conflict of interest is being prepared, while the Law on Declaration and Control of Assets was first implemented in 2004.

However, concrete results in the fight against corruption have lagged far behind, as laws have been either poorly implemented or not implemented at all. According to Transparency International's Corruption Perceptions Index, the rating for Albania in 2004 was 2.5 out of 10, where 10 indicates the lowest level of perceived corruption. This figure is unchanged from 2003. Five years after the Parliament passed the code on administrative procedures, which was supposed to enhance transparency in public administration operations, very little has changed in the way public administration works. The Law on Declaration and Control of Assets, an important legislative achievement, represented a positive development, but declarations of assets by some top state officials and their consequent verification served to heighten rather than lower popular perceptions of corruption. While several of the declarations revealed substantial assets (but not sources of income), no proper follow-up or verification took place, breeding skepticism and distrust about the whole process.

A number of other scandals during 2004 indicate that state capture by special interests seems to be on the rise. A draft law on digital broadcasting that could have facilitated a digital broadcasting monopoly was promoted aggressively in the Parliament by the very broadcasting company the law would have catered to; ultimately, the company was able to gather more than 70 (out of 140) signatures of MPs in a petition asking for the draft law to be voted on in a plenary session. However, in the plenary session the law was

rejected owing to strong criticism by the OSCE that many of its provisions could allow for the creation of a monopoly in digital broadcasting. The media also alleged that procurement procedures had been violated in several tenders at the Ministry of Education and the Ministry of Public Transportation. The case that sparked the most interest among the public was an agreement between the Albanian government and an Italian company on building a waste management plant that would also have processed waste imported from Italy. A variety of civil society groups criticized the agreement, pointing to potential environmental harm, the violation of existing legislation, and a nontransparent bidding process. The government consequently suspended the agreement pending further investigation of the matter.

Administrative barriers to business and investment are high, including relative to neighboring countries—another factor that stimulates higher corruption levels in public administration. According to the State Audit Office, in 2004 the misuse of public funds by state institutions and state-owned companies has increased from 2003 levels. While losses in 2003 by such misuse totaled US\$29.5 million, the figure for only the first six months of 2004 was approximately US\$30.7 million—even though there were fewer audits in the first six months of 2004 than in the same period in 2003 (136 as opposed to 156).

The efficiency of anticorruption bodies has also often been called into question. Critics have said that the ACMG lacks the necessary governmental backing to be able to act as an effective coordinating unit. Despite the selection of contact points at each of the relevant ministries, most institutions do not collaborate in gathering and exchanging information. The State Audit Office has requested a larger number of disciplinary measures and sent more cases to the Office of the Prosecutor-General in 2004 than in 2003. Nevertheless, the number of prosecutions related to bribery and corruption still remains small (although higher than in 2003), and the Office of the Prosecutor-General frequently does not even investigate corruption charges. During the first six months of 2004, there were only 30 prosecutions related to bribery. Similarly, figures from the HCJ show that the number of disciplinary measures against judges was small in 2003 and did not change in 2004—despite the popular perception of the courts as one of the most corrupt institutions in the country.

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Armenia

Capital Yerevan
Population 3,200,000
GDP/capita (PPP 2002 US\$) \$3,120
Private sector as % of GDP 75%
Ethnic groups Armenian (93 percent), Azeri (1 percent),
 Russian (2 percent), other [including
 Kurd] (4 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	5.50	5.75	5.25	5.50	5.50	5.50	5.75	5.75
Civil Society	3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.50
Independent Media	5.25	5.25	4.75	4.75	4.75	5.00	5.25	5.50
Governance	4.50	4.50	4.50	4.50	4.50	4.75	4.75	n/a
National Democratic Governance	n/a	5.00						
Local Democratic Governance	n/a	5.50						
Judicial Framework and Independence*	4.75	5.00	5.00	5.00	5.00	5.00	5.00	5.25
Corruption	n/a	n/a	5.75	5.75	5.75	5.75	5.75	5.75
Democracy Score	4.70	4.80	4.79	4.83	4.83	4.92	5.00	5.18

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Armenia's democratic development has proceeded haltingly in the 13 years since independence. Although successive governments have established the framework for a democratic market economy, their commitment to the implementation and enforcement of legislation has been weak. The absence of an effective system of checks and balances has resulted in widespread corruption throughout the political hierarchy and has left the legislature powerless to hold the executive to account. In addition, close links between the country's political and business elites have impeded the development of a more transparent political system. Elections have generally failed to meet international standards, contributing to public cynicism toward the authorities and skepticism about the value of participating in political and civic activities.

The unresolved conflict with Azerbaijan over Nagorno-Karabakh remains a potential source of instability in the region and has deterred foreign investors and hampered trade diversification. Nevertheless, adherence by successive governments to the policy prescriptions of international financial institutions has ensured macroeconomic stabilization. Since 1998, the average annual growth in real gross domestic product has exceeded 9 percent, inflation has generally been in the low single digits, the currency has stabilized, and the current account deficit has gradually narrowed. However, though poverty rates are declining, the popular perception is that most Armenians have yet to benefit from these macroeconomic successes. This has contributed to disillusionment in Armenia's political and economic transition.

Widespread corruption and weak governance remained defining features of Armenia's political system in 2004. Little progress was made in introducing measures to reduce the powers of the presidency and ensure a more even distribution of these powers among the executive, legislative, and judicial branches, despite pressure from international sources to make the necessary changes to the Constitution. The opposition continued to press for a referendum vote of confidence in President Robert Kocharian, but its weak parliamentary position and the general public's disillusionment with the political class prevented it from achieving its aim. There was a disturbing rise in the number of assaults on journalists, political actors, and human rights activists critical of the government. However, one positive development in 2004 was an increase in civil society activism.

National Democratic Governance: Armenia's long-term political stability is threatened by weak governance. The concentration of power in the presidency, the lack of accountability in the central government, and the state's weak financial resources remained serious obstacles to good governance in 2004. Constitutional amendments were under discussion throughout 2004, but no date for a referendum on these changes was set, nor was it clear whether the amendments would result in a more balanced distribution of power. Political stability was tested by the continued standoff between the government and the opposition over the legitimacy of the 2003 presidential election. *Armenia's new rating for national democratic governance is set at 5.00, reflecting the absence of an effective system of checks and balances among the branches of government.*

Electoral Process: Opposition parties continued to protest the conduct of the 2003 presidential election throughout 2004, maintaining a parliamentary boycott and organizing a series of street demonstrations. The authorities clamped down harshly on one demonstration, arresting many protesters and raiding the headquarters of several opposition parties. The opposition hoped to secure international backing for a referendum vote of confidence in the president, but the Parliamentary Assembly of the Council of Europe did not endorse a referendum, thereby weakening the opposition's campaign. *Armenia's rating for electoral process remains unchanged at 5.75.*

Civil Society: A 2004 survey by the U.S. group World Learning revealed that Armenia's civil society has strengthened since the previous survey in 2001. Positive findings included a growing level of public participation in private voluntary activity, an increase in the number of nongovernmental organizations (NGOs) undergoing professional training, and a sharp rise in advocacy training. However, civil society groups remain heavily reliant on external funding, particularly from diasporic organizations. *Armenia's rating for civil society remains at 3.50 while noting the increase in voluntary activity, improved organizational capacity and advocacy skills of civil society groups, and the rise in professional training of such groups, principally among diasporic groups.*

Independent Media: Press freedom remained under threat in 2004 when several attacks on journalists served to highlight the difficult and often dangerous working conditions for Armenia's independent media. Investigations by the judicial system yielded few results, with lenient sentences imposed on those convicted of assaulting journalists. Other crimes against journalists remained unsolved. The government has signed a Council of Europe Declaration on Freedom of Political Debate in the Media, but libel remains an offense punishable by a prison sentence. *Armenia's rating for independent media worsens from 5.25 to 5.50 owing to a rise in the number of attacks on journalists and their implications for press freedom.*

Local Democratic Governance: Although the Constitution and national legislation provide a framework for local self-government, there has been little real decentralization of authority. The autonomy of local governments is limited by their weak financial resources, and they remain reliant on the national budget for much of their funding. Several international organizations are working with local governments to strengthen their capacity to manage their own affairs and better represent public interests. Citizen participation in local government decision making is low, although NGOs have reported that local governments are more responsive to their suggestions than national governments. *Armenia's new rating for local democratic governance is set at 5.50 owing to the limited authority enjoyed by the country's local administrations.*

Judicial Framework and Independence: Despite constitutional provisions guaranteeing a full range of basic human rights, in practice there remain substantial barriers to effective protection of said rights. The judiciary enjoys little independence and is unable to fulfill its role as a guarantor of law and justice. The use of so-called administrative arrests, torture within the police system, and a new Law on Demonstrations remained particular areas of concern for human rights groups in 2004. One positive development was a new Law on Military Service, which came into effect in July and provides for alternative service. In conjunction, the Ministry of Justice has permitted Jehovah's Witnesses—whose religion prevents them from participating in military service—to register as a religious group. *Armenia's rating for judicial framework and independence deteriorates to 5.25 owing to the violent dispersal of opposition demonstrations in early 2004 and a new Law on Demonstrations that leaves no room for spontaneous mass events.*

Corruption: Widespread corruption at all levels of government remains a substantial obstacle to Armenia's political and economic development. The close links between the political and economic elite and the lack of effective law enforcement procedures have fostered official corruption. Government efforts to address the issue are focused on an anticorruption strategy adopted in late 2003. In June 2004, the government established the Council for Combating Corruption, which subsequently charged a coordinating committee with overseeing implementation of the strategy. However, doubts remain whether the authorities have sufficient political will to make genuine inroads into reducing corruption. *Armenia's rating for corruption remains unchanged at 5.75.*

Outlook for 2005: Tension between the government and the opposition will remain high in 2005, although the opposition will be unsuccessful in its aim to force a referendum vote of confidence in the president. A ballot on constitutional change is likely to be held in the first half of the year, but

it is questionable whether the amendments will achieve the intended result of a more balanced redistribution of power. Vested interests in the political hierarchy will prevent substantive improvements in governance, and the government will need to show greater political will if it is to make progress in tackling corruption.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.00						

Armenia's postindependence governments have generally adhered to the economic reform measures prescribed by international financial institutions. This has ensured continuity in macroeconomic policies and a steady improvement in economic and financial indicators. However, the concentration of power in the presidency, the centralized system of government, and the lack of an independent civil service have fostered weak governance and widespread corruption. This has been exacerbated by the close links between the country's political and business elites, which have created a powerful body of vested interests intent on preserving the status quo.

The Constitution enshrines the principle that Armenia "is a sovereign, democratic state, based on social justice and the rule of law" and provides for the separation of powers and the rule of law. However, it has failed to ensure an effective system of checks and balances among the branches of government. Extensive powers are vested in the presidency, including the power to appoint and dismiss the prime minister and government and to dissolve the Parliament practically at will. Furthermore, the president wields control over most judicial appointments, which has precluded the development of an independent judiciary. Although the process of drafting and amending laws is comparatively straightforward, implementation and enforcement are weak.

This imbalance of power has prompted repeated calls for constitutional reform from the domestic opposition and international bodies. In May 2003, a referendum on a package of constitutional amendments was held simultaneously with the parliamentary election. The amendments would have reduced the powers of the presidency (for example, restricting its power to dissolve the Parliament). However, the ballot was deemed invalid as it failed to receive support from the majority of voters, who had to make up at least one third of the electorate. New constitutional amendments were under discussion by the Parliament throughout 2004, but no final version of the proposed changes

had been approved by the end of the year. The government is under pressure from the Council of Europe to hold a new referendum by June 2005, but a lack of awareness of the proposed changes could once again lead to insufficient voter turnout.

Legislative authority is vested in the Parliament, which is empowered by the Constitution to dismiss the government by majority vote and to remove the president from office with a two-thirds majority if the Constitutional Court judges him guilty of serious offenses. In actuality, however, the Parliament has little power to hold the executive to account and enjoys substantially less authority than the presidency, particularly regarding judicial and government appointments. The government determines the Parliament's legislative agenda, which is a major constraint on its lawmaking capacity, and most government-sponsored initiatives tend to be approved.

The effectiveness of both the government and Parliament is impeded by their weak financial resources. Armenia has a poor tax collection record, owing in part to the scale of the shadow economy (estimated at 60 percent of the official gross domestic product [GDP] in 2000 by the United Nations Development Program). Central government tax revenue was equivalent to just 14 percent of GDP in 2003, according to International Monetary Fund data, but is estimated to have risen slightly in 2004, thanks in part to the implementation of measures to reduce tax evasion.

Armenia's political stability in 2004 was threatened by ongoing disputes among the country's political groups over the conduct of the 2003 elections. The opposition continued to challenge the legitimacy of President Robert Kocharian's reelection in March 2003 and kept up pressure on the Parliament to call a referendum vote of confidence in the president. However, neither a 10-month parliamentary boycott by the opposition nor a campaign of street demonstrations persuaded the pro-government parliamentary majority to call a referendum. The standoff highlighted the dominance of the president's supporters within Armenia's political structures.

A parliamentary Oversight Chamber audits government budget performance, assesses its compliance with budget targets, and evaluates its borrowing and privatization policies. The chamber submits annual reports to the Parliament and has frequently criticized the executive's handling of public finances. For example, in May 2004 it accused the government of misusing a World Bank loan aimed at strengthening the judiciary. However, its role as a watchdog over the government is limited owing to the legislature's weakness relative to the executive branch. In addition, the existence of other audit and investigative bodies within ministries creates a duplication of functions and the absence of clearly separated roles, further reducing the effectiveness of the chamber as an oversight body.

Citizen participation in decision making is limited, although civil society groups are becoming increasingly involved in political processes. The

Parliament has a Web site, debates are usually open to the public and are widely reported in the media, draft legislation is generally made available to the public, and all legislation approved by the Parliament is published in an official bulletin. Deputies rarely canvass the opinion of their constituencies, although government officials made a greater effort to hold public meetings in early 2004 in the months prior to the opposition demonstrations.

The Law on Freedom of Information, adopted in September 2003, aims to improve public access by obliging government bodies and public service providers to release official information relating to their activities within 30 days. They are permitted to refuse the release of information in only a few cases, and failure to comply with the law is a criminal offense. However, imperfect enforcement of the legislation has hampered the effectiveness of the new law.

Reform of the civil service and public administration is under way. The civil service is a professional body, in theory independent of the executive and legislative branches of power, and is not subject to change after general elections. A seven-member Civil Service Council, appointed by the president on the recommendation of the prime minister, is charged with selecting staff for government agencies on a competitive basis and monitoring the performance of government officials. By November 2004, the council had hired more than 1,350 civil servants since its establishment in 2002 and dismissed some 350 others. Critics of the council argue that because it is appointed by the president, it lacks independence and is vulnerable to political influence. Moreover, although adoption of the Law on Civil Service in 2001 was a first step toward improving the quality of state institutions, enforcement of the legislation has been problematic, and issues such as low wages have prevented the civil service from attracting and retaining skilled staff.

The National Police and National Security Service are responsible for Armenia's domestic security, intelligence activities, border control, and police force. The Parliament's weakness relative to the presidency and government results in its having little control over the country's military and security services. The president is the supreme commander of the armed forces and is entitled to deploy the army without seeking parliamentary approval. The defense minister, the head of the police, and the head of the National Security Service are all presidential appointees. The president dismissed the head of the National Security Service in November 2004, in circumstances that remain unclear.

The ongoing dispute with Azerbaijan over Nagorno-Karabakh remained a potential source of instability in 2004. The unresolved conflict has had wide-ranging economic repercussions on the region as a whole, and for Armenia specifically it has proved a deterrent to foreign investors. In addition, the dispute has led to substantial expenditures for defense to the detriment of other sectors such as health care and education. Negotiations between Armenia and

Azerbaijan resumed in 2004—having stalled in 2003 as both countries held elections—with signs of a possible compromise solution emerging toward the end of the year. However, even if the two sides reach an agreement at the highest political level, persuading the respective electorates of the need for compromise is likely to prove difficult given the level of public mistrust toward the authorities.

One legacy of the war with Azerbaijan over Nagorno-Karabakh has been that the armed forces and security services have played a large role in the country's political development. For example, military leaders, through the Yerkrapah parliamentary faction of Nagorno-Karabakh veterans, were instrumental in forcing the resignation of President Levon Ter-Petrosian in 1998, having rejected his apparent willingness to negotiate a stage-by-stage resolution of the conflict with Azerbaijan. Although the influence of military leaders has lessened since then, 2004 was notable for the emergence of a new, unofficial security force in Armenia: many opposition rallies were disrupted by what opposition members have described as the bodyguards of the country's business oligarchs.

In theory, legislators, the media, and civil society groups are entitled to information relating to the police service, but as in other areas, citizens face difficulties obtaining this information. Armenia's security and military doctrines are classified documents and therefore unavailable for public scrutiny. Nevertheless, issues such as corruption in the police force and poor conditions in the armed forces, including mistreatment of conscripts, are frequently covered in the media.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
5.50	5.75	5.25	5.50	5.50	5.50	5.75	5.75

Armenia's constitutional and electoral framework enshrines the principle of universal and equal suffrage by secret ballot and provides for the holding of regular, free, and fair elections. Since independence, however, the authorities have failed to ensure free and fair elections, as vested interests within the political and business elites have sought to preserve their privileges. This has contributed to political tension, voter disillusionment, and legislative paralysis.

Direct presidential elections are held every five years, while elections to the Parliament are held every four years. Of the 131 deputies, 75 are elected by proportional representation on the basis of party lists, while 56 are elected from single-mandate constituencies. Talks on amendments to the electoral code were under way throughout 2004 and were to be debated in the Parliament in early 2005, following examination of the proposed changes by

the Council of Europe. These were likely to include a reduction in the share of seats allotted to single-mandate constituencies, which could help reduce electoral fraud by lessening the potential for bribery. Another issue of concern is the way in which election commissions are formed. Currently, the president appoints three of the nine members of both central and local commissions, while the remaining six are appointed by parties represented in the Parliament—most of which support the president. This gives the president extensive influence over the electoral process.

Political parties are regulated by the Law on Political Parties and must be registered with the Ministry of Justice. The electorate has a wide range of parties to choose from, although political parties are generally driven more by personality than policy. Of the more than 110 parties registered at the time of the May 2003 parliamentary election, only 6 exceeded the 5 percent vote threshold required to win parliamentary representation. The number of registered parties has dropped sharply since the introduction in July 2002 of new registration requirements that stipulate political parties must have at least 200 members and maintain branches in at least one third of Armenia's regions. According to the Ministry of Justice, there were 49 parties in December 2003.

The Republican Party of Armenia (RPA) is the dominant party at both national and local levels. Headed by Prime Minister Andranik Markarian, the RPA is the leading party in the coalition government, controlling several ministries and the majority of subministerial posts. Under a power-sharing agreement concluded after the May 2003 parliamentary election, the nationalist Armenian Revolutionary Federation (ARF) and the center-right Country of Law Party make up the other two parties in the coalition. Each of these has two cabinet-level positions and several subministerial posts. The Ministries of Defense, the Interior, and National Security are headed by presidential loyalists. Together with leading businesspeople, often termed oligarchs, these parties and ministers form the so-called "power class".

As in other former Soviet republics, political and economic circles are closely linked in Armenia. This stems partly from inadequate party funding legislation, which leaves parties heavily reliant on private financial sources and therefore susceptible to donor influence. The immunity from prosecution enjoyed by parliamentary deputies has also encouraged business monopolists to seek election.

Armenia held presidential and parliamentary elections in 2003. The presidential election was won by the incumbent, Kocharian, who beat Stepan Demirchian in a second-round runoff on March 5, winning 67.5 percent of the vote, according to the Central Election Commission (CEC). A total of nine parties formed the Justice Alliance bloc, headed by Demirchian, to contest the parliamentary election held on May 25. However, the RPA and other pro-presidential parties retained their majority in the Parliament, with

the Justice Alliance and the National Unity Party of Artashes Geghamian (who secured third place in the first round of the presidential election) winning just 24 seats.

Both elections were monitored by the Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and were found to be below international standards for democratic elections, although international monitors judged the flaws insufficient to negate the results. Many of the deficiencies that have characterized Armenia's electoral process since independence were repeated in 2003, including media bias in favor of Kocharian, ballot box stuffing, and evidence of voter intimidation. Inaccurate electoral rolls also resulted in the disenfranchisement of many voters. To help prevent this in future elections, the CEC has established a Web site for voters to verify their inclusion on electoral rolls. Positive developments in the 2003 elections included television debates among the presidential candidates, use of transparent voting boxes, and active participation of domestic nongovernmental organizations (NGOs) in monitoring the elections.

Opposition attempts to challenge the legitimacy of the 2003 elections dominated the political scene in 2004. Buoyed by the success of their counterparts in Georgia in ousting President Eduard Shevardnadze in November 2003, Armenia's opposition parties maintained their demand for a vote of confidence in Kocharian. Protesting the parliamentary majority's refusal to debate the issue, deputies from the Justice Alliance bloc and the National Unity Party began a boycott of parliamentary sessions in February 2004. They subsequently organized a series of demonstrations in the capital, Yerevan, in March–June. One such protest, on April 12–13, was violently dispersed by the security forces and military police when demonstrators attempted to approach the president's residence. Although the police maintained that they came under assault from the protesters, eyewitnesses asserted that the demonstration had been peaceful until the police moved in. The authorities justified the crackdown on the need to prevent what they termed a coup d'état, but the action raised serious doubts about their commitment to observing the right to protest peacefully.

After the crackdown, many opposition supporters were arrested, including prominent figures such as Shavarsh Kocharian, one of Armenia's delegates to the Parliamentary Assembly of the Council of Europe (PACE). The headquarters of several of the opposition parties were raided by the police—a move later criticized by the government, which launched a criminal investigation. PACE issued a resolution in which it urged the government to end the crackdown on the opposition and release all political prisoners to avoid sanctions. However, it did not support the call for a referendum, thereby weakening the opposition's campaign. The conclusion by a PACE monitoring mission that the authorities had met many of the terms of the

resolution was criticized by the opposition as evidence of bias. The opposition called a formal end to the street demonstrations in June, saying that it needed to rethink its tactics.

The failure of authorities to ensure democratic elections has contributed to a lack of confidence in the electoral process and Armenia's progress toward a functioning democracy. Turnout for the 2003 parliamentary election was 52.2 percent, according to the CEC, down from 68.4 percent in the second round of the presidential election—although the OSCE judged these figures to be inflated. According to a Citizens Awareness and Participation in Armenia (CAPA) survey carried out by the International Foundation for Election Systems (IFES) in August–September 2003, the number of Armenians with an interest in politics declined from 58 percent in 2002 to 50 percent in 2003. Furthermore, 75 percent of those surveyed believed that the 2003 parliamentary election was unfair to some degree, and 74 percent had a similar opinion of the presidential election.

Ethnic minorities make up only about 3 percent of Armenia's population, and their participation in the political process is correspondingly low. No ethnic minorities are represented in the Parliament. Political parties and blocs are obliged to ensure that 5 percent of their party list candidates are women. According to the OSCE, women accounted for just 15 percent of the candidates on the proportional lists in the 2003 election and only 4 percent of the majoritarian candidates (allocated primarily to unwinnable seats). Seven women won seats in the new Parliament, up from four in the outgoing assembly.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.50

The number of civil society groups in Armenia grew rapidly following the breakup of the Soviet Union. However, their effectiveness has been hampered by deteriorating socioeconomic conditions due to the war with Azerbaijan over Nagorno-Karabakh and the collapse of the country's economic base. The result is that public participation in civil society activities has not been as high as the number of groups would suggest.

As of May 2004, about 3,300 NGOs were registered with the Ministry of Justice, of which just over 200 were registered during the previous year. The scope of NGO activities has widened in recent years, with the emphasis moving from humanitarian assistance to democracy building and broader development programs. Areas of focus include education, public policy, health care, ethnic minorities, and the disabled. Issues such as domestic violence and the trafficking of women, as well as campaigns to promote more active

participation of women in politics, are gaining greater recognition. Moreover, opposition demonstrations in 2004 indicate a greater civil engagement in the political process than the decline in voter turnout might suggest.

Initially based primarily in Yerevan, NGOs are now well established throughout Armenia. Armenian NGOs have also created several regionwide networks across the South Caucasus and Commonwealth of Independent States, working in refugee issues, human rights, and the media. Most civil society groups remain dependent on international funding, as the income level of most Armenians is insufficient to permit charitable donations. According to a survey of 347 NGOs and 61 experts carried out in 2004 by the U.S. organization World Learning, 87 percent of the NGOs surveyed relied entirely on foreign donors. Nevertheless, the financial viability of NGOs is strengthening, owing partly to legislative improvements and more effective preparation of requests for funding by NGOs. The same survey reported that 9 percent of the NGOs surveyed would be financially viable if there was a reduction in international and bilateral grants, up from 2 percent in 2001. The dependence of most NGOs on foreign donations has led to concerns that this practice weakens the civic sector's incentive to establish strong links with Armenian society.

The survey was conducted as part of World Learning's 2000–2004 NGO Strengthening Program, which was funded by the U.S. Agency for International Development (USAID). USAID also provides most of the funding for an NGO Training and Resource Center, founded in 1994 by the Armenian Assembly of America, one of the largest lobbying groups in the United States. These programs strive to raise the organizational capacity of local NGOs, offering advice on management and financial issues and training in how to increase public and government awareness of their work. IFES has also been active in Armenia since 1996 running the CAPA program, which is funded by USAID. This project aims to encourage civic initiatives and advocacy and to raise citizen participation in local self-government. Organizations such as the UN, the World Bank, the Eurasia Foundation, the Soros Foundation, and the National Democratic Institute for International Peace also finance programs to develop civil society.

Grants and bequests from domestic sources are small owing to the low income level of most Armenians. The largest domestic charity is the Hayastan All-Armenian Fund, which raises most of its contributions from the Armenian diaspora. Since its creation in 1992, the charity has spent more than US\$80 million—much of it raised through annual telethons—on infrastructure projects in Armenia and Nagorno-Karabakh. In conjunction with the local Center for Public Dialogue NGO, the fund launched its first civil society funding program in September 2004, a small grants project for NGOs.

Another important diasporic charity is the Lincy Foundation, established by the Armenian American Kirk Kerkorian. The foundation allocated US\$150

million to infrastructure and cultural projects in Armenia in 2002–2003. The Armenian General Benevolent Union (the largest Armenian nonprofit organization in the world) and the Armenian Relief Society are also active diasporic charities. The World Armenian Organization, founded by Armenian-born businessman Ara Abrahamian, held its inaugural congress in Moscow in October 2003. The organization works to strengthen relations between Armenia and the diaspora.

Media coverage of civil society activity is generally positive, although it tends to be limited to one-off initiatives, without deep discussion of the civil society operations and background analysis, and is often dependent on personal contacts. Popular perception of NGOs is similarly favorable, although public knowledge of most NGO activities is still limited: IFES reported in its 2003 CAPA survey that 45.8 percent of adults questioned could not name a single NGO. Nonetheless, NGOs themselves have reported a growing level of public participation in private voluntary activity. According to World Learning, 53.6 percent of NGOs surveyed in 2004 had a core group of 10 or more volunteers, compared with 42.3 percent in 2001. In its 2002 CAPA survey, IFES reported that religious organizations attracted the largest number of participants, which reflects the strong position of the Armenian Apostolic Church in society. The Apostolic Church itself engages in charitable work, financed largely through diasporic donations, as do other domestic and foreign religious charities.

The state protects the rights of the independent civic sector, and civil society groups are generally able to carry out their work without interference either from the government or from extremist organizations. The Parliament adopted the Law on Charity in October 2002 and the Law on Foundations in December 2002. These regulate the establishment and activities of charities and NGOs and have been judged by the International Center for Not-for-Profit Law to be in compliance with international good practices of NGO regulation, although implementation of the legislation is at times patchy. The Ministry of Justice's registration process for NGOs is relatively straightforward.

Armenian nonprofit organizations are subject to taxation on property, vehicles, and employee wages, and NGOs must disclose their revenue sources in order to establish their tax liability. The Law on Public Organizations prohibits direct income generation, and public organizations are not permitted to participate in government tenders. This has serious implications for the financial sustainability of nonprofit organizations. The establishment of limited liability companies is one way in which NGOs are able to generate income, but these are subject to taxation in the same way as businesses. Moreover, Armenia's tax legislation does not contain provisions for charitable donations, which inhibits private sector philanthropy.

Officials rarely canvass public opinion in meetings or through surveys, but government engagement with civil society and policy research groups is nevertheless increasing. This is partly attributable to an improvement in the

organizational capacity and advocacy skills of civil society groups, which have benefited from expanded training programs. According to the 2004 World Learning survey, 76 percent of NGOs reported that they had participated in professional training relevant to their organization's objectives and activities, up from 68 percent in 2001. The increase in those undergoing advocacy training was much higher, rising from just 2 percent in 2001 to 51 percent in 2004. This has coincided with the growing success of NGOs in lobbying the government and influencing national legislation, such as the amendments to the December 2003 Law on Mass Media, in which the government was forced to drop the requirement that media outlets register with the Ministry of Justice. NGO members are also participating increasingly in the drafting and monitoring of government initiatives (for instance, the Poverty Reduction Strategy Paper).

Two major private think tanks are active in Armenia, but their public profile is low and their influence on government policy limited. The International Center for Human Development, chaired by former prime minister Armen Darbinian, focuses on projects such as poverty reduction, regional integration, and good governance. The Armenian Center for National and International Studies was set up by former foreign minister Raffi Hovannisian and concentrates on foreign and domestic public policy issues.

Armenia's Constitution guarantees the right to establish and join trade unions, although this right can be restricted for those serving in the armed forces and law enforcement agencies. The Confederation of Labor Unions unites about 30 individual unions, but most of these are relatively inactive and have limited power to guarantee workers' rights. Private sector employees enjoy little protection against dismissal—this combined with the high rate of unemployment has meant that strikes in private enterprises are rare. Strikes in the public sector are more common, generally over issues such as wage increases or payment of back wages. The Union of Industrialists and Entrepreneurs represents the interests of Armenia's largest businesses.

Armenia's education system is generally free of political influence and propaganda. According to the Ministry of Education, there are about 90 institutes of higher education in the country, of which about three quarters are privately run. State-run universities are perceived as more prestigious and are considered to offer higher educational standards than private institutions. A shortage of funding has led to difficulties in attracting qualified staff. The government is reducing the number of teachers in order to fund a raise in average monthly salaries. These were scheduled to rise by about 60 percent in 2005, to 50,500 dram (US\$100). However, the layoffs have provoked controversy by leading to teacher shortages in rural areas. The weak financial situation has also ended free higher education, with entrance fees or bribes often required to secure a university place. This now restricts access to education to those who are able to pay.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
5.25	5.25	4.75	4.75	4.75	5.00	5.25	5.50

Armenia's press freedoms are guaranteed in Article 24 of the Constitution, which asserts: "Everyone is entitled to freedom of speech, including the right to seek, receive, and disseminate information and ideas through any medium of information." However, this can be restricted "by law, if necessary, for the protection of state and public security, public order, health and morality, and the rights, freedoms, honor, and reputation of others."

In practice, press freedom has come under threat in recent years, prompting Freedom House to downgrade Armenia's press rating in its annual survey of press freedom from "Partly Free" in 2002 to "Not Free" in 2003. This rating was unchanged in 2004, a year in which several attacks on journalists highlighted the dangerous working conditions faced by the independent media. In October 2004, the editors of two regional newspapers were attacked, apparently for articles that had criticized aspects of regional government; and in December, a car owned by a prominent newspaper editor was destroyed in an explosion. Reporters were also assaulted during opposition rallies earlier in the year, notably at a rally in Gyumri in April, when unidentified assailants broke journalists' equipment. A subsequent trial of the suspects in June imposed fines rather than prison sentences on those convicted, prompting journalists to condemn the court case as a farce. A six-month prison term was imposed on another person convicted of attacking a photojournalist in October—the first time an individual has been jailed for assaulting a reporter. However, the judicial system's record in protecting journalists has been poor in the past. In 2003, the authorities suspended an investigation into a grenade attack on Mark Grigorian, a prominent independent journalist, citing a lack of suspects.

Armenia's libel laws have created a difficult legal environment for investigative journalists and have contributed to widespread self-censorship, particularly where corruption or national security is concerned. Libel is classified as a criminal offense punishable by up to three years in prison, while insulting a government official in the mass media is also deemed a crime punishable by a prison sentence. This seems to contradict the provisions of the Council of Europe's February 2004 Declaration on Freedom of Political Debate in the Media—to which Armenia is a signatory—which recognizes the media's right to "disseminate negative information and critical opinions concerning political figures and public officials." The authorities have rejected international criticism of Armenia's libel laws, justifying their stance by noting that many other European countries regulate defamation of character under criminal law.

Other media-related legislation is more favorable. This includes the Law on Freedom of Information, which was passed in 2003, and an amendment to the administrative offenses code that states that government officials who

obstruct the gathering of news can be fined. In addition, the Yerevan Press Club (one of several press associations in Armenia) lobbied successfully for changes to the draft Law on Mass Media, before it was finally approved in December 2003. The amendments removed the requirement that media outlets register with the Ministry of Justice and rescinded the need for journalists to disclose their sources of information and funding, except in cases where judges are hearing related criminal offenses. This latter requirement nevertheless remains a concern, as demonstrated in October 2004, when the chairman of the Association of Investigative Journalists, Edik Baghdasarian, was warned that he could be imprisoned for failing to reveal his source relating to an assault on an opposition politician, Ashot Manucharian.

According to the Yerevan Press Club, as of November 2004 there were just over 60 television stations in Armenia, of which about 27 were based in Yerevan. There were also about 12 independent radio stations, which focus on entertainment and brief news reports. The programs of Radio Free Europe/Radio Liberty (RFE/RL) and the Voice of America are broadcast on state radio. A television program made by RFE/RL was also scheduled to be broadcast weekly on a private television station, Kentron, beginning in October 2004, but was suspended after just one week. Kentron refuted U.S. concerns that the decision was politically motivated, citing commercial reasons for the suspension.

The state-run Armenian Public Television is the country's most influential media outlet. Its output, along with that of the leading private stations—for example, Prometevs, Armenia, ALM, and Shant—is biased in favor of the authorities. Armenia's main independent television station, A1+, lost its broadcasting license in a controversial tender in April 2002 and failed to regain a broadcasting frequency in several tenders held in 2003. The National Commission on Television and Radio, whose members are appointed by Kocharian, cited a variety of financial and technical reasons for its decision not to award new frequencies to A1+ and another leading broadcasting organization, Noyan Tapan. However, A1+ believed that the decision was politically motivated owing to the investigative nature of its reporting. It is appealing the decision in the European Court of Human Rights. The failure by A1+ and Noyan Tapan to win broadcasting frequencies fueled the suspicions of international observers about the lack of impartiality in Armenia's media regulatory body.

Armenia's 80 or so newspapers (data from the Yerevan Press Club) offer more diverse opinions than the broadcast media, although total circulation is extremely low at about 40,000. The state-owned national daily is *Hayastani Hanrapetutyun*, and there are 6 privately owned national dailies. Pro-Kocharian papers include the dailies *Azgh* and *Hayots Ashkhar*, the biweekly *Golos Armenii*, and the weekly *Yerkir*. Offering a more liberal, pro-Western perspective are *Aravot* and *Haykakan Zhamanak*. The left-wing biweekly *Iravunk* is also opposed to the current authorities.

Most broadcast and print media organizations in Armenia are privately owned and funded. Although the country's newspapers offer a plurality of views, their low circulation presents them with serious financial constraints. They are dependent on private sponsors, often with significant vested political or economic interests, and this affects their objectivity. More than half of Armenia's newspapers are distributed by the Haymamul agency, which is run by a government-appointed director. The government declared its intention to privatize the agency in 2001 but since then has sold off only the sales kiosks, leaving Haymamul with control over distribution (and hence able to influence circulation).

Access to the Internet is not formally restricted, but high connection costs render it unaffordable for most households. In September 2004, 6.8 percent of the population used the Internet, according to the company World Internet Stats. Most users (about two thirds are in Yerevan) have access to Internet services at work, educational institutions, or Internet cafés. There are about 35 Internet service providers (ISPs) in Armenia, although only about one third are actually functioning. All ISPs rely on a monopoly provider, the national telecommunications operator ArmenTel, for connection to outside services.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.50						

Armenia's Constitution and national legislation provide a framework for local self-government, but in practice the authority and activities of the local administrations are circumscribed by the presidency and the central government, which wield extensive control over local issues.

Chapter 7 of the Constitution covers issues relating to territorial administration and local self-government. Armenia has a two-tiered administrative structure. It is divided into 10 regions and the city of Yerevan, which has region status. There are no elective bodies at this level of government: regional governors are appointed by the central government and, in turn, appoint their own staff. The mayor of Yerevan (whose status is that of a regional governor) is appointed by the president. International organizations have urged the authorities to amend the Constitution to allow direct election of the Yerevan mayor, so far to no avail. Regional governors are responsible for administering policy in a wide range of fields (including finances, public utilities, and urban development), coordinating the activities of regional agencies of state administration, mediating between central and local governments, and regulating intercommunity issues.

The regions (excluding Yerevan) are subdivided into 930 rural and urban communities. Community heads (equivalent to a mayor) and councils of

elders, made up of 5 to 15 members, are chosen for three-year terms on the basis of universal, equal, and direct suffrage by secret ballot. The community head is accountable to the council of elders but can be dismissed by the central government on the recommendation of the regional governor. The community head also sits on a regional council with the regional governor to coordinate regional policy. Yerevan is divided into 12 districts, each governed by a district head. These sit on the Yerevan council, which is chaired by the mayor.

Local governments are regulated by the 2002 Law on Local Self-Government. In theory they enjoy fairly broad powers, but their autonomy is limited by their weak financial resources. The council of elders (which acts as the representative body for communities) is responsible for approving community budgets and supervising their implementation. However, the central government has authority over budgetary loans, credits, and guarantees and establishes procedures for the collection and distribution of local taxes.

Land and property taxes are the only form of community tax revenue, but even these have to be collected in accounts in regional branches of the state treasury. Communities also receive revenue from state duties. They are therefore heavily dependent on financial transfers from the state budget, but disbursement delays are common, limiting the capacity of local governments to meet their spending requirements or ensure the timely payment of staff salaries. Moreover, the distribution of financial resources from central to local government is uneven and poorly targeted. The autonomy of local governments is further circumscribed by the powers of regional governors, who often use administrative resources as a means to influence local authorities. In theory, local authorities have the courts to protect their powers and defend the rights of the local community, but because of the dependence of the judiciary on the executive, its impartiality in such cases is questionable.

The inadequate legal framework regulating the powers and responsibilities of local governments is an additional factor inhibiting their ability to function effectively. This also enables the central government to interfere in decision making at the local level. Poor delineation of powers and the lack of legislation regarding conflict of interest and nepotism render local authorities' operations less than transparent.

Local governments have the right to form associations to protect and promote their interests. As of 2004, there were three main local government associations: the Community Union of Armenia, the Union of Yerevan Elders, and the Community Finance Officers Association. International organizations are working with local government associations to improve their effectiveness. The World Bank, United Nations Development Program, and Open Society Institute are coordinating a Fiscal Decentralization Initiative for the three countries of the South Caucasus, and a USAID-funded project, the Local Government Program, is operating in 12 pilot cities in Armenia to develop

professional and municipal associations to represent and lobby the executive and legislative branches of the national government.

Although citizens are able to elect their community leaders, the composition of local election commissions renders their impartiality questionable. As with the CEC, three of the nine members of the local commissions are appointed by the president, while the remaining members are allocated to parties according to their distribution of seats in the Parliament. This reinforces the presidency's substantial influence over the local election process.

Political parties do not play a major role in local elections, although they are entitled to nominate candidates. More commonly, citizens are nominated as independent candidates through civil initiatives (having first collected a minimum number of signatures as specified in the electoral code), but they can state their party affiliation on the ballot papers. The most recent local elections were held in October 2002. Turnout was 46 percent, up from just 28 percent in 1999. As at the national level, candidates affiliated with the RPA won the most mayoral offices with control of 160 communities, followed by representatives of the ARF (28) and Country of Law (17). Most opposition parties declined to participate, preferring to concentrate on preparing for the presidential and parliamentary elections to be held the following year.

Independent monitors, including international missions and NGOs, are permitted to observe local elections. A Council of Europe monitoring mission concluded that "the [2002] elections were held almost corresponding to international standards," although there were irregularities, including multiple voting and the addition of deceased persons to the electoral rolls.

Citizen participation in local government decision making is low, owing in part to the limited authority of local governments. According to the CAPA 2003 survey conducted by IFES, only 36 percent of Armenians are interested in the activities of local governments, compared with 50 percent who take interest in general political events. Furthermore, the percentage of Armenians who describe themselves as at least somewhat knowledgeable about the activities of local government fell from 39 percent in 2001 to 31 percent in 2003. Just 8 percent had knowledge of the local community's budget. Corruption contributes to popular disillusionment with local governments. One example of corruption was the distribution in Gyumri of new homes built with financial assistance from the Lincy Foundation. A government commission revealed in March 2004 that the local authorities had not ensured the transparency of the process and had manipulated the lists of those families entitled to free housing.

Citizens are entitled to submit draft resolutions to local governments, and most meetings of the council of elders are open to the media and the public. The public is entitled to full access to information concerning the activities and decisions of regional and local governments, but a lack of funds restricts the capacity of these governments to publicize the information. Moreover, only

15 percent of those surveyed by IFES had been approached by local governments or officials to express an opinion on local issues. NGOs have reported a more positive experience interacting with local governments. According to the 2004 World Learning NGO survey, 74 percent of regional NGOs were interacting with local governments, and NGOs generally found them to be more responsive to their suggestions than the national government.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.75	5.00	5.00	5.00	5.00	5.00	5.00	5.25

Chapter 2 of Armenia's Constitution provides for fundamental political, civil, and human rights, but there are substantial barriers to protecting them effectively. These stem largely from the weak judiciary, which enjoys little independence. When questioned by IFES in 2003, only 18 percent of Armenians surveyed felt that the judiciary was free of influence from political figures, while almost 70 percent disagreed that the judicial system protects the population from unjust treatment by the state.

Neither the Council of Justice (which has a supervisory and disciplinary role within the judiciary) nor the Constitutional Court (which interprets and enforces basic law and ensures the constitutionality of legislation) is free from political influence. The Council of Justice is appointed and chaired by the president, who also has the authority to appoint and dismiss judges and public prosecutors. Kocharian used this prerogative to sack the prosecutor-general and four Yerevan district prosecutors in March 2004, in what he described as an attempt to strengthen the rule of law. The move coincided with preparations by the authorities to combat opposition demonstrations held later that month.

Of the Constitutional Court's nine members, four are appointed by the president and five by the Parliament, in which pro-president deputies predominate. Moreover, access to the Constitutional Court is restricted to the president, one third of members of Parliament, election candidates, and, in limited cases, the government. Neither lower-level courts nor ordinary citizens are empowered to lodge appeals.

The flawed elections of 2003 resulted in several appeals to the Constitutional Court by the opposition. Although the court acknowledged that there had been irregularities, it concluded that these were not sufficient to annul the elections. In its ruling on the presidential election, the court endorsed an opposition proposal that a referendum vote of confidence in the president should be held in 2004, then later backtracked from this position, citing the easing of tensions within the country. This further contributed to the perception that the court enjoys little independence from the executive branch.

Armenia's judicial system guarantees the presumption of innocence, the right of persons not to incriminate themselves, and access to a public hearing by a fair and impartial court. Police officials are permitted to keep suspects in custody for up to 72 hours before filing criminal charges and require a court decision to turn detention into an arrest. Prosecutors' requests for arrests are rarely refused. According to the court of appeals, judges approved more than 96 percent of arrest petitions filed by prosecutors in 2003. Witnesses have no right to legal counsel while being questioned in police custody. A legal requirement stating that only the courts are permitted to authorize searches is often violated. Although Armenia's procedural justice code sets a one-year maximum for criminal inquiries, delays in the criminal justice system are common, owing in part to a shortage of qualified judges.

International human rights groups have continued to highlight abuses within the police system, which is reported to use force and psychological pressure to secure confessions. In July 2004, the Council of Europe's European Committee for the Prevention of Torture released a critical report documenting police brutality, based on a fact-finding mission in October 2002. The authorities responded by saying that they had taken adequate measures to curb abuses, but there has since been evidence of continued ill-treatment. Human Rights Watch noted in a May 2004 briefing paper on the April demonstrations that it had "documented several cases of torture and ill-treatment in police custody during the government crackdown against the opposition." Furthermore, many victims of abuse are reluctant to press charges for fear of the consequences. Human Rights Watch has also criticized the use of so-called administrative arrests. This Soviet-era practice permits courts to detain people without legal counsel for 15 days and to sentence defendants in closed hearings.

The classification of libel as a criminal rather than civil offense, carrying a punishment of up to three years in prison, has proved a particular source of controversy with respect to freedom of expression. Armenia's treatment of religious minorities has also come under scrutiny. The Armenian Constitution and laws guarantee freedom of religion but also provide for the legal authority of the Armenian Apostolic Church, which enjoys a privileged status. As such, the church uses its influence over the government to press for restrictions on nontraditional religious groups.

Under the terms of its membership in the Council of Europe, Armenia is committed to ensuring freedom from discrimination for nontraditional religious groups, of which about 50 are officially registered. Jehovah's Witnesses were finally permitted to register in October 2004. They had repeatedly been denied registration, primarily because of their opposition to compulsory military service. However, a new Law on Military Service came into effect in July 2004. This provides for civilian service, but those choosing this option must serve for 42 months—almost twice as long as those carrying out

military service. The legislation permits every male to opt for alternative service, not just those objecting on religious grounds. The government also introduced legislation in 2004 exempting from the draft those who have avoided conscription for five or more years on payment of a fine (estimated at about 5,000 people, according to official figures).

Government attempts to remove the exemption from military service for graduate students until they have completed their studies prompted university students to boycott classes in early 2004. The Ministry of Defense had argued that the ability to secure an exemption was contributing to bribery within the tertiary education system by enabling students to avoid the draft. However, lack of support for the proposal forced the government to withdraw the legislation.

The right to own and inherit property is guaranteed in Article 28 of the Constitution, which also states that no one can arbitrarily deprive a citizen of his property. Article 36 guarantees intellectual property rights. Noncitizens are prohibited from owning land, except under special circumstances. A lack of training for judges in commercial issues has left many investors disillusioned with the court system as a viable legal recourse. Moreover, government connections are still an important factor in the successful conduct of many forms of business, putting foreign investors without political links at a disadvantage.

Article 26 of the Constitution states that “citizens are entitled to hold peaceful and unarmed meetings, rallies, demonstrations, and processions.” However, opposition attempts to organize antigovernment demonstrations in 2004 met with a harsh response from the authorities, who placed restrictions on freedom of movement, including the closure of roads into Yerevan to prevent people from participating. Many demonstrators were arrested following the violent dispersal of a protest on April 12–13, and several journalists covering the demonstrations, as well as protesters, sustained injuries. Sentences imposed on those arrested included an 18-month prison term for one demonstrator who had thrown a water bottle at a policeman (although he was released in early September). The opposition and local human rights groups denounced the arrests as politically motivated, but the head of the OSCE in Armenia concluded that although they were controversial, they were not unfounded.

A new Law on Demonstrations has attracted criticism from the OSCE. In its assessment of the draft law (which was not subject to further changes before its approval in April 2004), the OSCE/ODIHR concluded that although the draft was much more acceptable than previous versions, it left no room for spontaneous mass events and therefore ran counter to the European Convention on Human Rights. The legislation removes the requirement that demonstration organizers secure permission, replacing it with a need simply to notify the authorities; but it permits law enforcement bodies to break up

demonstrations by force in the event of violations of the law. The opposition regards the new law as an attempt to prevent it from organizing further street demonstrations, as under separate provisions most large public places in Yerevan are now off-limits to protesters. The government has come under pressure from the Council of Europe to amend the law by March 2005.

In 2004, there was a disturbing rise in the number of assaults on journalists, political actors, and human rights activists critical of the government. In March 2004, Mikael Danielyan, head of the Armenian Helsinki Association, and Victor Dallakian, a member of the Justice Alliance bloc, were attacked in separate incidents by unknown assailants; and in April, a prominent opposition politician, Ashot Manucharian, was beaten up. Investigations into these attacks were suspended shortly afterward, ostensibly for lack of evidence, although the inquiry into Manucharian's assault was reopened in September when he was reported to have recognized one of his attackers.

Legislation to enable the appointment of a human rights ombudsman by the president was approved by the Parliament in 2003. Larisa Alaverdian, formerly a member of the presidential human rights commission, was appointed Armenia's first ombudsman in February 2004 and pledged to focus on prison conditions and child protection as priorities. Concerns that the office would be subordinate to the executive had prompted opposition deputies and NGOs to urge the Parliament to delay passage of the bill until the Constitution has been amended, thus allowing the appointment to be the Parliament's prerogative. Although the Council of Europe is opposed to presidential appointment of the ombudsman, it said that passage of the legislation should not be delayed and that the appropriate constitutional amendments could be made subsequently.

Armenia's new criminal code, adopted by the Parliament in April 2003, came into effect in August 2003. The new code formally abolished the death penalty, providing instead for life imprisonment. Prisoners receiving the life sentence are entitled to apply for parole after 20 years, compared with the maximum prison sentence under the previous criminal code of 15 years. Most prison sentences were shortened under the new code.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	5.75	5.75	5.75	5.75	5.75	5.75

Although Armenia scores better than most other former Soviet republics in international surveys on corruption, widespread corruption at all levels of government remains a substantial obstacle to the country's political and economic development. Not only has this fostered public cynicism toward the authorities, it has deterred foreign investors.

In its 2004 Corruption Perceptions Index, Transparency International rated Armenia 82 out of 146 countries, well above its neighbors in the Caucasus—Georgia and Azerbaijan—and, of the former Soviet republics, behind only Belarus. Armenia's score was 3.1, with 10 being the least corrupt.

Armenia joined the Council of Europe's Group of States Against Corruption in early 2004, although no evaluation of its progress has yet been published. The government's most recent initiative is an anticorruption strategy finalized in late 2003. The strategy sets out measures to combat corruption in the political sphere, the state bureaucracy, law enforcement agencies, and the judiciary, with the aim to overcome poverty. The Council for Combating Corruption was inaugurated in June 2004, headed by the prime minister and other high-ranking officials; the council subsequently set up a coordinating committee to oversee the implementation of the new strategy.

The opposition parties have declined to participate in the monitoring committee, citing its closeness to the executive, but several NGOs are represented. Nevertheless, local and international observers remain skeptical that the strategy will be effective, citing concerns at the lack of independence of the bodies set up to implement the strategy and doubts over the government's political will to tackle corruption.

An affiliate of Transparency International, the Center for Regional Development (CRD) operates a National Anticorruption Resource Center, with offices in Yerevan and five provinces, that aims to raise public awareness of corruption. The CRD published an assessment of Armenia's anticorruption institutions in October 2004, based on 2003 analyses, and concluded that none of the institutions evaluated is functioning effectively. Factors influencing this finding include the absence of political will, the lack of institutional autonomy, poor law enforcement, and the low level of public participation in policy making.

Skepticism over whether there is sufficient political will to address corruption stems partly from the fact that public officials encounter few limitations to economic participation. Although the state's formal involvement in the economy is low in comparison with that of other transition countries (the European Bank for Reconstruction and Development estimates the public sector contributed 30 percent to GDP in 2003), public officials at all levels have extensive business interests. Political and economic power has become increasingly concentrated among a small group of people. Moreover, parliamentary deputies enjoy immunity from prosecution, leading many wealthy businessmen to stand for election.

Armenia's business-related legislation, including registration requirements, is relatively sound. The country performed well in the Heritage Foundation/Wall Street Journal 2004 Index of Economic Freedom, scoring 2.63 ("Mostly Free"), which places it in joint 44th place (with France) out of 155 countries. However, weak implementation of the legislation has increased the

opportunities for official corruption. There is a perception that it is difficult to run a successful business legally, particularly among entrepreneurs with small and medium-sized enterprises (SMEs). Often, bribes and the use of personal connections are the only way to ensure the viability of a business. Of those senior managers questioned for the World Bank's Investment Climate Survey, published in the *World Development Report 2005*, 35.7 percent reported that bribes were paid to "get things done."

Corruption among tax authorities has proved an impediment to the development of SMEs. These frequently come under pressure to pay tax on their profits and revenue in advance, above what is required by law. The situation is exacerbated by the absence of an independent judiciary. As a result, businesses with political connections have an advantage over those without, while judges are reported to be susceptible to bribery in exchange for a favorable ruling in disputes.

Armenia's financial disclosure laws are insufficient to combat corruption. The 2001 Law on Declaration of Incomes and Assets requires senior government officials, including the president and government ministers, to annually declare revenue and property belonging to them and their families. The law came into effect in 2002, but many observers dismissed the income declarations made by officials as unrepresentative and far too low. Moreover, although amendments to the law in 2003 broadened the number of officials covered by the declaration requirement, they removed the provision that declarations be published. In addition, the law neither requires tax authorities to verify the financial statements nor provides strict punishment for reporting false information; it imposes only relatively lenient fines. Of the total 120,000 officials who should have filed declarations in 2003, only 47,000 complied, according to the state taxation service. Gaps in the legislation enable officials to register property in the name of relatives, thereby providing another means of tax evasion. Few officials have been punished for corrupt practices. Moreover, there is no legal protection for whistle-blowers, which acts as a strong disincentive to report corruption.

Corruption is also pervasive within the civil service, where the focus on inspections and audits as the main tools of legislation enforcement has increased the opportunity for bribe taking. Since mid-2003, the government has been raising salaries in the civil service to reduce the incentive for bribery. Nevertheless, average monthly wages, at 70,000 dram (US\$140) in the state taxation service and the customs administration, are still insufficient to attract and retain high-caliber staff or deter them from seeking bribes. Bribery is also commonplace when dealing with the traffic police, universities, and other areas where official salaries are low.

The lack of independent media has precluded unbiased press coverage of official corruption, although the extent of official corruption is a constant theme of opposition parties and the ARF. However, as long as most print

media are sponsored by wealthy business individuals, they have little incentive to draw attention to the scale of corruption in a system in which they play a part. Attempts to expose official corruption carry risks for the media. For example, A1+’s failure to win a new license is attributed to the investigative nature of its reporting, contend observers.

Public perceptions of official corruption are highly negative. According to IFES, 71 percent of those questioned in its 2003 survey considered corruption to be a serious problem (up from 68 percent in 2002), although the number believing it to be very serious had fallen from 20 to 16 percent. The pervasiveness of official corruption and the government’s hitherto poor record in addressing it have led to the perception that it is too deeply entrenched to be eradicated: 81 percent of those questioned in the survey believed that Armenians accept corruption as a way of life. Another survey, conducted in September 2004 by the Armenian Center for National and International Studies, revealed that 62 percent of respondents believed that corruption exists at all levels and that health care institutions, followed by the courts, were the most corrupt structures. Corruption within the political sphere is also widespread: 63 percent of those surveyed were offered a bribe in the 2003 presidential or parliamentary elections.

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Azerbaijan

<i>Capital</i>	Baku
<i>Population</i>	8,200,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$3,210
<i>Private sector as % of GDP</i>	60%
<i>Ethnic groups</i>	Azeri (90 percent), Dagestani (3.2 percent), Russian (2.5 percent), Armenian (2 percent), other (2.3 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	5.75	5.50	5.50	5.75	5.75	5.75	6.00	6.25
Civil Society	5.00	5.00	4.75	4.50	4.50	4.25	4.50	4.75
Independent Media	5.50	5.50	5.50	5.75	5.50	5.50	5.75	6.00
Governance	6.25	6.25	6.25	6.25	6.00	5.75	5.75	n/a
National Democratic Governance	n/a	6.00						
Local Democratic Governance	n/a	6.00						
Judicial Framework and Independence*	5.50	5.50	5.50	5.25	5.25	5.25	5.50	5.75
Corruption	n/a	n/a	6.00	6.25	6.25	6.25	6.25	6.25
Democracy Score	5.60	5.55	5.58	5.63	5.54	5.46	5.63	5.86

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Azerbaijan went through a highly unstable period immediately after gaining independence from the Soviet Union in 1991, as it fought a bloody war with Armenia over Nagorno-Karabakh, a predominantly Armenian-populated region in Azerbaijani territory. Hostilities ended in 1993 with the election of President Heydar Aliyev, a former first secretary of the Central Committee of the Azerbaijani Communist Party. A peace agreement has yet to be signed, and the massive social problems resulting from the war—some 1.5 million refugees—remain unresolved. Aliyev's rule between 1993 and 2003 brought a period of political and economic stability, though at the expense of democracy in many instances. The elder president pursued an independent foreign policy and struck deals with major multinational companies to receive substantial investment in the country's energy sector.

A member of the Council of Europe (COE) since 2001, Azerbaijan has yet to have a free and fair democratic election. Aliyev orchestrated a carefully planned succession to pass power to his son, Ilham Aliyev, following a sudden decline in his health. Ilham became president in October 2003, after a controversial election with the support of his father's ruling team, and consolidated his authority in 2004. Azerbaijan continues to enjoy a high level of economic growth thanks to the country's promising natural resources, yet a large segment of the population remains in poverty. The energy sector's overwhelming share of the national economy makes the country vulnerable to shocks in global energy markets. Meanwhile, the Aliyev administration has so far failed to demonstrate the necessary political will to pursue a genuine democratization program. There were only minor improvements in 2004, with marked deterioration in the areas of electoral process, civil society, media freedom, and judicial framework and independence.

National Democratic Governance. The president continued to enjoy overwhelming and uncontested authority in Azerbaijan's governmental system in 2004. The ruling New Azerbaijan Party (YAP) remained united behind President Aliyev, enabling him to move smoothly through domestic policy making and personnel changes in the government, while tensions among the ruling elite were more apparent than under the elder Aliyev. The Milli Majlis, Azerbaijan's legislative branch, maintained a low profile in 2004, effectively serving as a rubber-stamp authority for the president. Although the legislature

appeared to play an important role in September, when public reaction forced the government to cancel NATO peacekeeping exercises slated for Azerbaijan on September 13, it generally seemed careful not to weaken the president's absolute authority in policy making. The administration also continued to exert substantial pressure on its political opposition. *Azerbaijan's rating for national democratic governance is 6.00, which reflects the government's continued reliance on an authoritarian regime and use of force rather than democratic institutions and the rule of law.*

Electoral Process. The December 17 municipal election was the first national poll since the beginning of President Aliyev's term and only the second held in Azerbaijan since independence. International and local observers deemed the election fraudulent and below international standards. The Parliament amended the Law on Political Parties in May 2004, but these changes facilitated political party closures by the courts. The government also failed to carry out recommendations by the COE Venice Commission to make the Central Election Commission (over which the government has tremendous influence) into a representative body. Although there were a number of improvements to increase the transparency of the election, problems in the candidate registration process and continued intimidation of political opposition favored ruling party candidates. *Azerbaijan's rating for electoral process declines from 6.00 to 6.25, owing to the government's continued dominance of the municipal election campaign, irregularities reported during the registration process, and the government's move to facilitate closure of political parties.*

Civil Society. Little progress was made in 2004 in Azerbaijan's civil society sector, with nongovernmental organizations (NGOs) still facing registration, tax, and funding problems. The government's campaign against the Juma mosque community and its leader, Ilgar Ibrahimoglu, who supported the opposition in the 2003 presidential election, has demonstrated a fresh example of government intervention into any grassroots activity. *Azerbaijan's rating for civil society declines from 4.50 to 4.75, owing to continued government refusal to register some NGOs and pressure on the Juma mosque congregation.*

Independent Media. The media continued to operate under governmental and legal pressure, with most opposition outlets facing substantial financial hardship in the face of unreasonably high libel penalties and limited resources. Print media remained divided into either pro-government or pro-opposition camps, while the independent Press Council appeared to make some progress in resolving problems with the government and improving professional and ethical standards among journalists. An important development was the formation of a new public broadcaster, but the government's latest law

envisions higher governmental authority over the broadcaster than advised by international observers. *Azerbaijan's rating for independent media falls from 5.75 to 6.00, due to the government's continued mistreatment of opposition journalists and press after the fall 2003 election and into 2004.*

Local Democratic Governance. Local governance in Azerbaijan is not democratic, as the government continues its practice of directly appointing local administrators. The influence of municipal councils, which are formed through elections, remains limited. Reported irregularities in the registration of opposition candidates in the December municipal election, in which the ruling party nominated almost 10 times as many candidates as all opposition parties, reflected the government's unwillingness to democratize the local regime. This unwillingness was also demonstrated by the significant pressure on local activists and opposition groups that criticized local administrators in the Nakhichevani Autonomous Republic and Musalla and Geranboy regions. As a result, the YAP maintained its political monopoly in city councils, following a boycott of the municipal election by major opposition parties—with the exception of the Azerbaijan National Independence Party, which failed to strengthen its standing. *Azerbaijan's rating for local democratic governance is thus 6.00, reflecting the ruling party's continued dominance in local governance and local executives' unwillingness to liberalize the political environment.*

Judicial Framework and Independence. The government maintains substantial authority over the judiciary. This is reflected in the continued intimidation—through politically driven investigations and legal or other harassment—of opposition parties, independent journalists, and any other critics of the government or local authorities. The right to assemble publicly is considered a privilege by the authorities, as local executive committees hinder, prohibit, or break up opposition rallies. Public trust in judicial and law enforcement bodies is low. *Azerbaijan's rating for judicial framework and independence declines from 5.50 to 5.75, owing to the judiciary's continued lack of independence and violations of political rights and civil liberties.*

Corruption. Corruption remained one of the most problematic issues in 2004, permeating society from top to bottom and creating a major impediment to economic development. There remains a culture of intolerance toward any discussion of government corruption. The auditing capacity of the legislative branch is weak, and government investigations of civil servants are usually politically driven. Legal and other harassment is commonplace for persons who publicly allege corruption on the part of government officials. *Azerbaijan's rating for corruption remains unchanged at 6.25, as the government still does far too little to combat corruption despite some improvements.*

Outlook for 2005. Ilham Aliyev's administration will further consolidate its position in 2005, while continuing to enjoy substantial oil revenues that will no doubt steadily increase when the Baku-Tbilisi-Ceyhan pipeline opens midyear. There will be some reorganization of political opposition, with a broad alliance among major opposition parties possibly occurring ahead of the November 2005 parliamentary election. The Aliyev administration will face increased international pressure from the COE and the U.S. government to hold free and fair elections, but it is uncertain whether that will result in a more representative and vocal legislature. There will likely be little progress toward resolving the Nagorno-Karabakh conflict in 2005, although a military standoff between Azerbaijan and Armenia also seems unlikely.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.00						

Azerbaijan has a highly centralized presidential system, in which stability is frequently maintained by violating democratic principles. The executive branch is made up of a president, his administration, a prime minister, and the cabinet of ministers. The president enjoys overwhelming authority over the executive, legislative, and judicial branches. President Ilham Aliyev rapidly consolidated his position in 2004, but his regime has continued to use undemocratic means lacking both transparency and the rule of law. Nonetheless, his first year as president has reversed prior concerns that the departure of his father, Heydar Aliyev, from the political scene would cause an implosion of the Azerbaijan government and the ruling party and lead to a period of chaos and instability.

President Aliyev appeared to be extremely cautious in making changes to his father's team in the period immediately following the election. The second half of his first year in office saw a more emboldened Aliyev, as he began using his control of senior government appointments to increase the power of his own team of loyalists. He replaced controversial communications minister Nadir Ahmedov with Ali Abbasov and appointed career diplomat Elmar Mamedyarov as foreign minister. He also appointed new deputy ministers in several key agencies, including the Tax Ministry, the State Customs Committee, and the Ministry for Ecology and Natural Resources. In July, the president encountered no apparent difficulty when replacing Namik Abbasov, the influential former national security minister. In November, he made the

politically risky decision to substantially increase domestic energy prices (in a onetime hike rather than a gradual approach, as recommended by the IMF). This particular issue has dominated the IMF-Azerbaijan relationship over the last three years and was one his father's administration resisted confronting in order to avoid a public outcry.

Meanwhile, Presidential Chief of Staff Ramiz Mekhtiyev remained influential in the administration, perhaps even more so since the departure of Heydar Aliyev. But he also encountered heightened criticism from his political opponents, communicated through a pro-government press that seemed less restricted than during the former president's term in its reporting of intentional leaks about the ruling elite. Mekhtiyev nonetheless maintained his influence over personnel changes, as Ilham Aliyev moved against a segment of the old guard by dismissing some ministers and other senior figures from his father's administration, including former national security minister Namik Abbasov, who had been viewed as a potential contender for the presidency.

While the ruling party and the administration were initially united behind the president, factional lines—based on either regional or generational differences—became more visible during his first year in office. In response, Aliyev appeared to distance himself from the increasingly public conflicts within his administration and factions of the ruling party. At the same time, he did not exert clear and undisputed control over all political and economic processes in the country and in the future is likely to share power and influence with other actors—possibly with influential nonpolitical figures such as State Customs Committee chairman Kemaleddin Heydarov, Azpetrol chief executive Rafik Aliyev, and State Committee on Securities chairman Heydar Babayev. Ilham Aliyev's apparent recognition that he must deliver on his pledge to improve socioeconomic standards—demonstrated by huge wage and pension increases in 2004—is promising for securing political stability, but only in the long term. The administration and the ruling New Azerbaijan Party (YAP) continue to dominate and monopolize power to the exclusion of all other forces.

Despite the controversy over the October 2003 elections, which were deemed fraudulent and below international standards by observers, Ilham Aliyev managed to create a power base among a significant part of the population that desires stability, given the country's socioeconomic problems and the ongoing Nagorno-Karabakh conflict with Armenia. Provided the government successfully continues its current energy development policies, which have led to some improvement in the welfare of Azerbaijani citizens, there appears to be no major challenge to Aliyev's authority. The time frame for Ilham Aliyev's formal policy agenda—increasing state spending to reduce poverty and bolster employment—as well as his less visible agenda of furthering generational change in the cabinet is likely being driven by Azerbaijan's next parliamentary elections, which are scheduled for Novem-

ber 2005. While the pursuit of a genuine democratization program ahead of the polls is not likely to emerge as a priority, Aliyev aims to lead the YAP into these elections with some tangible achievements and ideally some level of real popularity.

There will be significant international pressure on the administration to hold free and fair elections in November 2005. Given that pressure from the international community, including the U.S. government and the Council of Europe (COE), was ineffective in compelling the authorities to hold a sound election in October 2003, it is difficult to predict whether such intervention will pay off in 2005. However, two factors may increase the chances that the elections will be more free and fair than those held in October 2003 and December 2004. First, the administration will enter the polls under a strengthened president, which makes a more representative legislature less threatening, particularly given its limited role. Second, the 2004 changes in government in Georgia and Ukraine, both of which were triggered by public frustration—and, perhaps more important, received clear Western support—may force the administration to take steps to liberalize the political environment to a limited extent in order to keep international support. On the other hand, the impact on Azerbaijan of the developments in Georgia and Ukraine could have the opposite effect, leaving the Aliyev administration increasingly skeptical of Western support for sound elections.

These speculations aside, there is a serious likelihood that the issue of Nagorno-Karabakh will threaten political stability in Azerbaijan in the medium or long term. The conflict remains a significant source of popular discontent, and all opposition parties frequently exploit the continuing occupation of Azerbaijani territory to apply pressure on the regime. Aliyev has taken a hard-line stance regarding Karabakh since coming to power; his rhetoric has been notably more hawkish than that of his father. His stance was seriously challenged when public uproar over long prison sentences given to six members of the Karabakh Liberation Organization (KLO) for storming a hotel room in June to protest Armenian participation in NATO exercises forced the president to cancel the exercise. This episode may be viewed positively as an example of the president's willingness to alter policy based on the expression of public opinion. Yet it also dashed hopes that Aliyev could use his presidential term (which lasts until October 2007) to bring about the Nagorno-Karabakh settlement that eluded his father. Aliyev should be able to resist calls by a small but growing minority for a military solution to the conflict, but political and societal trends do not bode well for long-term stability.

Nagorno-Karabakh is a highly emotional issue for Azerbaijanis, and the administration is forced to reckon with public opinions that severely restrict its ability to negotiate a solution. The February killing of an Armenian officer by a 26-year-old Azerbaijani counterpart during a NATO training program in Hungary, and the somewhat supportive public reaction to the

event—the YAP formed a parliamentary commission to protect the Azerbaijani officer's rights—was a remarkable indication of the problems that lie ahead. The deep hatred of Armenians among the younger generation, coupled with Azerbaijan's growing oil wealth, increases the risk that political support for retaking Nagorno-Karabakh militarily may become too strong for any government to resist, if there is no settlement to the conflict in the next 10 to 15 years.

The president serves as the commander in chief of the Azerbaijani armed forces. In this capacity, he oversees defense and security efforts undertaken by the prime minister and the ministers of defense, internal affairs, and security. Former president Heydar Aliyev created a Defense Council in 1993, which reports to and advises the president in supervising the activities of the armed forces.

The legislative branch consists of the 125-member Milli Majlis (Parliament). Members are elected for five-year terms, with 100 elected from territorial districts and 25 elected from party lists. Azerbaijan's first Parliament was elected in 1995; the current Parliament was elected in November 2000. The legislative branch remains subordinate to the executive. A majority of parliamentarians are from the YAP, or are pro-government independents, and the opposition frequently boycotts parliamentary sessions. In January, Speaker Murtuz Alaskerov threatened to discipline deputies who miss 30 consecutive parliamentary sessions, with the possibility of stripping them of their mandates. While the move was directed at the Ali Kerimli-led reformist wing of the Azerbaijan Popular Front Party (AXCP), which had boycotted sessions since August 2003, the threat was not carried out—possibly because many YAP members welcome the absence of opposition deputies in parliamentary sessions.

The parliamentary sessions are generally open to the media, but there were instances where journalists from opposition newspapers were denied entry. There is limited public or expert input in the legislative process, as many nongovernmental organizations (NGOs) and the general public are not invited to committee hearings. It is also difficult for the public or NGOs to obtain copies of draft laws and deputies' voting records, as these are not published in a consistent and timely fashion. The Parliament has not conducted any investigations of the government so far, although amendments were made in 2002 requiring the prime minister and the Cabinet of Ministers to present an annual report to the Parliament. The Parliament's Chamber of Commerce has not been effective in auditing governmental functions, and the Ministry of Finance has initiated only a few investigations into the financial work of several oil industry enterprises and Azerbaijani embassies abroad. These investigations have revealed some irregularities in financial accounting, yet no major sanctions have been imposed. Overall, the public and media have little direct access to the financial operations of the government.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
5.75	5.50	5.50	5.75	5.75	5.75	6.00	6.25

Elections in Azerbaijan have been marred by fraud and government control over the voting process since independence, with the exception of the June 1992 election, where Abulfaz Elchibey, leader of the nationalist opposition AXCP, was elected president in a generally free and fair vote. Elchibey was ousted from power by a military coup in 1993 and replaced by former first secretary of the Azerbaijan Communist Party Heydar Aliyev. The 1993 presidential elections (in which Aliyev received 99 percent of the vote), 1995 parliamentary elections, and 1998 presidential elections (in which he won more than 70 percent of the vote) were characterized by serious election fraud.

The 2000 parliamentary elections, 2002 referendum on constitutional amendments, and October 2003 parliamentary elections were deemed not free and fair and below international standards for democratic elections by monitors that included the Organization for Security and Cooperation in Europe (OSCE) and the U.S. State Department. Ilham Aliyev, Heydar Aliyev's son, who was appointed prime minister after his father's health suddenly declined in August 2003, won the elections with 79 percent of the vote. His closest rival was opposition Musavat Party chairman Isa Gambar, who received 12 percent of the vote. International observers reported mass electoral fraud, including ballot stuffing, serious flaws in the counting and tabulation of voters, limitations on election observation by domestic NGOs, biased media coverage favoring Ilham Aliyev, and pressure on voters on election day.

Despite international criticism, the Aliyev administration failed in 2004 to take steps to improve the restrictive Law on Political Parties and the composition of election commissions, which at present clearly favor the ruling party. The Aliyev administration later failed to carry out the COE Venice Commission March 2004 recommendation to amend the composition of the Central Election Commission (CEC) ahead of the municipal election on December 17, 2004. Currently, the ruling YAP has 6 representatives on the 15-person CEC and can count on the support of 3 other members from small pro-government political parties, giving it a two-thirds majority. On May 25, 2004, the Parliament approved amendments to the Law on Political Parties that empower local courts to suspend the registration of political parties (an action that in the past could be taken only by the Constitutional Court). According to the Constitution, parliamentary deputies lose their position when a party is banned or decides to disband.

Azerbaijan's mainstream opposition parties were significantly weakened after the presidential election and are unlikely to recover, at least during

2005. The authorities unleashed a crackdown against the opposition and detained nearly 700 opposition supporters after violent clashes between security forces and demonstrators in Baku on October 15 and 16, in which at least one person was reportedly killed and several hundred were injured. Among those arrested were opposition party leaders and supporters who had not been directly involved in the preceding days' violence, along with many election officials who refused to certify fraudulent election results. Seven prominent opposition figures, including two Musavat deputy chairmen and Azerbaijan Democratic Party (ADP) general secretary Serdar Jalaloglu, were arrested for their roles in protests following the October 2004 election and were sentenced in November to prison terms ranging from two to five years.

The government's restrictive attitude toward political opposition continued throughout 2004 ahead of the December 17 municipal elections. The opposition candidates repeatedly faced registration difficulties and were not allowed to hold political demonstrations to protest government policy, let alone conduct a serious and forceful election campaign. Under persistent pressure from the authorities, and with limited popular support, three major opposition parties—Musavat, the reformist wing of the AXCP, and the ADP—boycotted the municipal election, while another major opposition party, Etibar Mammadov's Azerbaijan National Independence Party (AMIP), chose to participate.

Meanwhile, the Ministry of Economic Development retreated from an August 2004 agreement in which it offered to make premises available for the AMIP. The party was evicted recently from its temporary headquarters, a year after being evicted from its longtime headquarters. The AMIP appealed the ministry's decision, but the Economic Court refused the appeal on August 26; this verdict was upheld by the Court of Appeals on October 23.

Boycotting the local election arguably also cost the mainstream opposition parties some international credibility. U.S. ambassador to Azerbaijan Rino Harnish was among those who criticized the opposition's boycott; EurasiaNet.org reported that he said it made the opposition look out of touch with voters. Given the weakness and disarray of the national democratic opposition, there is a growing possibility that over time, political discontent will be channeled in other, more radical directions, including radicalized political Islam. The emergence of Ilgar Ibrahimoglu (former chairman of the now closed Juma mosque) and Iskender Hamidov (nationalist former interior minister who was released from prison in 2004 by presidential decree) as plausible political figures is potentially a significant development. If the government does an effective job delivering economic growth to the population on the strength of rising oil revenues, it is likely that these tendencies can be contained for some time.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
5.00	5.00	4.75	4.50	4.50	4.25	4.50	4.75

Both Article 58 of the Azerbaijani Constitution, as well as the European Convention on Human Rights that came into force in Azerbaijan in 2002, recognize and protect freedom of association. Yet the state does not protect the rights of an independent civil sector. The majority of civil society organizations are weak and outside the political process. The Aliyev administration continues to exert a dominating influence over grassroots activity, while the Parliament shows little willingness to engage NGOs in the legislative process or invite their input on draft legislation.

Azerbaijani authorities use highly difficult registration procedures, and applications are often rejected. The government has made commitments to improve NGO registration before COE membership, but a new registration law has not yet been adopted. Aliyev signed a decree in April 2004 that accelerates and clarifies the registration process, although the Justice Ministry has so far failed to finalize a law on the issue.

There are approximately 200 active NGOs in Azerbaijan. The most active (approximately 50 to 60) are concerned with Nagorno-Karabakh refugees, health and children's issues, human rights and women's rights, and environmental and ecology issues. Local financial support to NGOs is limited, as the tax code does not allow tax-deductible contributions. The code does provide tax exemption to charitable organizations, unless they engage in entrepreneurial activities. Therefore, most NGOs rely primarily on foreign grants to continue their activities. NGOs that receive foreign funding are banned from sending representatives to monitor ballot counting during elections.

The Law on NGOs prohibits civil society organizations from providing political parties with financial and other kinds of assistance, although they can carry out advocacy activities to improve law and regulation. The internal capacity of NGOs remains underdeveloped, with too much reliance placed on single individuals (rather than institutional capabilities) and nontransparent financial management. The Human Rights Center of Azerbaijan (led by Eldar Zeynalov) and the Institute of Peace and Democracy (IPD, led by Leyla Yunus), both internationally credible organizations, experienced ongoing harassment from the government and certain nationalistic groups, such as the KLO. The Justice Ministry has yet to register the IPD, which was founded in 1995. Azerbaijan's Helsinki Citizens' Assembly, another credible organization headed by Arzu Abdullayeva, was registered in 2001 after a nine-year struggle and pressure placed on the Ministry of Justice by the COE.

The government founded the State Committee for Work with Religious Associations (SCWRA) in 2001 to reregister religious groups. It also gave

SCWRA chairman Rafik Aliyev sweeping powers over these groups, including control over religious literature. Muslim groups must receive a letter of approval from the state-dominated Caucasus Muslim Board (CMB), a body that appoints Muslim clerics to mosques and monitors sermons, before they can be registered. The Juma mosque community in central Baku—where Ilgar Ibrahimoglu, a charismatic cleric, has attracted a significant number of followers—has so far refused to apply for registration owing to concerns that the government could interfere in its ability to worship freely and argues that its 1993 registration should remain in force.

The police surrounded the Juma mosque on June 30, 2004, to carry out an earlier order for the eviction of the mosque community from its current location because of Ibrahimoglu's political activities. At the same time, CMB chairman Allahshukur Pashazade announced that Surkhai Mamedov would replace Ibrahimoglu (who was not appointed by the CMB) as the Juma community's imam. Ibrahimoglu's followers continued to resist the eviction effort, resulting in clashes on July 4–5 between the police and worshippers who visited the mosque for evening prayers. Dozens suffered injuries and the authorities arrested 26 people, some of whom were reportedly beaten severely in custody. Unknown assailants assaulted Mamedov on August 8. Members of the mosque have filed an appeal to the European Court of Human Rights protesting the eviction, while local and international human rights groups protested the government's action.

Members of the Juma mosque community maintain that the eviction action was politically motivated—designed specifically to silence Ibrahimoglu, a religious moderate with a human rights advocacy background. Ibrahimoglu has been a prominent critic of the administration and announced before the 2003 election that he would vote for Musavat Party chairman Isa Gambar. He received a five-year suspended sentence for his alleged role in the postelection clashes in Baku and was released after serving three months in prison. The authorities refused on October 13 to permit Ibrahimoglu to leave the country for Poland, where he hoped to attend a meeting convened by the OSCE's Office for Democratic Institutions and Human Rights. The authorities portrayed Ibrahimoglu as a religious radical who seeks to undermine political stability. Ibrahimoglu's methods diverged from the practices of the CMB, such as abolishing fees for religious services (including funeral rites) and organizing an annual blood drive, thereby threatening Pashazade's influence over the community. Meanwhile, the SCWRA created the Forum of Religious Communities, criticized by Pashazade as state interference in private life.

Azerbaijan's educational system includes approximately 4,600 primary and secondary schools, 180 technical high schools, 90 colleges, and 27 institutions of higher education (including 8 universities and 5 academies). Education is compulsory for at least eight years according to the Constitution

and is guaranteed by the state. The Ministry of Education is the central body that develops state education policy and manages the educational system. Since independence, the Azerbaijani educational system has not undergone major structural changes. Those changes that have occurred include the reestablishment of religious education, banned during the Soviet Union's hegemony. Changes to curriculum emphasize the use of the Azerbaijani language and eliminate Marxist-Leninist content. Although appointments to government-controlled academic positions depend heavily on political connections, several tenure-track professors are also active in opposition parties and academic freedom is generally respected.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
5.50	5.50	5.50	5.75	5.50	5.50	5.75	6.00

Azerbaijan's Law on Mass Media was adopted by the Parliament in 2000. It guarantees freedom of speech, support for media, access to information, and protection of journalists' rights. In practice, though, Azerbaijan's media sector encounters numerous obstacles to conducting its work and maintaining independence. Television is the dominant media source, with many Azerbaijanis reportedly using various TV channels much more than radio or newspapers, according to data from the International Foundation for Election Systems (IFES) 2004 survey *Public Opinion in Azerbaijan*. There are two state television stations (AzTV-1 and AzTV-2), four private stations, and nine regional stations. The most popular channels are Lider TV (84 percent of viewers surveyed), AzTV-1 (79 percent), Space (77 percent), ANS (75 percent), and ATV (25 percent). The private stations Space TV, Lider TV, and ATV are reportedly controlled either by family members of President Aliyev or by people close to the Aliyev family. ANS is owned independently and takes a pro-government stance in its programming.

Four foreign TV channels (two Russian and two Turkish) operating in Azerbaijan are also frequently watched—the Russian channels by 51 percent of viewers surveyed and the Turkish channels by 49 percent. In addition to the BBC World Service and the Radio Free Europe/Radio Liberty (RFE/RL) Azerbaijani Service, which encounter government restrictions in reporting, there are seven radio stations, four with their own Web sites. The most popular radio stations are Lider (20 percent), ANS (19 percent), and Space (15 percent).

The Parliament passed a new law establishing a public television broadcaster in October after a months-long debate over earlier drafts, but the law falls short of COE demands. Initially hopeful, the COE called for the new broadcaster to provide programming that will be independent, fair, and

impartial. Contrary to a COE recommendation that the new public broadcaster be based on both state channels, the authorities will preserve AzTV-1 and license the new independent public broadcaster under AzTV-2, which shares premises and broadcasting equipment with AzTV-1. The new law also failed to incorporate a proposal to broadcast 15 minutes per day in minority languages, arguing that ethnic minorities make up less than 10 percent of the national population. An earlier draft, which proposed that the president appoint the chairman of the nine-member Broadcast Council, was criticized by the COE.

Of the 200 newspapers published in Azerbaijan, the most popular are *Yeni Musavat* (7 percent of readers surveyed), *Zerkalo* (7 percent), *Azerbaijan* (5 percent), *Xaly Gazeti* (5 percent), *Azadliq* (4 percent), *Ekho* (4 percent), and *Azerbaijan Maullimi* (4 percent). The Russian dailies *Ekho* and *Zerkalo* are generally considered to be neutral and bipartisan, but less so now because of rising government pressure since the 2003 election. Other popular newspapers such as *Yeni Musavat* and *Azadliq* serve as the political mouthpiece of certain opposition parties and are increasingly inclined toward unprofessional reporting. The pro-government, state-funded newspapers *Xaly Gazeti* and *Azerbaijan* cover only the ruling party's position on issues.

Since the formal abolishment of censorship in 1998, the print media in Azerbaijan have remained freer than television and radio outlets, although they too are generally biased in their coverage. However, the same 2004 IFES survey found that 75 percent of the public believe private media is at least somewhat objective, and 58 percent have similar opinions about state media. In Baku, 49 percent think that state media is objective and 45 percent do not.

Regardless of their political party affiliation, the Azerbaijani press is highly nationalistic on the issue of Nagorno-Karabakh. The editors of most of the major media outlets issued a statement on September 3, 2004, against the planned participation of Armenian military personnel at the NATO maneuver scheduled to begin on September 13. The two-week peacekeeping exercise was to involve small units from several NATO members and countries that are included in the Partnership for Peace program; Azerbaijan boycotted a similar maneuver that was held in Armenia in 2003. The independent ANS television station ceased broadcasting for three hours on September 4 in a move to protest planned Armenian participation in the NATO exercise, while seven print publications left their front pages blank.

The overall quality of journalism and reporting remains unprofessional in Azerbaijan, as most newspapers cover scandal-oriented political news as opposed to social or economic developments. In 2003, the independent Press Council, a self-regulatory body, was established to resolve the problems of journalists and improve the overall quality of journalism. The Press Council made some progress in 2004, despite initial concerns over

its financial sustainability—only 25 percent of its founding members have paid their annual dues.

In January 2004, the Press Council founded the Permanent Commission for the Investigation and Elimination of Conflicts Between the Mass Media and the Authorities. The commission includes representatives of the Interior Ministry, the Justice Ministry, and the Prosecutor-General's Office and meets monthly to review complaints. The Press Council also managed to strike a deal with the Interior Ministry over the treatment of journalists covering political demonstrations. The authorities will distribute 500 special jackets to editorial offices to make it easier to distinguish journalists who cover demonstrations from the protesters themselves.

The Press Council also aims to eliminate blackmail, which involves a journalist fabricating an article incriminating a selected target, who is then invited to pay a substantial sum to avoid having the material published. Ganimat Zakhidov, Press Council member and editor of the *Azadlig* daily, estimated that of 1,300 registered newspapers in Azerbaijan, 1,000 engage in blackmail. Chairman of the Press Council Aflatun Amashov said in March that the council would publicly point out publications that have been engaged in blackmail, reported RFE/RL. In April, the council began to distribute press cards to media outlets, such as *Zerkalo* and *Azerbaijan*, which comply with standards of ethics and sign formal employment contracts with their journalists. As in this case, some activities of the Press Council are similar to those of a labor union, with the goal to improve the quality of the media as much as improve living standards for all journalists (including those who are not members of the council).

The administration has provided some financial support for independent media outlets in the form of grants. It also gave a three-year extension in 2003 on the deadline for newspapers to pay their debts to the state publishing house. But print media in particular remain extremely vulnerable financially. The independent *Yeni Zaman* has suspended publication owing to financial problems, while the opposition-oriented *Hurriyet*—whose readership dropped from 8,000 in December 2003 to 3,000 in February 2004 because of distribution difficulties outside Baku—closed down. In recent years, government officials have frequently brought libel suits against opposition media outlets, and the courts have generally imposed unreasonable fines that have pushed newspapers to the verge of bankruptcy.

Yeni Musavat suspended publication indefinitely on December 31, 2004, when a court froze the newspaper's assets and bank account until it pays libel damages totaling nearly 800 million manats (approximately US\$160,000) to government officials. These include Defense Minister Colonel General Safar Abiyev, Azerbaijani ambassador to Turkey Mammad Aliyev, and Agil Aliyev, the president's uncle. The damages stemmed from seven different defamation lawsuits launched mainly by government officials against the paper between

2000 and 2003. A local court imposed a US\$6,000 fine for each of two journalists with the newspaper *Millet* for insulting Lachin district official Muradcan Cabbarov.

The authorities also regularly resort to harassment, intimidation, and even violence against journalists. Sadig Ismaylov, a journalist with *Baki Khabar*, was arrested on January 5, 2004, on charges of participating in the postelection clashes, which event he had been assigned by his editor to cover. Ismaylov was kept in pretrial detention for three months. This action prompted the international NGO Reporters Without Borders (RSF) to write a protest letter to the Prosecutor-General's Office.

A Baku district court fined two journalists in February 2004 for picketing for the release of *Yeni Musavat* editor Rauf Arifoglu (also the deputy chairman of the Musavat Party) and Ismaylov. The RSF also appealed in a June 2004 statement to Vasif Talibov, chairman of the Parliament of the Nakhichevani Autonomous Republic, to halt official harassment of two journalists. Four masked men abducted Aydin Guliev, chief editor of *Baki Khabar*, and held him hostage for a few hours in July 2004, to coerce him into abandoning his journalistic activities. He later received a one-year suspended prison sentence for allegedly slandering President Aliyev's uncle Jalal Aliyev. Eynulla Fatullaev, a journalist for *Monitor* who wrote numerous articles criticizing the leadership, was assaulted on July 26, 2004. A local court decided in December 2004 that the property of Fatullaev's parents would be confiscated after he failed to pay a 150-million-manat fine (about US\$30,000) for insulting Defense Ministry representatives; the charge was brought against him after he published an article on corruption within the military.

The government also imposes occasional fines on publishing companies. SCWRA chairman Rafik Aliyev announced on September 24, 2004, that fines had been imposed on unnamed publishing houses for printing works considered offensive against Islam, reported *Zerkalo*, a daily Russian-language newspaper published in Azerbaijan. Meanwhile, independent publishing house Chap Evi faced eviction when it failed to pay US\$12,000 to the electricity distribution company Barmek for new power cables after its own were damaged. The publishing house was forced to suspend publication twice until it moved offices in May. Chap Evi had agreed to print six opposition newspapers—*Azadlig*, *Yeni Musavat*, *Baki Khabar*, *Hurriyet*, *Yeni Zaman*, and *Nave Vremya*—after the state printing house refused to do so between November 2003 and January 2004.

Internet access remains free of governmental control and influence, but a mere 5 percent of the country is actually connected to the Internet, according to the International Telecommunications Union. There are currently 15 to 18 computers per 1,000 people in the country. The number of Internet cafés around the country has increased rapidly, but there were a few instances where owners were harassed by the authorities. Negative factors

are impacting the growth of the Internet sector, including the Communication Ministry's monopoly position, the lack of an Azerbaijani alphabet for the Internet, and poor legislation in the information technology sector. The Communications Ministry submitted to the Parliament the State Program on Information Communication Technologies Development in Azerbaijan for 2004–2008, which aims to expand Internet use in educational institutions and among the general population, according to the Open Society Institute's Azerweb.com.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.00						

Local executive committees (excoms) and municipal councils share power at the local governmental level. The president appoints the members and heads of the excoms, as required by the Constitution, whereas municipal councils are composed through municipal elections, which are held every five years. The government set up municipal councils for the first time in 1999 and held elections for the posts that same year. The second and most recent elections were held on December 17, 2004. Although the Constitution defines municipalities as bodies for local self-government, the municipal councils lack a complete legal framework and proper funding and are subordinate to the excoms.

The municipal elections held in December 2004 brought little change to the insignificant role of municipalities in the governance process. The Elections Monitoring Center, a Baku-based NGO, stressed in a May 2004 report that small budgets and an inadequate legislative code limit the city governments' scope and ability to act apart from the central government. In May 2004, Finance Minister Avaz Alekperov announced a fivefold reduction in the state budget for city governments, from 25 billion manats (US\$5 million) to 5 billion manats (US\$1 million), according to EurasiaNet.org. The government subsidizes a portion of municipality budgets, and the balance of revenues comes from local taxes. For the most part, municipalities are engaged primarily in construction activities and social services.

The December 2004 municipal elections were characterized as “not free and fair” and “falling short of international standards” by the OSCE. Voter turnout remained generally less than 50 percent overall and as low as 20 percent in some municipalities. The YAP maintained its strong position in the polls, facilitated by the fact that an overwhelming majority of the candidates came from the YAP ranks and most mainstream opposition parties boycotted the election. YAP executive secretary Ali Ahmedov announced on October 22 that the YAP nominated nearly 10 times as many candidates for

the 2,735 municipal councils as the opposition, which claimed only 6 percent of all registered candidates even before the boycott.

The Aliyev administration took a number of steps to make the election process more transparent. It received support from the United Kingdom and Norway for 2,500 clear plastic ballot boxes to replace the ones used in the October 2003 presidential election. The earlier versions were not big enough to hold the ballots, some of which listed up to 100 candidates, according to an RFE/RL *Caucasus Report*. Nevertheless, there were serious and widespread instances of ballot stuffing, protocol falsification, voter list tampering, and pressuring of voters on election day, according to the OSCE Baku office. The government's attitude toward the opposition in the lead-up to the elections also demonstrated a lack of political will to guarantee free and fair elections.

The AMIP complained in a press statement on October 15 that local election commissions required prospective candidates to produce as many as 40 separate documents for registration. Some local election commissions reportedly refused to register opposition candidates on various pretexts, the most common being challenging the validity of required signatures. The Center for Democratic Development (DIM), which unites the branches of Musavat, AXCP, AMIP, and ADP in the Nakhichevani Autonomous Republic, issued a statement on September 21 that protested efforts by local authorities to exclude DIM representatives from a conference on preparations for December's local elections. Residents of one village in the Shahbuz-Babek district in Nakhichevan announced on October 19 that they would boycott the election because the district election commission refused to register any opposition candidates.

The Baku Mayor's Office rejected an AXCP-Musavat-ADP request to hold an opposition demonstration on October 2, citing the demonstration's proximity to densely populated areas of the city. A more striking refusal came from the Baku Municipal Council, which denied AXCP requests in May and June to hold demonstrations. The demonstrations planned to call for the authorities to resolve the Nagorno-Karabakh conflict and meet the COE's democracy standards. The council stated that the government was making progress toward both goals, so there was no need for the demonstrations, reported RFE/RL.

Meanwhile, the regional heads of excoms enjoyed de facto immunity from any scrutiny of their activities. Ahad Ahadov, an opposition activist who launched a campaign in August 2004 to publicize blatant corruption on the part of Masally district governor Ahad Abiev, was arrested alongside members of his family for what appeared to be fabricated charges of illegal possession of drugs. Ahadov claimed that Abiev had appointed to senior positions members of his close family who had illegally appropriated land and embezzled up to 15 million manats (US\$3,054) from the local budget.

Some 40 residents of the village of Negram in Nakhichevan were arrested on January 26 after a four-day protest attended, by 1,000 locals, against a rise in electricity prices. Some were released soon after, but a district administrator refused to free the remaining detainees until villagers paid the increased monthly electricity tariffs, which were raised from 15,000 manats (US\$3.07) per household to 40,000 manats (US\$8.19). The tensions between villagers in the Geranboy region and local officials escalated into violence on April 16, 2004. Some 150 police attacked and arrested 11 villagers, who protested that officials had allegedly commandeered all available water resources to irrigate private plots of land that belonged to the officials themselves.

It has been almost impossible for the small number of opposition representatives elected to municipal councils in 1999 to challenge the local strongmen and their supporters. Even Presidential Chief of Staff Mekhtiyev acknowledged the overwhelming influence of local strongmen in a press conference, warning unnamed local officials that they should not behave like mini dictators, reported RFE/RL. The Nakhichevani branches of the major opposition parties created DIM in April to contest Vugar Safarov, head of the Nakhichevan Municipal Council, in the municipal election, but they were unsuccessful. Several days after the election, the local police broke into DIM headquarters in Nakhichevan and warned activists to abandon their activities and stop protesting socioeconomic problems.

There was no progress in the peace talks over Nagorno-Karabakh in 2004, despite a number of face-to-face meetings between President Aliyev and President Robert Kocharian of Armenia and between Foreign Minister Mamedyarov and his Armenian counterpart, Vartan Oskanian. The Azerbaijani government continued to have no administrative control over the self-proclaimed Nagorno-Karabakh Republic and the seven surrounding regions (Kelbajar, Gubatli, Djabrail, Fizuli, Zengilan, Lachin, and Agdam) that are occupied by Armenia. This area constitutes about 17 percent of the territory of Azerbaijan.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
5.50	5.50	5.50	5.25	5.25	5.25	5.50	5.75

The Azerbaijani Constitution, adopted in 1995, provides a wide range of human rights protections, yet these rights are often violated in practice. Although the Constitution recognizes the division of power among the legislature, executive, and the judiciary, the president is the sole guarantor of judicial independence. Judicial power is implemented through the Constitutional Court, Supreme Court, Economic Court, and the ordinary and specialized law courts. The judges of the high courts are appointed by

the Parliament on the recommendation of the president and remain heavily dependent on the executive branch. There have been numerous reports of executive branch pressure on judges to rule on the arrest of opposition activists. The president appoints and dismisses the prosecutor-general of the Azerbaijan Republic.

There is no jury system in Azerbaijan, and almost all court hearings are open for public attendance. Judges are generally appointed in a fair and unbiased manner, but the rapid change in legal procedures after independence and particularly COE membership has made it difficult to provide judges with adequate legal training. Detainees are presumed innocent until found guilty, but harassment, intimidation, and evidence gathered under physical pressure are not uncommon. Access to lawyers for defendants is generally respected, but there have been cases where detained individuals were not allowed to speak to their lawyers and were held longer than allowed or required. This was particularly true among the arrests in connection with the Baku events following the presidential elections in October 2003. Several opposition activists were detained for months, and some of them received sentences of one to three years in prison for obstructing the work of electoral commissions.

The most high-profile court verdict came on October 22, 2004, when Azerbaijan's Court for Serious Crimes passed sentence on seven leading opposition politicians charged with inciting clashes between police and protesters in the wake of the 2003 presidential election. Opposition Musavat deputy chairman Rauf Arifoglu, who is also editor of the newspaper *Yeni Musavat*, and a second Musavat Party deputy chairman, Arif Hadjili, were sentenced to 5 years' imprisonment; People's Party of Azerbaijan chairman Panakh Huseinov and ADP secretary-general Serdar Djalaloglu were sentenced to 4½ years; Musavat deputy chairman Ibrahim Ibrahimli and Umid Party chairman Igbal Agazade received 3 years; and Etimad Asadov, head of an organization representing veterans of the Karabakh war, was sentenced to 2½ years' imprisonment. The prosecution had called for prison terms of between 4 and 7 years for all seven men. The seven accused men claimed that prosecutors distorted their testimony; they also repeatedly protested procedural irregularities and glaring discrepancies in the prosecution's own testimony. In an October 22, 2004, statement, the OSCE office in Baku expressed deep concern over the severity of these sentences.

Human rights groups documented torture during the pretrial detention of four of the seven political prisoners, and prosecution witnesses said that during the legal proceedings, police and prosecutors used physical means to pressure them to make statements incriminating the opposition leaders. More than 100 opposition supporters were arrested and charged in the days following the protests after the presidential election. Within six months all of them were convicted of participating in the violence, and more than 30

were sentenced to prison terms ranging from two to six years. In a sharp contrast, the government did not prosecute any law enforcement or security agents for torture or excessive use of force during the election fallout.

Meanwhile, the case involving six members of the nationalist KLO resulted in significant pressure on court rulings and further weakened the judiciary's independence. A local court originally sentenced the men to three to five years in prison for their participation in a protest against the presence of two Armenian military officers at a NATO-sponsored conference in Baku. The decision led to a major public outcry and was criticized by the Parliament, almost all opposition parties, and government officials, including President Aliyev. The Supreme Court on September 22, 2004, commuted the original court's decision to suspended sentences of one to three years. Legislative, executive, and other governmental authorities do not always comply with judicial decisions, as demonstrated when electricity distribution company Barmek disregarded an Economic Court order in February 2004 to restore power to the independent publishing house Chap Evi. In this case, Barmek was likely influenced by government authorities who wanted to force Chap Evi to relocate its offices.

Although the issue of political prisoners continues to be a problem in Azerbaijan, the situation showed some improvement in 2004, with President Aliyev granting amnesty to over 1,000 prisoners. The majority of the released were considered "political prisoners" by the COE. Nonetheless, the president's amnesty decrees excluded most recent political prisoners who participated in the postelection events in October 2003, estimated at around 700.

A presidential decree in January 2004 granted amnesty to over 160 prisoners, including Iskender Hamidov, who was the controversial minister of internal affairs in the Elchibey government from 1992 to 1993. Aliyev signed another decree on March 17, 2004, pardoning 129 prisoners, including former colonel Suret Huseinov, who spearheaded the June 1993 insurgency that culminated in the fall of the AXCP-led government, after which he was named prime minister by then acting president Heydar Aliyev. (Technically, Heydar Aliyev was "acting president" between June 1993 and October 2003, when he was elected president; a referendum was held in between, in August 2003, to formally depose former president Abulfaz Elchibey.) The elder Aliyev fired Huseinov in October 1994, accusing the prime minister of attempting to overthrow him. To mark the birthday of his father, President Ilham Aliyev pardoned another 363 prisoners, including former acting head of the Baku Naval College Djanmirza Mirzoev. Mirzoev was sentenced in 2001 to eight years' imprisonment on charges, which he denied, of arranging the murder of Rear Admiral Eduard Huseinov in 1993. Mirzoev claimed at his trial that he was sentenced in retaliation for his campaign to expose corruption within the Defense Ministry.

A September 2004 decree pardoned 266 prisoners, including Alikram Gumbatov, who in June 1993 declared an independent Talysh-Mughan Republic on Azerbaijan's southeastern border with Iran. He was sentenced to death in February 1996 for crimes against the state; that sentence was subsequently commuted to life imprisonment. A COE Parliamentary Assembly monitoring committee report for Azerbaijan called on September 20 for the immediate release of seven oppositionists, but the administration failed to follow the recommendation. President Aliyev said that the events were very recent and that the administration had no doubts they were guilty. By year's end, none of the seven had been given amnesty. Prosecutor-General Zakir Garalov solicited the Court of Appeals to reopen the cases of 11 former special police officers sentenced in November 1997 on charges of plotting a state coup.

The authorities took a number of steps to improve Azerbaijan's harsh prison conditions in 2004, renovating some facilities and building five new prisons. The majority of prisoners depend on their families for basic needs, such as food and medicine, with tuberculosis the primary cause of death in prisons. Official figures suggest that nearly 800 detainees were undergoing treatment for tuberculosis at the end of 2003, reports Human Rights House Network, while some political prisoners are reportedly denied treatment. Due to an insufficient number of doctors, prisoners often must pay for doctor visits, for medicine, and to undergo treatment in an outside clinic. Some pretrial detainees are kept in solitary confinement, where interrogators reportedly deprive them of food and sleep to secure confessions without physical evidence of abuse.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	6.25	6.25	6.25	6.25	6.25

Corruption remains one of the most problematic issues in Azerbaijan. Bribery and nepotism have intervened at all levels of society—from the education system to the workplace to government—and continue to hinder the development of the country and the eradication of poverty. The increasing gap between rich and poor and the continued reliance on excessive state involvement in the economy have allowed bribery and corruption to become the social norm, one not widely condemned by the broader society. The most prominent reasons for corruption are low salaries for civil servants, a lack of accountability and transparency for government bureaucrats, and the high number of licenses required in business and commerce.

Most people prefer to pay small bribes instead of the much higher fees imposed by the state. Thirty-three percent of Azerbaijanis report that they

have paid bribes in the past; 20 percent say that they have been asked for bribes but have not paid; and 33 percent say that they have not been asked for bribes in the past. Among Azerbaijanis who have paid bribes, the most common occasions are for medical care (12 percent) and higher grades for their school-age children (6 percent). Not surprisingly, those who have paid bribes or been asked for bribes report that this occurred most often in public health institutions (20 percent) and in schools and universities (11 percent), states the IFES 2004 survey *Public Opinion in Azerbaijan*. A strong executive power and the lack of proper audit mechanisms over government expenditures create opportunities for widespread corruption. The Parliament's Audit Chamber remains weak and inefficient, and NGOs and media lack access to information about its activities or statistics regarding government revenues and expenditures.

So far, the state has failed to enforce an effective legislative or administrative process to investigate the corruption of government officials and civil servants, a process that would at the same time be free of prejudice against political opponents. It has, however, come up with a number of anticorruption initiatives. The government appears intolerant of any public debate over corruption allegations regarding government officials. The state apparatus intimidates whoever publicizes corruption on the part of high-profile officials with what appear to be fabricated charges of their own. For example, Ahad Ahadov, an opposition activist, alleged that Masally district governor Ahad Abiev appointed to senior positions close family members, who then illegally appropriated land and embezzled up to 15 million manats (US\$3,054) from the local budget. Ahadov was later arrested alongside members of his own family for illegal possession of drugs.

Another remarkable example was the treatment of former Baku mayor Rafael Allahverdiyev, who threatened in July to make public certain materials implicating Presidential Chief of Staff Mekhtiyev in corruption. On August 8, police broke into Allahverdiyev's hotel room at a mountain resort and accused him of attempting to rape his female companion, who was in fact his daughter.

Almost all politicians participate in the economic life of the country, investing heavily into local businesses with questionable funds. The law prohibits such activities for members of Parliament, yet the practice is widespread throughout the legislature. There is no public disclosure of the income and assets of politicians. There are no adequate laws requiring financial disclosure and disallowing conflict of interest. Azerbaijan was not among the 16 countries selected to receive funding from the U.S. Millennium Challenge Account in 2004; it failed to fulfill at least 50 percent of the relevant criteria for fighting corruption required to qualify for such funding. Neighboring Armenia and Georgia were both chosen to receive funds from the account in 2004. Azerbaijan's rating in the Transparency

International Corruption Perceptions Index stands at 1.9, 140th among 147 countries (that is, near the end of the scale that signifies the highest level of corruption perception).

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Belarus

<i>Capital</i>	Minsk
<i>Population</i>	9,800,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$5,520
<i>Private sector as % of GDP</i>	25%
<i>Ethnic groups</i>	Byelorussian (81 percent), Russian (11 percent), other [including Polish and Ukrainian] (7 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	6.00	6.25	6.75	6.75	6.75	6.75	6.75	7.00
Civil Society	5.25	5.75	6.00	6.50	6.25	6.50	6.75	6.75
Independent Media	6.25	6.50	6.75	6.75	6.75	6.75	6.75	6.75
Governance	6.00	6.25	6.25	6.25	6.50	6.50	6.50	n/a
National Democratic Governance	n/a	6.75						
Local Democratic Governance	n/a	6.50						
Judicial Framework and Independence*	6.00	6.25	6.50	6.75	6.75	6.75	6.75	6.75
Corruption	n/a	n/a	5.25	5.25	5.25	5.50	5.75	6.00
Democracy Score	5.90	6.20	6.25	6.38	6.38	6.46	6.54	6.64

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

The prospects for democratization faded in Belarus with the election of the country's first president, Alexander Lukashenka, in 1994. Amendments to the Constitution, adopted in a highly controversial referendum in 1996, fully institutionalized the system of unlimited presidential authority. International criticism of Lukashenka's antidemocratic policies was ignored. The Belarusian economy remains unreformed and extensively bureaucratized. However, the economy recently recorded sound growth owing to the economic upturn in neighboring countries, most of all Russia, and a large-scale economic crisis does not seem imminent. The government preserves social stability through welfare and industrial policies that provide the population with minimally acceptable standards of living and full employment.

The referendum on lifting term limits that would bar Lukashenka from running for president defined the Belarusian political agenda in 2004. The referendum had been widely expected since Lukashenka's reelection in 2001; however, he abstained from declaring it until September 7, 2004, when he announced that the vote would be held concurrently with the parliamentary elections scheduled for October 17. The decline of the president's popularity in 2002–2003 did not create a favorable environment for the ballot immediately after the presidential elections. This situation wasn't helped by the standoff in Russia–Belarus relations over economic matters and, reportedly, President Vladimir Putin's alleged opposition to Lukashenka's plans to extend his stay in office.

Lukashenka responded to these domestic and external challenges in 2004 by continuing to tighten his grip on power and cracking down on the opposition, civil society, and independent press. At the same time, improvements in the economy and efforts to exploit growing anti-Russian sentiment in the country helped to partially restore the president's popularity. Lukashenka also exploited the timing of the Beslan tragedy in Russia to announce the referendum on presidential term limits and contrast stability under his rule with Russia's apparent chaos.

National Democratic Governance. Although the Constitution of the Republic of Belarus proclaims the country to be “a unitary, democratic, social state based on the rule of law,” in reality the government is based on unlimited presidential authority. The president is in full control of the cabinet, the leg-

islature, and all defense and security structures. The centralized Belarusian economy remains unreformed and is considered among the most repressive in the world. The long anticipated referendum on lifting term limits for the presidency was carried out on October 17, 2004, concurrently with the parliamentary elections, and eliminated the last legal restrictions on presidential authority. Attempts to campaign for a vote against the referendum were met with repression, and no basic conditions for a free and fair vote were provided. According to official data, 79 percent of all registered voters said yes to the question proposed by Lukashenka. Meanwhile, independent exit polls confirmed that the referendum would have been lost by Lukashenka had the vote been counted fairly. *Belarus's rating for national democratic governance is 6.75. No major democratic institutions or practices are in place in Belarus, and those remaining, such as formally competitive elections or referendums, exist largely as window dressing.*

Electoral Process. The parliamentary elections carried out on October 17 concurrently with the referendum ended with pro-government candidates taking all seats in the lower house of the Parliament with no opposition candidate elected. A weak parliamentary opposition consisting of fewer than 10 out of 110 members of the lower house was thus eliminated. No basic conditions were created for a free and fair vote. Opposition candidates were denied registration en masse; some who did run were brought to court in the aftermath of the vote for slandering the authorities or had to quit their jobs. *Belarus's rating for electoral process is lowered from 6.75 to 7.00 owing to the executive branch's increasing control over the electoral process, which has tightened to the point where elections have ultimately ceased to play a role in allowing citizens to elect and change the government.*

Civil Society. The independent civic sector has been continuously squeezed out of existence by the authorities, with the closure of 56 high-profile nongovernmental organizations (NGOs) in 2003–2004 and the denial of registration to more than 90 percent of newly formed organizations during the same period. The attack on academic freedom unleashed by the announcement of a new state ideology in 2003 reached new heights with the closure of the European Humanities University in July. *Belarus's rating for civil society remains unchanged at 6.75. Although the condition of an authentic nongovernmental sector worsened substantially in 2004, the commitment of NGO activists to continue work under unfavorable circumstances prevents the complete extinction of civil society in Belarus.*

Independent Media. Publication of several leading independent newspapers was suspended before the parliamentary and referendum campaign. State-owned media showed little respect for expressing diverse opinion in advance

of the vote, while continuing to attack the opposition, international organizations, diplomatic representatives, and foreign governments. Independent journalists continued to be harassed with lawsuits, whereas deportation and detainment of foreign journalists are already customary. The severe beating of reporters in sight of opposition protests and particularly the murder of leading independent journalist Veranika Charkasava on October 20 highlighted the dangers faced by independent reporters in Belarus. *Belarus's rating for independent media remains unchanged at 6.75. Although the condition of independent media worsened substantially in 2004, a small network of printed press uncontrolled by the government continues to provide alternative information for a limited segment of Belarusian society.*

Local Democratic Governance. Local self-government is nonexistent in Belarus, as municipal authorities continue to be fully subordinated to the central government. Heads of regional administration are appointed by the president, and local councils have limited responsibilities. Activities of the few independent councilpersons elected in 2003 are frequently sabotaged by the executive authorities. *Belarus's rating for local democratic governance is 6.50 owing to the overcentralized, top-down administrative structure, which provides little room at the grassroots level, though local politics still remains a small outlet for political pluralism in the country.*

Judicial Framework and Independence. The arrest and continuing imprisonment of opposition leader Mikhail Marynich and a highly biased investigation and sentence for regional union activists and publishers Valery Levaneuski and Alexander Vasiliev highlight the role of the judiciary as subordinate to the presidency. Opposition activists, civil society leaders, and independent journalists who appeal the authorities' arbitrary decisions rarely prevail. Severe beatings of protesters at mass events have occurred without investigation by the authorities. Property disputes, especially when challenging the interests of the state, are subject to administrative pressure from the highest levels. *Belarus's rating for judicial framework and independence is 6.75.*

Corruption. Belarus's downward slide in corruption ratings by independent surveys continued in 2004. The arrest and imprisonment of two government officials on corruption charges in February was not followed by a reorganization of the respective agencies in order to improve transparency and increase accountability. Meanwhile, the accountability of the government was further compromised by the presidential decree that made "top-secret" a large area of data pertaining to governmental operations. *Belarus's rating for corruption is lowered from 5.75 to 6.00 owing to the failure of top leadership to effectively address the issues of government transparency amid increasing evidence of the serious problems related to corruption in the country.*

Outlook for 2005. With presidential authority fully consolidated, President Lukashenka is set to proceed with eliminating the last remaining sources of political and civil resistance. The political opposition may become the focus of a new round of attacks in advance of the 2006 presidential elections. As it is highly unlikely that the currently favorable economic conditions will change in the short run, Lukashenka's popularity will continue to grow based on this implicit social contract with the population. The successful democratic revolution in Ukraine alerted the Belarus authorities, motivating them to act preemptively to eliminate the threat of a regime change. The prospect for political change in Belarus remains remote, and it is not likely to materialize without increased popular discontent with the government, intensified and coordinated international pressure, and a decline in the internal coherence of the regime.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	n/a	n/a	n/a	na	na	6.75

Article 1 of the Constitution of the Republic of Belarus proclaims the country to be “a unitary, democratic, social state based on the rule of law.” In reality, the government is based on the unlimited authority of the president, who is in full control of the cabinet and dominates the legislative process. Article 137 of the Constitution gives priority to presidential decrees over laws adopted by the National Assembly, and the assembly's bicameral composition enforces its subordination to the president. While the lower House of Representatives is elected on a single-member constituency basis, the upper Council of the Republic is appointed by regional assemblies of local councils, with the president appointing 8 of its 64 members.

The National Assembly has extremely limited powers and virtually no control over the state budget, which can be amended by presidential decree. The Presidential Department of Affairs (PDA) is responsible for the financial and material resources of the Parliament, which lacks control even over its own internal finances and wages. Only a small part of lawmaking is carried out in the Parliament. The National Center for Legislative Activities—an agency responsible for the preparation of bills—is also subordinate to the president.

Texts of major legislation are available to the public in printed and free Internet versions. However, no rules exist for disclosing the budgets of the

central and local governments. The decree On the List of Data Representing State Secrets in the Republic of Belarus, signed by President Alexander Lukashenka on April 12, extended the range of classified information to data on international treaties, military and defense spending, information about state-sponsored research and development programs, and so on. There is no specific regulation authorizing the Parliament to make its records public. Likewise, citizens have no opportunity to view their representatives' voting record.

In 2004, the constitutional referendum on lifting presidential term limits opened the possibility for a lifelong presidency for Lukashenka. In his televised address to the nation on September 7, Lukashenka proposed one question for the plebiscite: "Do you allow the first president of the Republic of Belarus, Alexander Ryhoravich Lukashenka, to participate as a candidate in presidential elections, and do you approve of the first part of Article 81 of the Constitution of Belarus to be worded in the following way: 'The president shall be elected for five years directly by the people of the Republic of Belarus on the basis of a universal, free, equal, and direct election by secret ballot?'"

The question contradicted the electoral code, which forbids carrying out referendums on issues regarding the election of the president (Article 112). The Venice Commission of the Council of Europe declared that the question did not correspond to European standards, as it "mixes illegal privilege for one person with an issue of a greater, general importance." The Ministry of Justice and the Constitutional Court, however, endorsed the referendum and declared that the question did not contradict the law.

The smallest sign of protest against the referendum resulted in fines, imprisonment, arbitrary searches, break-ins, and hit-and-run attacks. Lukashenka gave his official blessing to an intimidation campaign, and harassment intensified as the vote drew nearer. Arrests and searches of people distributing anti-referendum leaflets and staging pickets took place almost daily before the vote. Allegations of vote fraud were widespread and well documented.

According to the Central Election Commission, 90 percent of eligible voters took part in the referendum and elections; 79 percent answered yes to the question. However, exit polls conducted by the Gallup Organization/Baltic Surveys Center showed that only 48.6 percent answered yes in the referendum. These numbers were confirmed in polling conducted by the Independent Institute for Socioeconomic and Political Studies (IISEPS), in which only 49 percent of respondents declared a yes vote. Nevertheless, the public was not informed about the real results of the referendum, and the overall perception that Lukashenka could win any ballot remained unchallenged. In response to the IISEPS poll, the Ministry of Justice attempted to close down the organization for "numerous violations," reported Radio

Free Europe/Radio Liberty (RFE/RL), while the institute's deputy director, Alexander Sasnou, had his apartment searched by the KGB.

Heritage Foundation rates the Belarusian economy among the most repressive in the world. While the government does pursue relatively prudent macroeconomic policies and inflation is decreasing steadily, the private sector and domestic competition are systematically stifled in favor of outdated and largely unprofitable Soviet-style industries. Bureaucratization of the economy is an important tool of political control. Since the government controls approximately 80 percent of all assets, it employs the vast majority of Belarusians. The switch from a permanent employment system in public companies and institutions to a contract system was finalized in 2004. As nearly all employees have to renew their contracts each year, political disloyalty is easily punished. Moreover, presidential directive number one, On Strengthening Discipline and Order, proclaimed on March 11, 2004, provided a wide range of pretexts for firing anyone from a public job, including for poorly concealed political reasons.

Several factors contribute to the stability of the Lukashenka regime. First, all power is concentrated in the hands of the president and there is little immediate threat to his position. Second, there are no significant interethnic or inter-religious tensions inside the country; neither are there territorial disputes with neighboring states. Third, the government enjoys continuous support from elderly and rural constituencies who favor state paternalism and Soviet-style security and stability. The president is keen on maintaining public support through redistribution of incomes and by engaging in carefully staged public relations campaigns.

Despite this stability, societal opposition to the government is sizable, reflecting both dissatisfaction with the regime's performance and disapproval of its antidemocratic policies. For example, in the opinion poll conducted by the Russian Public Opinion Foundation in August 2004, 60 percent of respondents declared they would vote in upcoming elections for someone who would change the current political course, whereas 22 percent declared they would vote for the status quo. Likewise, according to a poll carried out by the sociological laboratory NOVAK in August 2004, 55 percent of the respondents believed that the upcoming parliamentary elections would not be free and fair.

Belarus's defense and security structures are controlled by the presidency. Law enforcement agencies (such as the KGB, Interior Ministry, Office of the Prosecutor, State Control Committee, and Security Council) grew in size and influence over the last decade and enhanced their role in virtually all spheres of public life. Meeting with security forces in October, the president publicly called them to engage in a fight with the opposition, whom he called "the outcasts," reported RFE/RL.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
6.00	6.25	6.75	6.75	6.75	6.75	6.75	7.00

Since the consolidation of presidential authority in a 1996 referendum, representative institutions in Belarus have become largely ceremonial bodies that rubber-stamp the policies made at the top of the vertical power structure. Likewise, elections have turned into exercises that validate Lukashenka's political dominance.

The current electoral code was adopted in February 2000 and, according to the Organization for Security and Cooperation in Europe (OSCE), "fails to provide for democratic elections." The code does not provide election commissions with multiparty representation and independence. It also lacks provision for a sufficient level of transparency at all stages of the electoral process, for guarantees against vote rigging during early voting, and for a uniform appeals process for the decisions of election commissions. Last, the code's regulations stifle campaigning and freedom of speech.

An attempt to democratize the electoral legislation by three outgoing members of the House of Representatives (Valery Fralou, Siarhej Skrabets, and Uladzimir Parfenovich) in May–June 2004 was blocked by a house majority. The members of Parliament declared a hunger strike in protest. Initially, this unconventional (for Belarus) form of political protest caught the authorities unprepared. However, when the strikers announced they would end the protest early, they were ridiculed by the official media and Lukashenka.

The last presidential elections, held in September 2001, resulted in a resounding victory for Lukashenka. According to official results, he won 75 percent of the vote against 15 percent cast for the opposition candidate, Uladzimir Hancharyk, and 2 percent for the leader of the Liberal Democratic Party (LDP), Siarhej Hajdukevich. Official turnout was 83 percent. The opposition refused to accept the official results, complaining about the absence of opposition representation on election commissions, biased coverage of the campaign in the official media, imbalanced conditions for campaigning, harassment of opposition activists, and gross tabulation violations. The OSCE's limited election observation mission in Belarus declared that the "2001 presidential election process failed to meet OSCE commitment for democratic elections."

The most recent parliamentary elections took place on October 17, 2004. Unlike the previous elections, these were not boycotted by the opposition, except for the Conservative Christian Party–Belarusian Popular Front (CCP-BPF), which is a party that split from the Belarusian Popular Front (BPF) in 1999 to follow ousted leader Zianon Pazniak. Failing to form a united front, a total of four opposition coalitions announced their intentions to

run: the Popular Coalition Five Plus, the European Coalition Free Belarus, the Young Belarus Coalition, and the Respublika group of parliamentary opposition deputies.

In his annual address to the National Assembly in April, Lukashenka made clear his intention to control the election process and dictate the composition of the Parliament. He specifically stated that the elections must be completed in one round, stressed that the new legislature should not include “businessmen, merchants, and capitalists,” and set the quota for women in the national legislature at 30–40 percent.

The opposition was blocked at all stages of the campaign. For example, out of 328 opposition representatives who applied for membership on election commissions, only 28 applications, or less than 0.2 percent of the total of 1,600 members of the commissions nationwide, were granted, according to the OCSE. Likewise, among the leading opposition parties, only 24 out of 59 candidates of the United Civil Party (UCP) were registered, as were only 32 out of 54 candidates from the BPF. The grounds on which some of the rejections were made reflected an inconsistent application of complex regulations. In the end, 10 out of 110 constituencies were left with just one candidate running.

Candidates representing the government were registered problem-free and enjoyed the advantage of firsthand access to the media and public institutions. Meanwhile, several opposition candidates lost jobs or were forced to abandon their university studies after deciding to run. Others were subjected to raids on their homes, undercover police surveillance, or hit-and-run attacks. Even though the law guarantees leaflets for registered candidates, several independent printing houses were threatened with revocation of their licenses for printing leaflets of the opposition candidates. Some opposition candidates had their leaflets censored to remove denunciations of the referendum, and others lost their registration. Opposition candidates were also denied legally guaranteed access to the media, and their campaign rallies were routinely banned.

Voter registration rolls for both the referendum and parliamentary elections were reduced by some 380,000 persons from the 2001 presidential elections, despite the fact that no comparable decline in the voting age population had occurred, according to the *Charter-97* Internet newspaper. Many voters found themselves expelled from the rolls, and some were not written in even after complaining. In practice, a lower number of registered voters meant that a smaller number of votes were required to pass the 50 percent threshold of registered voters for the referendum.

According to the electoral code, early voting begins five days before the elections for those who cannot vote on election day. In practice, early voting has become compulsory for students and public sector employees in the countryside, presumably because the process is almost impossible to observe.

In October 2004, reports of this practice were again widespread. Almost 20 percent of voters cast their ballots early, and observers reported massive fraud such as multiple voting and ballot stuffing.

Most electoral observers were not allowed to directly watch the vote count, as complaints of irregularities were met with the expulsion of around 400 observers nationwide. Uta Zapf, head of the Belarus working group in the OSCE Parliamentary Assembly, was twice evicted from polling stations. According to the OSCE observation mission, irregularities marred vote counts at 60 percent of the polling stations where it placed observers.

According to the Central Election Commission, the elections were valid in 109 constituencies out of 110, with 108 deputies elected, one runoff, and one election invalidated. Of the 108 deputies elected to constituencies in the first round, not a single opposition candidate won a place in the House of Representatives. The runoff election was carried out one week later, with the by-election in the invalidated constituency slated for 2005. All of the declared winners, which included eight from the Communist Party of Byelorussia, three from the Agrarian Party, and one from the LDP (an analogue of Vladimir Zhirinovskiy's party in Russia), were pro-government and supported the president. As with the referendum results, the election result data were questioned by the opposition and condemned by international organizations.

Elections to the upper house of the Parliament, the Council of the Republic, took place in November 2004, with the assemblies of local councils voting to fill a total of 56 seats, or 8 per region. All candidates ran unopposed. Several local councilpersons representing the opposition were not included in the list of electors because they "could not be contacted" by the regional authorities, reported RFE/RL.

With the adoption of a sharply amended Constitution in 1996, party development came to a standstill in Belarus. Pro-presidential parties continued as puppet groups whose only mission was to provide a pluralistic façade for the regime. Opposition parties were completely marginalized. The president does not have his own political party, and his insistence on staying aloof from party politics may be explained by his populist claim to represent "the people, not the parties."

After the reregistration of political parties in 1999, only 18 out of 43 remained. Eleven were opposition parties, 6 supported the regime, and 1 was neutral. Party membership is low (rarely exceeding 2,000 to 3,000 members), and affiliation with an opposition party can result in various problems for individuals working in government, education, or private business. Opposition party politics are notorious for personal rivalries among party leaders, the near absence of leadership rotation, and the inability of parties to unite behind common candidates.

Opposition parties are under constant pressure from the Lukashenka regime. The Belarusian Labor Party (BLP) was disbanded by the Supreme

Court in July 2004 for failing to have a legal address (that is, an address where the office is officially located and correspondence is sent and received). In fact, the BLP lost its office space in 2003 when it was evicted from the Federation of Trade Unions building. The Ministry of Justice twice refused in 2004 to register the new Freedom and Progress Party. Several regional organizations of opposition parties also lost their registration for failure to have a legal address and could not place candidates in the 2004 parliamentary elections.

Indeed, on October 18 the Ministry of Justice announced that all local chapters of political parties must reregister to confirm their compliance with rules that forbid having offices in residential apartments. As opposition parties have almost no chance to rent state-owned office space, this rule may cause the near complete elimination of local party branches. Although a 2004 amendment to the Law on Political Parties prohibited their closure during the election campaign, independent analyst Aleh Bahutski said in *Chapter-97* that the move was really intended to “cover up the repression against the parties.”

Despite these numerous challenges, there is evidence that the opposition is picking up public support. According to a Gallup exit poll, 32 percent of Belarusians who revealed how they voted in the parliamentary elections said they voted for a pro-democratic candidate from Five Plus, European Coalition, or Respublika. Since the opposition candidates ran in only 75 of 110 constituencies, opposition support could have been as high as 40 percent, an excellent result given a nearly complete shutdown of independent opinion during the campaign.

Paradoxically, the referendum could have helped the opposition build public support, as the voters who turned down the Lukashenka’s proposal were naturally inclined to search for a candidate opposing the president. Yet the opposition failed to convert these votes into a political advantage. The atmosphere of fear and intimidation definitely served to distract the population from defending their votes on the streets. Moreover, as the report of the Slovak Institute for Civic Diplomacy/Pontis Foundation stressed, “The majority of Belarusian citizens is still waiting for signals that the democratic opposition is able to deal with the economic, political, and social problems of the population, not only to criticize Lukashenka. There is still no real trust between citizens and the democratic opposition.”

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
5.25	5.75	6.00	6.50	6.25	6.50	6.75	6.75

The civil society sector in Belarus comprises a network of nongovernmental organizations (NGOs) run by opposition individuals who are effectively

denied active participation in political life, nonpartisan NGOs such as humanitarian aid organizations, and puppet NGOs that act as mouthpieces for official propaganda and are subsidized directly by the state. More than 2,200 NGOs were officially registered with the Ministry of Justice as of January 1, 2004, including 52 national trade unions and 2,214 public associations. Half of these are located in the capital. Overall, volunteerism is low owing to the lack of a tradition of public participation, an extremely low level of awareness about NGO work, and fear of problems that might accompany membership in an “opposition” NGO.

The existing Law on Public Associations does not provide adequate protection for civil society rights. Rules for NGO registration are complicated, and a variety of pretexts can be used to issue official warnings. Two warnings can result in the closure of an organization. In 2003, the Ministry of Justice issued 810 written warnings to NGOs, six times more than in 2002, reported the Belarusian Assembly of Democratic NGOs. New amendments to the Law on Public Associations adopted by the House of Representatives on June 30 introduced a new procedure for a six-month suspension of NGOs and stipulated that NGOs could now be closed down immediately once they are found violating rules for using foreign assistance.

For most NGOs, foreign grants remain the only source of financial support. Donations are not tax-exempt, and NGOs must pay heavy taxes if they choose to operate legally. This puts NGOs under intense scrutiny from tax authorities and, recently, the KGB. Domestic sponsorship is almost nonexistent since the private sector is small and businesses tend to avoid an association with the opposition. Government-controlled organizations attract financial aid from domestic and foreign-owned businesses that want to confirm their positive stance toward the authorities.

The sphere in which independent NGOs can operate effectively has been narrowed by the government since the last presidential elections. The State Commission for Registration and Reregistration of Public Organizations and Political Parties was established in 2001 to give advice to the Ministry of Justice on the desirability of registering certain NGOs or parties. The commission is stocked with the president’s close associates, all known for their hard-line views. As a result, out of 1,464 organizations that submitted documents for registration in 2003, only 94 were registered. Several public organizations were denied registration in 2004 because some of their founders were members of the opposition.

In 2003–2004, 56 NGOs were closed down by the authorities, mostly for technical reasons, such as incorrectly designed official forms used by organizations or a nonlegal office address, according to *Belorusskaya Delovaya Gazeta*. Forty-two organizations have been forced to self-liquidate following pressure from the Ministry of Justice and tax authorities. This campaign was targeted against the strongest and most internationally connected NGOs, such

as human rights organizations, regional resource centers providing assistance to smaller NGOs, and independent research institutions. It had profound effects on the civil society sector. Thus, only one human rights group, the Belarusian Helsinki Committee (BHC), remained officially registered as of September 1, 2004.

BHC itself was attacked in January 2004 when the Maskouski District Tax and Revenue Office in Minsk ruled that the organization should pay more than US\$170,000 to the state in unpaid tax liabilities for the income it received abroad. The decision was overruled, as BHC proved that the money was received within projects administered by European Union (EU) Technical Assistance programs, which, according to the treaty between the EU and Belarus, was tax-exempt. The organization was once again attacked by the Ministry of Justice on September 16 for its appeal to the Constitutional Court to consider the constitutionality of the referendum. The Ministry of Justice considered this appeal to be “antistate activity,” reported *Chapter-97*.

Think tanks and research-oriented NGOs recently became a new target for attack, presumably because these groups provide information and expert analysis to the West and give refuge to high-profile intellectuals who fall out of favor with the authorities. The organizations closed down in 2004 include the Center for Constitutionalism and Comparative Legal Studies and the International Institute for Political Studies. In September, the Ministry of Justice initiated a court proceeding to close down IISEPS. Liquidation of NGOs seriously disorganized the civil society sector but did not end its existence. Outlawed organizations continued working underground and on the premises of still registered ones. However, “underground” NGOs had few opportunities to execute their missions effectively.

The international contacts of Belarusian NGOs are curtailed through visa denial and the deportation of representatives of Western nonprofit organizations. Agnieszka Komorowska, manager of the Belarus program at the Warsaw-based Stefan Batory Foundation; Alan Flowers, a British national who was engaged in developing contacts between Belarusian and international NGOs; and Helmut Kurt, head of the regional bureau of Friedrich Ebert Stiftung, were all denied entrance to Belarus in 2004.

The consolidation of political control over the education system continued in 2004. An order by Minister of Education Anatol Radzou (On Measures to Strengthen the Ideological Work at the Education Establishments) forbade leaves of absence for students to travel abroad for study, demanded withdrawal of unauthorized textbooks and academic publications from the university libraries, and curtailed international contacts with Western partners. This order reflects a broader government policy to “protect” the younger generation from foreign influences. For example, in November President Lukashenka ordered the curtailment of programs for children affected by the Chernobyl disaster,

since in his view travel abroad leads to the spread of “Western consumerism,” as noted on the president’s official Web site.

Courses on the new state ideology were introduced at secondary and higher education institutions, alongside other propaganda-filled courses, such as the Role of the Belarus People in the Great Patriotic War. Control over conferring academic degrees was also tightened to ensure the compliance of dissertations with the “state ideology.” New regulations issued by the president allow revocation of advanced academic degrees once professors are found guilty of “improper behavior,” such as participating in opposition rallies. The Ministry of Education can also revoke a higher education diploma if a graduate refuses to take a mandatory work assignment after graduation.

The closure in 2004 of the Minsk-based European Humanities University (EHU) eliminated the last stronghold of Western-style higher education in Belarus. EHU was founded in 1991 as a private institution and defined as its mission “to educate the new generation of young professionals capable of leading Belarus on its way toward civil society based on the values of European civilization.” The university had extensive international contacts and donor support and annually invited several dozen foreign professors. EHU was first attacked on January 21, 2004, when its rector, Anatoly Mikhailov, was ordered to resign by the Ministry of Education.

On July 21, after six months of conflict, the university was ordered out of its premises, which were rented from the state, and its license was annulled five days later on the grounds that it did not have premises to continue teaching. EHU students were promised transfers to other universities, but since EHU programs differed substantially from those in state schools, many were forced to take a leave of absence. As a result, a number of students had to leave the country, taking offers of support from Western, Central European, and Russian universities.

Lukashenka himself admitted that EHU’s determination to train Europe-oriented elite was the reason for its shutdown. He also acknowledged that the closure of the Belarusian National Humanities Lyceum in 2003 was politically motivated, as the students at this institution, in his words, were “crippled by the opposition.”

Independent unions also remained under pressure. In May, regional branches of the Free Union of Belarus were denied reregistration in the city of Navapolatsk. The former head of the Belarusian Union of Air Traffic Controllers (banned in 2003) was fired from his position at the air traffic control center after he testified before the International Labor Organization about the violation of labor rights in Belarus. In August 2004, the Ministry of Justice proposed amendments to the Law on Trade Unions that would increase minimum union membership from 500 to 30,000 members. In practice, this would wipe out all unions except for the government-controlled federation.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
6.25	6.50	6.75	6.75	6.75	6.75	6.75	6.75

In 2004, Freedom House ranked Belarus among countries with the lowest respect for freedom of speech. Only Turkmenistan received a lower ranking among the former USSR countries. Although Article 33 of the Constitution provides guarantees for freedom of speech, this civil right is subject to systematic violations. The Ministry of Information controls the licensing of media and effectively acts as a tool of repression against independent press that are critical of the government. Licenses can be withheld or revoked at the whim of the committee or on direct orders from the president. Two warnings received from the ministry within a year are sufficient to close down a newspaper. Independent journalists are subject to official harassment and become victims of arbitrary lawsuits under Article 367 (slander against the president), Article 368 (insulting the president), and Article 369 (insulting government officials) of the criminal code. These stipulate large fines and prison sentences for journalists who are found guilty.

State companies heavily dominate the publication and distribution of newspapers. State-run presses routinely refuse to publish materials critical of the authorities, and Belsajuzdruk, the state press distribution network, can refuse distribution of the independent press. Alternative sources of distribution (such as supermarkets or bookstores) exist, but they are hardly reliable and easily eliminated. State-owned media are extensively subsidized, whereas independent media are forced to shoulder high taxes and fees on printing and distribution. The independent press depends heavily on foreign assistance because of discriminatory pricing at state printing houses and difficulties in attracting advertisements from state-owned companies.

Veranika Charkasava, a veteran independent journalist, was murdered on October 20 in unknown circumstances. The cruel, ceremonial nature of the stabbing pointed to Satanist sects, whose activities Charkasava had investigated. Charkasava also investigated politically sensitive topics, such as KGB activities and arms trading with Arab states. The police were slow to accept other criminal scenarios beyond the domestic violence explanation, which it chose to consider initially, and as of the end of October no suspects had been identified.

Siarhej Antroshchanka, a business tycoon in control of several newspapers loyal to the government, used a loophole in the Law on Trademarks in December 2003 to acquire the copyright to the title *Narodnaja Volia* (already in use by the leading independent daily) four days before a new law forbade registering the titles of existing publications. (The independent newspaper is officially registered; however, it had not registered its title as a trademark.) Antroshchanka subsequently sued *Narodnaja Volia*, demanding compensation

of 16 million Belarusian rubles (US\$7,500) for “illegal use of the registered trademark.” On August 6, the state printing house refused to publish *Narodnaja Volia* until the suit was paid in full. Antroshchanka put forward a new libel suit against *Narodnaja Volia* on September 17, this time demanding compensation of 1.5 million Belarusian rubles (US\$700) for slandering him. Antroshchanka was subsequently awarded a smaller amount.

Foreign journalists critical of the government are not welcomed in Belarus. Mikhail Padaliak, a journalist from the newspaper *Vremya*, was deported by the KGB on June 21 for slandering the state and calling for the destabilization of the country. Padaliak, a Ukrainian national, lived in Belarus for 15 years with his wife and child (who are Belarusian citizens) but was routinely denied citizenship. Deportation forcibly separated him from his family. Padaliak is famous for writing articles on the conflicts inside Lukashenka’s inner circle. The bureau of the Russian state TV channel RTR was expelled from Belarus for “inadequate” reporting about the opposition rally that took place on July 21 to commemorate the tenth anniversary of Lukashenka’s rule. French channel TF-1 was stripped of accreditation in November after filming a documentary about the Zubr opposition movement.

At the local level, the state-controlled regional newspapers remain the most important source of printed information on regional events. Regional independent newspapers do exist, and in some of the regions they hold a significant share of the information market. However, these editions are often pressured by the authorities, and many were suspended by the Ministry of Information or forced to go out of print. Smaller publications with a circulation of up to 300 copies exist in many provincial towns, as they do not need to be registered.

In anticipation of the parliamentary elections and the referendum, the independent press was subjected to renewed pressure. Several newspapers were suspended on charges varying from slandering the president to an inability to locate the editorial boards at registered legal addresses. These included *Vremya*, a recently launched publication that immediately gained popularity for sharp, sometimes controversial reporting; and *Navinki*, a satirical paper that had already been suspended in 2003. The newspaper *Nedelya*, which began publishing in September, was suspended after the first issue appeared for sale. *Navinki*’s editor Paval Kanavalchyk was beaten on the street by unknowns on October 25. Most of the leading independent newspapers approached the election campaign with several warnings from the Ministry of Information (enough to be closed down), and their coverage of the campaign was conspicuously constrained, amounting to self-censorship.

Electronic media in Belarus are completely dominated by the state. Belarus currently has four national television channels. All-National Television (ONT), Capital TV, and Lad fill the bulk of their airtime with rebroadcasts of Russian TV networks. Neither of the state channels offers alternative views on

political issues, and all channels report on domestic and international affairs in a manner acceptable to the government. The channels differ mostly in the extent to which their broadcasts are filled with antiopposition messages. The First National Channel (BT-1) is the undisputed leader. ONT and Capital TV routinely rebroadcast BT-1 programs devoted to praising the president and attacking the opposition. Lad, which remains relatively politics-free, is the only remaining channel with a fair amount of airtime in the Belarusian language.

Media attacks on the opposition are common. For example, the documentary *Road to Nowhere*, shown by BT-1 on May 12, accused the opposition of taking money from Russia's business circles, imitating Nazi political tactics, and even planning to assassinate top figures in Lukashenka's entourage. On April 26, BT-1 announced that the opposition party BPF would curtail the Chernobyl assistance program once it came to power; in actuality, the BPF has raised concerns about the insufficient amount of attention given to Chernobyl problems throughout its existence, from the Soviet period to Lukashenka. The BPF filed a libel suit against the creators of the program in the Pershamajski District Court in Minsk, but the case was rejected.

Russian electronic media broadcasts have been restricted since 2002 (not from the reversal of Russification, which actually progressed during the regime-controlled media, but from the suppression of alternative information and opinion). Belarusian media surpassed Russian media in 2003–2004 as a primary source of information about domestic and foreign events for the majority of Belarusians. As a result, Russian media can no longer balance the official propaganda. This became visible in February, when Belarusian and Russian TV stations presented different explanations for the halt of gas supplies to Belarus. Independent polls showed that public opinion strongly backed Lukashenka's version that this was an attack on the country's sovereignty, and his popularity rose. Russian TV channels may be turned off at any time once they broadcast criticism of the Belarusian authorities. In April, the RTR channel was switched off for two nights in a row to avoid broadcasts of analytical programs criticizing Lukashenka. The airwaves of Russian networks were used in September to broadcast antiopposition propaganda (presumably in an attempt to reach out to viewers who do not watch official TV).

The Ministry of Information tightened control over FM radio broadcasting in 2004. In July, all FM stations received orders to withdraw the broadcasting of rock and folk groups that took part in the opposition rally on July 21. The order affected some of the most popular Belarusian-language groups and musicians. In November 2004, the Ministry of Information issued a directive requiring that 75 percent of broadcasts be filled with Belarusian music. Unfortunately, this did not have the effect of reinstating the suspended groups; rather, the broadcasts were filled with singers who could claim at least distant Belarusian heritage.

Elimination of the Belarusian language from the media continued in 2004 regardless of its constitutional status as the official state language. In April, the Ministry of Information ceased publication of the magazine *Biarozka*, the last state-run children's magazine printed in Belarusian. In November, FM radio stations refused to take messages in Belarusian from listeners participating in the "Storm FM" campaign (a grassroots initiative aimed at increasing the presence of Belarusian in the media) or to fulfill their requests for Belarusian-language music on the air.

The September 7 announcement of the referendum was followed by an unbridled pro-Lukashenka campaign in the state-owned press. Pro-referendum messages were broadcast every half hour on nationwide channels. As much as 74 percent of total news coverage was dedicated to Lukashenka, according to independent reports. The media failed to provide equal ground for an unbiased review of the referendum. Elena Rabvetskaja, editor in chief of the Hrodna-based *Birzha Informatsii*, was fined for an editorial in which she described the referendum as a "challenge to the society." Several Hrodna-based journalists staged an unauthorized picket protesting the sentence on October 4 and faced charges afterward. One of the protesters, Paval Mazhejka, a journalist sentenced in 2002 to forced labor, was given a week in jail. Five newspapers were suspended nationwide during the referendum campaign. The World Association of Newspapers and the World Forum of Newspapers, Paris-based press freedom defense NGOs, declared that after so many newspapers had been attacked, before and during the campaign, the upcoming elections "cannot be trusted," reported the Belarusian Association of Journalists.

During the campaign, state channels stepped up attacks on the opposition, accusing it of plotting acts of terrorism, and confronted Western diplomatic representations in Belarus for, among other things, engaging in the drug trade and in pedophilia. Coverage of the parliamentary elections was pursued in a similar fashion. According to press monitoring by the Belarusian Association of Journalists, "State media became instruments of propaganda of pro-government candidates." Public messages explaining voting procedures did not show how to vote against the suggested question, limiting instructions to the yes vote. The Central Election Commission refused to consider complaints. "Let us face it: Media is the tool of ideology, and it would be stupid if state channels campaigned against the referendum," declared Central Election Commission head Lidia Ermoshina.

Belarusian authorities tried to block critical messages from abroad during the campaign. The Belarus embassy in Moscow issued a statement on September 23 condemning Russian media for offering alternative views on the referendum. Similar statements were issued after the referendum against papers that informed about the police crackdown on street protests. International journalists detained before or on election day included Hanna Gara-

simowicz from Poland, Miroslav Karas from the Czech Republic, and a crew of the Polish TV Channel 1. Iryna Khalip, a Belarusian journalist frequently appearing in the Russian press, was threatened with criminal charges for her articles alleging vote rigging.

On October 17, journalist Pavel Sheremet, an outspoken critic of Lukashenka, was beaten by skinheads (who could have been plainclothes agents) in Minsk and hospitalized with a skull injury. The police interpreted the incident as an act of hooliganism by Sheremet and launched criminal proceedings against him; however, the case was closed before the court hearing. Russian TV journalists Konstantin Morozov of NTV and Vladimir Kostin of REN-TV, together with the RL journalist Jury Svirko, were beaten while filming the police crackdown on the anti-referendum protests on October 19. Russian journalists were subsequently banned from transmitting footage from these demonstrations to Russian audiences. NTV broadcasting was effectively shut out for several days after October 17 while it aired footage of beatings.

Access to independent Internet sites posting claims of vote rigging was blocked for most of October 17. Several online editions, such as the Internet newspaper *naviny.by*, had their phones turned off for the day. Amendments to the Law on Mass Media considered by the House of Representatives in November 2004 foresaw obligatory registration of Internet editions, just as for ordinary newspapers; failure to register may result in blocked Web sites, which is technically achievable given the government monopoly on Internet service. The House of Representatives is likely to pass these amendments in April 2005.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	n/a	n/a	n/a	na	na	6.50

Belarus has three levels of local government: regional, district, and village or (in urban areas) township. Upper-level administrations direct and coordinate the work of lower levels. The total number of local governments is approximately 1,700. The Constitution does not separate local government from state authority. Heads of regional administrations are appointed by the president and are directly subordinated to him by law. Local councils are popularly elected but have no control over the executive bodies and are generally window dressing.

Subnational governments have extensive responsibilities, including housing, social services, public security, and education. The Constitution establishes that local councils have exclusive decision-making rights in adopting regional programs of social and economic development, establishing local taxes and adopting budgets, managing communal property within limits

established by law, and calling local referendums. Notwithstanding prerogatives, local governments have little control over their finances. Independent revenue sources account for only one tenth of local budgets. Village and township governments are particularly impotent since the territory they cover is generally smaller than the size of a basic production unit in the area, usually a collective farm whose head serves as the territory's de facto administrator. The collective farm system thus provides the real foundation of state authority in the countryside.

The last local elections, held in 2003, were largely alternative-free. For 24,000 seats on local councils, only 26,500 candidates were nominated. Up to two thirds of the opposition's initial nominees were denied registration, and it managed to secure only a minuscule representation in the election commissions. According to official sources, 73.4 percent of voters took part in the first round of the elections and early voting combined. One fifth of the electorate voted early. Altogether, out of 23,275 deputies elected to councils on all levels, only 257 (or slightly more than 1 percent) represented political parties. Of this number, only 107 were representatives of opposition parties, and the rest represented pro-government parties, noted the Belarusian Association of Resource Centers in its *Choice Through Elections* analysis. Although opposition parties accused the authorities of rigging the vote, they had little success collecting evidence for the charges. The opposition-dominated Assembly of the Deputies of Local Councils created in October 2003 unites just 50 deputies.

Local authorities usually avoid cooperation with most local civil society groups. Their participation at nonpoliticized events organized by entrepreneurial associations, women's groups, and so forth is possible but often merely ceremonial. Local authorities must be responsive to independent groups in emergency situations, such as strikes and organized protests. (In 2004, a hunger strike by cabdrivers in Vaukavysk protesting the revocation of a private taxi company's license brought a restoration of the license.) At the same time, ideology departments of the local governments are responsible for guiding and overseeing the work of government-organized NGOs, such as the Belarusian Republican Youth Union, and take an active part in persecuting the "opposition" NGOs. The local press covers the activities of local authorities extensively. State press, however, enjoys privileged access to information and officials, and internal regulations in some district and regional committees and councils allow only the official press to have access to meetings and sessions. Local opposition deputies have problems organizing meetings with their voters and are often attacked by local government press and the executive authorities.

The rules of disclosure, oversight, and accountability at the local level do not differ from those that apply to the central government. In theory, state bodies are obliged to present nonclassified information, but the local

authorities may deny access to information to independent journalists, NGOs, or local deputies. Independent local media face attacks from the executive authorities whenever they voice criticism of official decisions.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
6.00	6.25	6.50	6.75	6.75	6.75	6.75	6.75

Article 109 of the Constitution confers judicial power to the courts, and Article 110 stipulates that all judges shall be independent and any interference in the administration of justice is unlawful. However, the procedures for appointing judges give the president the upper hand. The president appoints 6 out of 12 members of the Constitutional Court; the remaining 6 are appointed by the Council of the Republic on his recommendation. The president also appoints the entire Supreme Court and Supreme Economic Court, as well as all military and district judges. The Constitution does not protect judges from voluntary removal during their tenure. No parliamentary approval is needed to remove judges from the Supreme Court and Constitutional Court; the president must simply “notify” the Council of the Republic. The institutional dependence of judges on the president is matched by their reliance on the executive branch for bonuses, promotion, and housing, which arguably makes them vulnerable to coercion.

Although the Constitution provides for basic human rights, including freedom of expression, association, religion, and business and property rights, these are not adequately protected in practice. Moreover, many existing laws (including the Law on Public Associations, the Law on Freedom of Religion, and the Law on Meetings, Rallies, Street Processions, and Pickets) significantly restrict the constitutional rights of citizens.

It is not entirely impossible to receive a fair trial in Belarus. However, legal procedures can be violated in politically sensitive cases. In January 2004, Iryna Makavetskaya, a journalist of *Belorusskaya Delovaya Gazeta*, was denied the right to begin criminal proceedings against an individual who threatened her over the phone, even though the police had established his identity. In March 2004, the district court in Minsk rejected the appeal by Aleh Vouchak, an opposition and NGO activist, to start criminal proceedings against the man who attacked and beat him on the streets.

The courts routinely refused libel suits against the opposition and civil society activists criticized by the official media. Civil society activists do manage occasionally to annul the unlawful decisions of courts or tax authorities, but new retributive charges and recriminations may follow.

Mikhail Marynich, a former government minister and diplomat who switched to the opposition during the 2001 presidential election, was arrested

by the KGB on April 26. He was initially suspected of illegally possessing classified government documents and two unregistered guns. The KGB also claimed that more than US\$90,000 in cash seized from Marynich was directed to the opposition from Russia. According to the law, the KGB had one month to put forward formal charges against Marynich, but they postponed this and prolonged his detention for about half a year, even though the preliminary investigation refuted the charges and Marynich experienced severe heart problems while in jail. No action was taken in the case by the prosecution for four months, from June to October. The final charges against Marynich were put forward on November 5, including that of large-scale theft, which was not on the list in the beginning of the investigation. Marynich was sentenced to five years in jail on December 26 for stealing computers from the organization Business Initiative, which he heads. The computers were in fact donated by the U.S. embassy, and both the embassy and Business Initiative alleged no wrongdoing by Marynich.

Punishments against opposition activists have grown increasingly severe in 2004. Valery Levaneuski, head of the Hrodna-based Independent Union of Private Entrepreneurs, and his associate Alexander Vasilieu were sentenced to two years in prison on September 7 for “insulting the president” by distributing a leaflet saying that “someone takes vacations for public money in Austria.” The sentence was based on the judge’s perception rather than proven evidence that Levaneuski and Vasilieu actually meant Lukashenka or that they misrepresented the source from which his vacation was financed. In the past, such charges bore much milder sentences, up to two years of forced labor. Amnesty International declared Levaneuski and Vasilieu prisoners of conscience.

The Constitution prohibits torture and cruel, inhuman, or degrading treatment. In practice, however, the rights of the convicted may be violated, and police and prison guards at times beat suspects and convicts. Opposition activists are routinely arrested and beaten for staging rallies and pickets and distributing literature. Around 60 individuals were arrested for staging an opposition rally in Minsk on July 21. Fifty more were rounded up by security services and taken out of town in police minivans, severely beaten, and robbed. In the aftermath of the October 17 election and referendum, street protests were dispersed with unprecedented cruelty. Anatol Liabedzka, head of the UCP, was rounded up by security troops during the rally on October 20, taken inside a restaurant, and beaten in front of TV cameras. Liabedzka suffered a severe concussion and kidney hematoma. No criminal procedure against his attackers was launched.

Confiscating property or freezing assets may be enforced in cases that have obvious political underpinnings or involve the interests of the bureaucracy. Arbitrary confiscation of goods at customs has grown into a state-sponsored business, as customs offices are obliged to provide, in the words of State

Customs Committee head Alexander Shpileuski, “a steady and predictable increase of the customs’ share in the total volume of the national revenues,” reported *Transitions Online*. The appeals are rarely ruled on in a proper manner as, according to one judge involved, “nobody has the courage to make a decision that would reduce the state treasury’s income by tens of thousands of dollars.” Reporting on these practices, the international press called them “rubber-stamped daylight robbery.”

On a positive note, the criminal code and criminal proceedings code of the Republic of Belarus were partially amended in 2003 to exclude some of the most notorious Soviet-era punitive practices. The amendments abolished the prison penalty for some minor crimes, lowered the minimum fines paid in court sentences, and introduced more lenient rules for parole. As the courts are controlled de facto by the executive authority, problems with nonenforcement generally do not occur.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	5.25	5.25	5.25	5.50	5.75	6.00

Although Belarus remained above all other former Soviet republics in the 2004 Corruption Perceptions Index of Transparency International, its rating deteriorated dramatically from 51st place in 2003 to 71st in 2004. This continued its slide from 36th place in 2002. A rapid decline cannot be explained simply by a continuous spread of low-level and high-level corruption, although that appears to be the case. Another possible reason is a better understanding of the sources of corruption in Belarus by surveyors, as the institutions that most surveys assess (Parliament, political parties, and the media) either have little decision-making power or are fully blocked to outsiders by the government and hence appear to be relatively corruption-free.

Corruption is usually not acknowledged by the government except when top-ranking officials or former officials who switch to the opposition are put on show trials. It came as a shock, though, when Viktor Prus, deputy prosecutor-general of Belarus, declared to the Parliament in October that the volume of the shadow economy in Belarus probably hovers at around 17 percent of gross domestic product (GDP), or about US\$3 billion. Prus specified that this number accounts for the amount of services sold by bureaucrats abusing their offices, reported *Belorusskaya Gazeta*.

Over-regulation of business activities and unstable regulation have created pervasive opportunities for corruption at all levels of business. Likewise, the tax system is complicated and cumbersome. According to a World Bank survey, opening a private business in Belarus is an arduous undertaking that requires passing 16 legal procedures (which by itself can take 79 days on aver-

age) and spending an equivalent of 25 percent of the annual GDP per capita. The same survey estimates the volume of the shadow economy in Belarus at 48 percent of GDP, or about US\$7 billion.

Allegations of wrongdoings in the highest echelons of authority are abundant (even though they are often politically motivated). The primary targets are government agencies, such as the PDA, or companies under the patronage of security bodies, which are directly involved in the most lucrative businesses (such as the cigarette trade and exploitation of national parks) and enjoy a monopolistic status conferred by the president or the government. Since 1994, there have been charges that these revenues are channeled into a “shadow” presidential budget. Officials do not deny the existence of a shadow budget but refuse to comment on its size.

Monopolization of rents by the presidential structures gives top state bureaucracy ubiquitous opportunities for enrichment through the system of patronage, contracting to firms in which relatives of officials have stakes or control top positions or taking bribes for making the entrance accessible for outsiders. The largest corruption scandal in recent history broke out on February 9 when Halina Zhuraukova, then PDA head, was sacked and arrested by the KGB on charges of theft and abuse of office alongside her son, who worked in a PDA-related company. Zhuraukova was eventually sentenced to four years in jail with confiscation of property.

Although there is little doubt that there was a case for arresting Zhuraukova, this could have been revenge from the law enforcement officers within Lukashenka’s inner circle who competed with PDA for access to administrative rents. Moreover, the case was not followed by any revision of PDA operational principles and did not increase the transparency of its activities. The fight against corruption was reduced to a media campaign, and Lukashenka simply warned the state apparatus that anyone building “a dacha higher than the presidential residence while working as a teacher, custom official, or a doctor” could find himself in the hands of the KGB.

Another top-level official arrested in February was Jahor Rybakou, head of the National State TV and Radio Company, who was charged with squandering public funds and abuse of office. As in Zhuraukova’s case, the arrest and appointment of a new head was not followed by substantial reorganization of the company, as changes were limited to tightening the ideological monitoring of program content (the new head of the National State TV and Radio Company is an old-time friend of Lukashenka’s who previously headed the ideology department at an industrial plant).

The Law on Public Service, signed on June 14, 2003, establishes conflict of interest rules. Civil servants (including members of Parliament) are barred from entrepreneurial activities, either direct or indirect, or from taking part in the management of a commercial organization. The recently proposed new anticorruption legislation foresees strengthening the conflict of interest

rules and expands the application of anticorruption legislation to a broader circle of government agencies and officials.

In practice, the transparency of decision-making processes and business operations under the aegis of government institutions is doubtful. The government does advertise contracts and tenders, but those turn into a formality once the interests of state companies are affected or the government fears losing its control over assets or whole sectors. For example, a tender announced in 2004 for establishing the third mobile telephone operator in Belarus became irrelevant once President Lukashenka declared that the winning company should have 100 percent of state capital, de facto appointing the state company Best, which had been created for this tender, as the winner. Transparency suffered another blow in 2004 with the adoption of the presidential decree on state secrets, which made a wide range of economic and social statistics inaccessible to the public.

Anticorruption policies often have the appearance of propaganda campaigns aimed at boosting the popularity of Lukashenka, who came to power in 1994 as head of the Anticorruption Commission in the Parliament. Lukashenka subsequently used the corruption issue as a tool for providing the public with an easy explanation for economic hardships, and bribery charges supplied him with a fitting pretext to crack down on opponents, as in the case of Mikhail Marynich. Another example is Mikhail Liavonau, a former director of Minsk Tractor Works rumored to have contemplated a run against Lukashenka in 2001; Liavonau was sentenced in February to 10 years in prison for large-scale theft.

Independent investigations of corruption are not encouraged and are seen in many instances as instruments of political attack against the regime. Journalists and independent media reporting on the issue have faced libel suits in the past, with punishments including huge fines and closure.

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Bosnia-Herzegovina

<i>Capital</i>	Sarajevo
<i>Population</i>	3,900,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$5,970
<i>Private sector as % of GDP</i>	50%
<i>Ethnic groups</i>	Serb (37 percent), Bosniak (48 percent), Croat (14 percent), other (1 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	n/a	5.00	5.00	4.75	4.25	3.75	3.50	3.25
Civil Society	n/a	5.00	4.50	4.50	4.25	4.00	3.75	3.75
Independent Media	n/a	4.75	5.00	4.50	4.25	4.25	4.25	4.00
Governance	n/a	6.00	6.00	6.00	5.50	5.25	5.00	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	n/a	n/a	4.75
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	n/a	n/a	4.75
Judicial Framework and Independence*	n/a	6.00	6.00	5.50	5.25	5.00	4.50	4.25
Corruption	n/a	n/a	6.00	5.75	5.50	5.00	4.75	4.50
Democracy Score	n/a	5.35	5.42	5.17	4.83	4.54	4.29	4.18

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Bosnia-Herzegovina has made significant progress since the end of the war almost 10 years ago, although democratic governance continues to be conditioned by international intervention. The two entities, the Croat-Bosniak-dominated Federation of Bosnia-Herzegovina (FBiH) and the Serb Republic (RS), have been progressively weakened as central state structures have been put in place. However, the Office of the High Representative (OHR), the main international civilian authority established at Dayton, continues to be the engine behind most reforms even as international organizations increasingly have begun transferring competencies to local institutions to encourage local ownership. Some reforms in the judiciary, police, and public administration have made these institutions more accountable, and the respective parliaments showed minor improvements in effectiveness over 2003. Nevertheless, the political system continues to be dominated by the same ethnonational political parties, which rely on nationalism and clientelism to retain power. Bosnia also continues to lag behind the countries of the region in concluding a Stabilization and Association Agreement with the European Union (EU) and joining the Partnership for Peace (PfP) program of NATO.

The most important developments in Bosnia in 2004 focus on continued reform of the security sector, including the setting up of a state-level security agency and the establishment of state-level command over the armed forces. Nevertheless, Bosnia's application to NATO's PfP was rejected in June and December 2004 over the lack of progress in arresting indicted war criminals in the RS. In addition, the OHR threw its weight behind reforms of the police and defense sectors, which resulted in the abolition of the entity-level defense ministries and the reduction of the competencies of the entity ministries of the interior. In response, the RS government and the Serb members of the state government resigned in an unsuccessful attempt to block the operation of Bosnian institutions.

The 2004 unification of Mostar ended the administrative division of the city between Bosniak- and Croat-dominated municipalities and represented a major symbolic step in overcoming a 10-year stalemate in the city. Yet elections for municipal councils and mayors in October 2004 continued the reign of nationalist parties in most parts of Bosnia, save for a few strategic opposition victories in the RS.

National Democratic Governance. State institutions were further strengthened in 2004, especially in the security sector, with increasing competencies and effectiveness. The introduction of a statewide value-added tax in November 2004 constitutes a major step in ensuring the financial means of state institutions. Reform initiatives are under way for the police with the goal of establishing greater state-level control. The intervention of the OHR decreased in 2004, despite the massive dismissals by the HR in June–July and December. Of the 159 decisions taken in 2004, none imposed a new law and less than a quarter of the decisions amended or repealed laws and status; all other decisions were dismissals or appointments. This decrease in the imposition of laws suggests a greater degree of autonomous local decision making, even if most reforms continue to be pushed by international actors. *The new rating for national democratic governance is set at 4.75 owing to the reforms in the security sector and more effective Bosnian institutions.*

Electoral Process. The electoral process continues to be dominated by the Serb, Croat, and Bosniak nationalist parties. Local elections held in October 2004, while deemed free and fair by international observers, suffered from the lowest turnout since the war (46 percent). In the FBiH, Croat and Bosniak nationalist parties won a clear victory, while in the RS an opposition coalition won key municipal elections, including the cities of Banja Luka and Trebinje, constituting a major setback for the dominant national party. The district of Brcko held direct elections for local assembly; it was the first such election for the district, which had been run as a protectorate since its establishment in 1999. *The rating for electoral process improves from 3.50 to 3.25 owing to successful conduct of local elections and the establishment of democratic institutions in Brcko.*

Civil Society. The legal framework and overall state of civil society remain generally unchanged in 2004. Nongovernmental organizations (NGOs) are still largely perceived as service providers, and those that are more constituent based tend to be relatively weak and fragmented. Attempts to include NGOs in the policy process are still in the early stages. At the same time, international donors continue to reduce their operations in Bosnia, diminishing the resources available to local civil society. *The rating for civil society remains unchanged at 3.75.*

Independent Media. Reform of the public broadcasting systems continued in 2004, and in August the statewide public broadcaster BHT1 began its regular programming nationwide. Also, the regulatory agency for electronic media successfully completed its transformation from an international to a domestic institution. A key Law on Public Broadcasting, however, failed to pass the Parliament in October 2004, throwing the reforms into question.

The print media continue to suffer from low circulation and poor quality, and self-regulation in this sector fails to be effective. *The independent media rating improves slightly from 4.25 to 4.00 owing to reforms in the public broadcasting system, including the establishment of a state-level public television broadcaster; but also noting the Parliament's difficulty in passing a key reform law and the weakness of print media.*

Local Democratic Governance. Local governance is generally more effective than other levels of government in Bosnia but is constrained in terms of competencies and finances by the cantons in the FBiH and the centralized structure of government in the RS. The successful unification of Mostar into a single municipality, imposed by the OHR in January 2004, constitutes a major step in resolving one of the key focal points of tension between Bosniaks and Croats since the Croat-Bosniak war in 1993–1994. New laws on local self-government are being drafted, promising to improve the competencies and fiscal independence of municipalities. In addition, a major reform of municipal public administration is being carried out with the assistance of the Organization for Security and Cooperation in Europe in many Bosnian municipalities. However, most of these laws remain to be tested through implementation. *The new rating for local democratic governance is set at 4.75 based on the reform initiatives aimed at enshrining local democratic governance in law. Local mayors and councils are directly elected in free and fair elections. The power of municipalities is, however, constrained by the extensive formal competencies and informal powers of cantons and entities.*

Judicial Framework and Independence. Significant steps in the reform of the judiciary were undertaken in 2004. The unification of the High Judicial and Prosecutorial Councils into one state-level independent body supervising the appointment of judges and prosecutors provides a foundation for professional competency. Also, the state-level Office of the Ombudsman was transferred from an international body to local ombudsmen. The RS government acknowledged war crimes in Srebrenica and the first suspected war criminals indicted by the International Criminal Tribunal for the Former Yugoslavia (ICTY) were arrested by the RS police. However, substantial problems remain. The status of the cases related to serious human rights violations, which the Constitutional Court inherited from the Human Rights Chamber (shut down in 2002–2003), remains unclear. Furthermore, the War Crimes Chamber at the State Court of Bosnia-Herzegovina, established to take over lower-ranking war crimes cases from the ICTY, will not be operational before 2005. *The rating for judicial framework and independence improves from 4.50 to 4.25 owing to the continued vetting of the judiciary, consolidation of supervisory bodies, and increased readiness (under pressure) of RS authorities to face up to war crimes.*

Corruption. Corruption continues to bog down reforms and slow democratization throughout Bosnia. Some advances have been made in combating corruption, since it has been recognized as a problem in recent years. Public awareness has increased in the past two years amid revelations by auditors of a number of high-profile cases of corruption and abuse of public funds in both entities. The government action plan to combat corruption is being implemented, although on an ad hoc basis owing to a lack of political will. There is little indication that increased awareness of corruption has translated into electoral choices or carries political consequences without international intervention. *The rating for corruption improves from 4.75 to 4.50 because auditing organizations are successfully revealing corruption and abuse of funds.*

Outlook for 2005. The transformation of the international civilian presence in Bosnia to an EU-run mission will be a key development for 2005. This will coincide with the commitment by the OHR to intervene less in local decision-making processes. Accession to the PFP will remain high on the agenda, as will the beginning of negotiations for a Stabilization and Association Agreement with the EU. The reform of the police, including the creation of police districts that include regions from both entities, is likely to meet substantial resistance in the RS. In the RS, the fear of further erosion of entity competencies is likely to meet with open political opposition. Following the RS government crisis in late 2004, further confrontations between the governing parties and the OHR are likely to continue.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	4.75						

The Bosnian system of governance is highly complex, and its stability rests largely on international intervention and supervision of institutions. With no fewer than 14 governments (1 state level, 2 entities, 10 cantons, and 1 district of Brcko), the system is not only confusing for the average citizen, but also highly unstable. Generally, most governments and public administrations in Bosnia continued to operate with little transparency during 2004, despite the Law on Freedom of Information and related legislation. In June 2001, the entities and the central government adopted the Law on Freedom of Information; however, many institutions fail to live up to the law. According

to a June 2004 report from the Democratization Department of the Organization for Security and Cooperation in Europe (OSCE), only about one third of the population knew of the law by June 2004 and a roughly equal number believe that it will benefit citizens.

The central state government level includes a directly elected 3-member presidency, a 2-chamber Parliament, and a 10-member Council of Ministers. In the past, the state-level government had little authority and many vestiges of the state were not recognized in Serb- and Croat-dominated areas. However, the state has been strengthened to exercise its authority in both entities through the creation of new ministries (such as security and defense) and other institutions, as well as the expansion of state competencies (such as border controls, identity cards, and electronic media supervision).

Consensus on the existence of a strong central government and the Bosnian state remains weak, albeit growing in strength. Major political parties subscribe, at least formally, to a united Bosnia, but in 2004 significant portions of the Serb and Croat populations still favored greater independence for their ethnically based region. According to the January–March 2004 *Early Warning Report* issued by the United Nations Development Program (UNDP), 30 percent of inhabitants of Serb-majority areas considered unification with Serbia and Montenegro or independence as an issue of primary importance. Support for a separate Croat entity or the reestablishment of the Croat Republic of Herceg-Bosna among Croat-majority areas was around 40 percent in early 2004. There has been a remarkable decline in support for secession in recent years, down by nearly 40 percent since 2001 regarding Serb-majority areas.

While the state government has been growing in power, entity-level governance is still dominant in Bosnia. In the Bosniak-Croat-dominated Federation of Bosnia-Herzegovina (FBiH), the two-chamber Parliament elects a government and a president, but much of the power is held by the 10 cantons. In the Serb Republic (RS), the president and the two vice presidents are elected directly. The assembly chooses a government and elects the Chamber of People. Finally, the district of Brcko, the size of a municipality, has a separate government and elects its own assembly.

Entity and cantonal governments continue to strongly influence the media and economy. Large parts of the economy have not been privatized, or privatization has favored businessmen close to the governing parties. Public utilities remain controlled by the entities and/or cantons and have been misused to finance governing parties throughout Bosnia.

The Office of the High Representative (OHR) continued its activist stance in overseeing governance during 2004, even while it began to reduce its staff and influence on local institutions. In June–July 2004, the OHR dismissed the largest number of individuals from their positions to date, when it permanently banned 12 high-ranking officials in the RS and the

Serb Democratic Party (SDS) from holding public office, including the president and vice presidents of the party and the Speaker of Parliament. It also temporarily dismissed 47 officials, including the minister of the interior of the RS. The measure was justified by charges of alleged aid to indicted war criminals by the individuals. In December, the OHR dismissed another 9 officials, mostly high-ranking police officers from the RS, for lack of progress in arresting indicted war criminals.

The dismissal, together with suggestions by the OHR to reform the police on a regional instead of entity basis, prompted the resignation of the Serb members of the state and RS governments in December 2004. This resulted in short-term blockage of institutions but was smoothed over by the restructuring of the RS government, which subsequently comprised the same political parties and most of the same ministers.

The growing consensus toward a Bosnian state has been the result of continuous international oversight. The power of the OHR to impose laws, dismiss officials, and levy fines on individuals and parties has been key to these changes but has also curtailed a number of basic rights and liberties. The OHR is not accountable to any Bosnian institution, nor is there legal recourse to its decisions. In an effort to improve local ownership, High Representative (HR) Paddy Ashdown committed the OHR to less direct intervention and allowed for more decisions to be exercised by local institutions. During 2004, the OHR cut its staff by 25 percent and redefined its role to assist Bosnian authorities in implementing reforms rather than to start new initiatives. In addition, the organization commenced transforming itself into the Office of the European Union Special Representative in Bosnia and Herzegovina. This step was matched in December 2004 by replacing the Stabilization Force (SFOR) led by NATO with the 7,000 strong Althea peacekeeping mission led by the European Union (EU).

Yet the powers of the OHR to dismiss officials and impose laws and decisions are widely recognized by the citizens of Bosnia. In a 2004 poll, 28.3 percent of respondents cited the OHR as the institution that holds power and influence in Bosnia. Bosnian institutions fared much worse, but interestingly, the state Parliament was considered more powerful (8.9 percent) than entity parliaments (2.8 percent) or governments (3.7 percent), reported OSCE. Support for the powers of the OHR differs greatly among the three nations. A majority of Serbs and Croats would like to see the OHR's power reduced, while a majority of Bosniaks prefer that the OHR keep the Bonn powers.

The number of citizens fearing a renewed conflict has been in decline in recent years; by mid-2004, only a quarter of respondents in a UNDP survey feared a new war if the SFOR were to withdraw. However, interethnic trust remains low, even if it has improved in recent years, and political parties continue to derive legitimacy from antagonistic, ethnically exclusive political agendas. Given the continued international commitment to Bosnia, the risk

of a renewed conflict appears to be small. However, the long-term stability of the country depends to a large degree on both the ability of Bosnia to participate in the EU integration process and the constructive participation of its neighbors Croatia and Serbia.

The state, entity, cantonal, and district constitutions are based on a division of power among branches. However, the executive commonly dominates governance owing to the strong influence of parties and their leadership.

The complicated system of representation ensures that all three nations of Bosnia are adequately represented at all levels of government and that no decision is taken against the will of any one community. At the same time, the low degree of intercommunity trust within Bosnia, combined with diametrically opposing views on the nature of the state, results in the inability of dominant political parties to agree on constitutional reforms.

In the past, the Parliament, especially at the state level, has been weak, as the national parties have dominated the executive, legislature, and judiciary. In recent years, parliaments have become stronger and more effective in monitoring the work of the executive. While entity and state parliaments maintain Web sites to publicize their work, transparency and public hearings are not established protocol in parliamentary deliberation.

The central government executive branch suffers from many of the same weaknesses that hinder the parliaments. At the state and entity levels, executive responsibility is divided between government and president (presidency at the state level). The state governments remain weak despite public administration reforms, begun in 2000, that provide for increased competencies of the state. Originally, the central government had only 3 areas of competency (civil affairs and communications, foreign trade and economic relations, and foreign affairs), but reflecting the creation of new state ministries (security, human rights, defense, treasury, justice), the central government today has a total of 10 members. Owing to similar power-sharing mechanisms, the FBiH government suffered from similar weaknesses in the past, while the RS government has been more unitary.

Bosnia has two (or three) armed forces, one of each entity, with the FBiH army additionally divided between Croat and Bosniak forces. Similarly, the security services have been under control of the entities. Prior to recent reforms in 2003–2004, oversight was exercised exclusively by the entity parliaments, but these often did not fulfill their obligation to supervise the work of the army. The army and security service have lacked democratic oversight. An ambitious reform began to transform the two sectors, but the absence of constitutional amendments at the state level allowed political appointments to slow reform until the OHR pressured the entities to change their legislation. This allowed for the establishment of both a state-level joint command of the armed forces and a Ministry of Defense. The ministry became fully operational in 2004, and the joint command over the armed

forces was established. The presidency has command over the two armed forces, while the entity presidents have only limited control in the case of a natural disaster or state of emergency. The Parliamentary Assembly provides for democratic oversight.

In the course of reform, the entity-level security agencies were abolished and replaced by a state-level Intelligence and Security Agency (OSA), operating by the end of 2004. The Executive Intelligence Committee of the Council of Ministers oversees the work of the OSA. The reforms have been accompanied by considerable budget cuts to the defense sector. The armed forces were reduced to 12,000 from 42,000 in 1999 and over 400,000 in 1995–1996, and civilian staff in the ministries of defense were cut by 27 percent in the FBiH and 42 percent in the RS. Defense spending is roughly 2.9 percent of the gross domestic product, improved but still considerably higher than that in other comparable countries. Defense budgets are now in line with NATO standards.

The security sector reforms also extend to policing, where two key initiatives were taken in 2004. First, the State Investigation and Protection Agency—the first state-level policing agency in charge of serious crimes such as terrorism, war crimes, and drug smuggling—began its work in 2004. While the agency is operational, it currently employs only a fraction of the planned staff of 1,700, according to *Jane's Police Review*. Second, in July 2004 the OHR established a police reform commission to propose a statewide overhaul of the entire police system. Representatives from the RS, however, rejected the proposal to form 10 regional police centers in Bosnia independent of entity boundaries, which would effectively transfer policing from an entity (and cantonal) competence to the state level. The OHR is likely to push for similar reform efforts in 2005.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.00	5.00	4.75	4.25	3.75	3.50	3.25

Bosnia-Herzegovina has held four nationwide elections since the end of the war in 1995. While elections in recent years have been largely free and fair, the deep ethnic divisions in Bosnian society expressed themselves in the dominance of three nationalist parties representing Bosniaks, Serbs, and Croats.

All elections until 2002 were organized by the OSCE according to its electoral rules. Since 2002, the Bosnian Election Commission has overseen elections. Municipal elections in 2004 took place without any substantial irregularities, suggesting that the transfer of oversight from the OSCE to a national institution was successful.

Under the Law on Elections, members of the cantonal parliaments, the National Assembly of the RS, the FBiH-level House of Representatives,

and the state-level House of Representatives are elected by proportional representation in open lists and multimember constituencies. Despite a 3 percent threshold for parliamentary representation, Bosnia's complicated system of compensatory mandates can also benefit parties and candidates with fewer votes. Members of the state-level presidency, as well as the president and two vice presidents in the RS, are all elected according to a "first past the post" system.

Three monoethnic nationalist parties—the Bosniak Party of Democratic Action (SDA), the Croat Democratic Community (HDZ), and the SDS—dominated Bosnian politics throughout the 1990s and continue to receive strong support from their respective ethnic communities. All three parties have changed leadership and adopted the rhetoric of reform. Yet without an economic program, they remain essentially ethnonationalist parties based on mutually exclusive political platforms.

The SDA incorporates religious (Islamic) and nationalist elements. The key goal of the SDA is the creation of a strong Bosnian state. The HDZ, a branch of the Croatian party of the same name, has in the past supported the separation of western Herzegovina from Bosnia but recently has been advocating merely stronger self-rule of Croat-dominated areas. In 2001, the party led a failed attempt to establish Croat self-government in Herzegovina. Programmatically, it has been split between a more radical and a more moderate wing. The SDS, led until 1996 by indicted war criminal Radovan Karadzic, has been the most successful party in the RS. It promotes Serb nationalism, including an earlier call for the secession of the RS. In recent years, the party has sought to keep the autonomy of the RS and maintain Serb dominance within the entity.

Most other parties in power have a nearly monoethnic constituency, save the Social Democratic Party (SDP), which has Bosniaks, Serbs, Croats, and others in its leadership. The SDP however has had limited success in securing support beyond Bosniaks and urban Croat and Serb voters in the FBiH. The Party for Bosnia-Herzegovina (SBiH), led by wartime SDA prime minister Haris Silajdzic, frequently collaborated with the SDA and has a nearly exclusive Bosniak electorate. In the RS, the Alliance of Independent Social Democrats (SNSD), led by Milorad Dodik, was the first to break the power of the SDS on a moderate platform of social and economic reforms. The party was successful in local elections in October 2004 in the RS, and its support roughly equals that of the SDS. The Party for Democratic Progress (PDP), led by current minister of foreign affairs Mladen Ivanic, has been a coalition partner with the SDS on a more moderate platform of economic reform. None of the moderate Croat parties, the most important being the New Croat Initiative (NHI), have garnered sufficient support to challenge the HDZ's dominance.

In the first postwar elections, voter turnout was high. Since then, the

numbers have declined considerably. Between 1997 and 2002, voter turnout dropped to 55 percent from a previous 80–85 percent. In Bosnia, the decline is partly the result of frustration with frequent elections that have not brought about substantial political change.

Since the first postwar elections in 1996, the nationalist parties have mostly won resounding victories, although their support overall has declined. Governments excluding the three dominant parties were in office in the RS between 1997 and 2000 and in the FBiH and state-level offices from 2001 to 2002. In all instances, the moderate governments were based on fragile coalitions that generally allowed the return of nationalist parties in the 2002 and 2004 elections.

The most recent general elections were held in October 2002. These were of particular significance since, for the first time, all parliaments and presidents were elected for four-year terms. Additionally, the 2002 elections were the first organized by the Bosnian Election Commission in accordance with the 2001 Law on Elections. At most levels, the nationalist parties—campaigning on a narrow ethnic agenda—regained their dominance. Despite the victory of nationalist parties in the state presidency election, results suggest a limit to their reach. That is, both the Bosniak and Serb candidates were elected with less than 40 percent of the vote of their constituency. Only the HDZ candidate won an absolute majority. Election results for the state-level House of Representatives point to a similar trend. The three nationalist parties took just short of a majority. Results of the elections in the two entities mirrored results at the state level, with the SDS dominating in the RS presidential vote and the HDZ and SDA taking the biggest bloc of House of Representatives seats in the FBiH.

Between 1996 and 2002, neither entity nor cantons guaranteed the inclusion of nondominant ethnic groups in the government. In 2002, constitutional changes established an elaborate mechanism for guaranteeing group representation, if only nominally. These changes promoted the inclusion of nondominant groups in executive and elected positions as well as in public administration, but they rendered decision-making processes more cumbersome. Furthermore, representatives from nondominant groups are not fully integrated, and their powers are limited. The Bosniak and Croat vice presidents of the RS, for example, have been marginalized by the dominant Serb group. Minorities and citizens who do not identify with one of the three dominant ethnic groups—the so-called Others—are largely excluded from political representation. Frequently, dominant nationalist parties filled positions reserved for others through dubious practices, such as an SDA member declaring himself a Muslim (as opposed to Bosniak) in order to claim a seat reserved for Others in the municipality of downtown Sarajevo following the 2004 local elections. At the state level, minorities continue to be excluded from the presidency and the House of People.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.00	4.50	4.50	4.25	4.00	3.75	3.75

Civil society in Bosnia has developed in a fragmented environment while confronted with Bosnia's authoritarian and nationalist political elite. Over the past decade, the legal infrastructure of the civil society has been established and relations between some levels of government and nongovernmental organizations (NGOs) have improved. Still, many NGOs lack roots in society, are unable to engage in effective advocacy and outreach, and rely largely on external funding. Society, political parties and governments have often been suspicious of NGOs because of their funding, their external support, and their support for multiethnic coexistence. In recent years, however, relations have improved and NGOs have become more accepted as partners of authorities (especially at the state and local levels) and the media. These improvements are due partly to public administration reforms and more cooperative politicians at some levels of government. Thanks to a high degree of international intervention and presence, NGOs have been able to operate freely nationwide. Nevertheless, operations at the local level have been difficult in certain parts of Bosnia owing to the negative attitudes of some local authorities. Many other authorities, however, have been increasingly receptive toward NGOs.

The Law on Associations and Law on Foundations have been in effect since 2002. These have facilitated NGO operations throughout the country, but problems remain in the entities' tax laws, which are not yet harmonized and offer limited exemptions for NGOs and foundations. Following a boom of NGOs in the immediate postwar period, the number has stagnated in recent years. The total is hard to estimate since there are no nationwide registration procedures. There are roughly 1,500 to 2,000 NGOs in Bosnia; however, only some 300 are considered to be active, according to the International Council of Voluntary Agencies' 2002 *NGO Directory*. The work of these NGOs focused on education and training (17 percent), followed by children/youth and civil society (both 14 percent) and activities related to women and health.

There are generally four types of civil society organizations in Bosnia. The first includes what are conventionally understood as NGOs; this group has received most of the foreign funding and training. The second group covers a number of special interest organizations and associations, often dating from the Communist period; many of these organizations are dormant, while others have a large formal membership but are weak in regards to organizational structures and suffer from ethnic and entity divisions. The third group includes religious charities, in particular Catholic and Islamic charities. Finally, the fourth group includes radical nationalist movements, mostly not or only marginally organized.

NGOs have received considerable international support since the end of the war in 1995, but their roles and the priorities of their international donors have made it difficult to consolidate the sector. Most organizations are relatively small: nearly three quarters of all NGOs have 10 or fewer paid staff, and only half use volunteers. Similarly, most organizations have only a limited budget. Financial sustainability remains a major challenge to the NGO sector.

NGOs and other civil society organizations are now viewed with considerably less suspicion by governments than in the immediate postwar years. However, NGOs tend to be viewed as service providers by the government rather than partners. The government seems most willing to cooperate with NGOs in the areas of environmentalism, human rights, and refugee return. Initiatives on economic-related issues, such as the Poverty Reduction Strategy Program for Bosnia, began to give a number of NGOs a prominent role in consultative hearings. Yet NGOs and emerging policy research organizations still often encounter difficulties in receiving government access.

Some independent and smaller media report regularly on civil society but have only a limited reach. The larger media, tabloids and television, under-report on NGOs and at times even attack NGOs as damaging the national interests of the respective community. Altogether, reporting on NGOs has improved in recent years, and contacts between media and NGOs are more common. Still, the media more often depict NGOs as mere service providers than as organizations that reflect the broader interests of society.

The Constitution guarantees freedom of expression and association, and there are no explicit barriers to the participation of interest groups in politics. The Constitution also guarantees workers the right to join independent trade unions, and this right is respected. However, the country's difficult economic situation and entity governance system has hampered the work of trade unions and the ability to coordinate at the state (between the two entities of Bosnia and Herzegovina) or international level. The largest trade union, the Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBiH)—which claims to represent workers from all of Bosnia but in fact comprises workers primarily from the FBiH—is the legal successor to the prewar trade union. In the RS, the Confederation of Trade Unions of the RS dominates. Although both trade unions agreed in September 2003 to form an umbrella organization in order to join the International Confederation of Free Trade Unions, such a joint structure was not yet established by the end of 2004. While unionization rates in the formal sector reached 70 percent in the FBiH during 2004, trade unions were generally weak owing to the large sector's informality and level of unemployment.

During 2004, trade unions were most vocal about the setting of minimum wages and collective contracts with employers. Yet trade unions have found it difficult to mobilize strikes given the country's poor economic situa-

tion. A demonstration in 2004 organized by the SSSBiH in Sarajevo against the new Law on Bankruptcy failed to draw the predicted tens of thousands of protesters. Instead, the union managed to mobilize only around 2,500 protesters, reported *Dnevni Avaz*.

Political and ethnic bias is a common feature of the Bosnian education system. In 2004, new cantonal education laws provided the basis for the integration of Bosniak and Croat schools. The OHR additionally imposed a fine on the HDZ for failing to implement the new laws. Despite these efforts to reunite the schooling system, there continue to be some 54 “two schools under one roof,” where Croat and Bosniak pupils are taught separately, located in the Zenica-Doboj, Central Bosnia, and Herzegovina-Neretva cantons. A state-level Law on Higher Education—a precondition for Bosnian universities joining the European Bologna process and receiving World Bank funding—failed to pass the Parliament in May because of concerns by the HDZ over the autonomy of the Croat-dominated university in western Mostar.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
n/a	4.75	5.00	4.50	4.25	4.25	4.25	4.00

Freedom of expression is protected by the Constitution, the Dayton peace accords, and international support. Yet in 2004, there were political and economic pressures on journalists and the media. Between March and September 2004, a hotline run by a journalists association recorded 20 complaints by journalists, mostly about being subjected to pressure and threats. One of the two most prominent cases involved threats by the SDA to change the board of FBiH public TV in an open attempt to influence the station’s editorial policy. In particular, SDA deputies wanted the popular political program *60 Minutes* dropped, as it had carried a number of reports critical of the party. In the second case, RS police chief Radomir Njegus attacked the RS public TV and the daily *Nezavisne Novine* in August, labeling journalists as state enemies and mentally ill. The attacks followed the media’s accusations that the RS police do not arrest war criminals and are involved in organized crime. Njegus later apologized for the attacks after sharp criticism by the OHR. According to a June 2004 survey reported in Stability Pact’s *Media Legislation Update*, more than a third of respondents believe that journalists are not free to report what they wish.

While libel and defamation have been decriminalized by the OHR, the defamation laws in both entities have been used to exert pressure on journalists through the threat of high fines. The laws abolished slander as an offense and reduced potential damages to the actual damage caused. This

measure seemed to decrease the number of cases in 2004, as the relatively moderate damages awarded to plaintiffs were often only enough to cover court costs.

In Bosnia, there are separate regulations for electronic and print media. Electronic media are regulated by the now locally controlled Regulatory Agency for Communication (RAK). The change of name to RAK from Communications Regulatory Agency in 2004 marks the final step in transferring power to local control. The agency awards licenses to television and radio stations and can penalize stations for not adhering to rules governing electronic media, including fair programming and the prohibition against hate speech. In 2004, the RAK completed the licensing of television and radio stations by issuing long-term licenses (10 years for private and 2 years for public broadcasters). The RAK imposed sanctions in 47 instances, up from 11 in 2003. Most cases involved breaching the mandated preelection silence on reporting but also included hate speech and slander. According to the 2004 Mediaplan survey, the RAK also imposed the highest penalty to date on a television station (Alfa TV) in November 2004. In the run-up to the local elections in October, there were a total of 41 complaints against electronic media for breaking rules and regulations, focusing mostly on bias in favor of or against political parties, or for refusing to transmit campaign advertisements.

The print media are self-regulated through the Press Council of Bosnia and Herzegovina, established in 2000. This body has no power to impose penalties or suspend publication of media. As a consequence, it has been weak and largely ineffectual in addressing hate speech and breaches of the ethics code. In 2004, it received 10 cases and 19 complaints, but only a portion of the council's decisions on these cases was enacted. Particularly pronounced in 2004 were the continued conflicts among three papers: the leftist weekly *Slobodna Bosna*, the nationalist weekly *Valter*, and the tabloid *Dnevni Avaz*. Following a number of serious breaches of the ethics code by *Dnevni Avaz*—in particular breaking silence in a kidnapping case in 2004—the paper refused to recognize the council and threatened to set up its own council. Considering that the daily has the largest print circulation in Bosnia, this threat threw the work of the Press Council into serious doubt.

The media scene in Bosnia is marked by a large number of electronic media and a small, shrinking number of print media. According to the RAK, there are 147 radio and 42 television stations in Bosnia. Of these, there is 1 statewide public radio and TV station and 1 for each entity. As for print media, there are 146 regular publications in the FBiH and 79 in the RS. Of these, 8 are dailies, 15 weeklies, and the remainder published in longer intervals. Additionally, there are 3 major news agencies in Bosnia, ONASA and FENA in the FBiH and SRNA in the RS. While the former is an independent agency, the latter two are government controlled.

On the Bosnia media scene, electronic media are the most influential. The most popular television stations in 2003 and 2004 in the FBiH and the RS are the entity public broadcasters. In a Prizma survey, FBiH TV was indicated as the most watched station in the entity, with 67 percent of viewers. Other popular stations included OBN, the Croat state television HRT, as well as Hayat, and the Tuzla cantonal station. TV RS drew 48.2 percent of viewers in the RS, and the most popular private stations included BN, Pink, and Alternativa, as well as HRT and Federation TV. While some stations have cross-entity appeal, such as HRT and Federation TV, the television market is divided.

The public broadcast system, established through the Law on Public Broadcasting imposed by the OHR in 2002, is composed of state radio (BH Radio) and television (BHT1) and the public TV and radio stations of the entities. Originally providing programming only for the entity stations, BHT1 began transmitting on its own frequency in August 2004, reaching 90 percent of Bosnia. The new broadcaster's managing staff are widely considered to be professionals and politically independent. The public television system is financed through fees attached to citizens' phone bills. Reform of the public broadcasting system, based on a plan by BBC consultants, has met stiff resistance by journalists and politicians in both entities. The costs of financing the new public broadcaster and entrenched interests in the entities and their internal communities have been the main reasons for opposing a full-fledged statewide broadcaster. Because of this opposition, the Law on Public Broadcasting failed to pass the Parliament in October 2004.

The reach of quality print media in Bosnia has been seriously curtailed by the division of the country into entities; these individual markets are too small to sustain high-quality publications in the face of the country's overall economic difficulties. In addition, print media are constrained by the fact that about one quarter of the population is functionally illiterate. According to a 2004 Prizma poll, 43.6 percent of the population does not read newspapers.

The total print run of dailies in Bosnia is estimated to be below 100,000 copies, yet reliable and verified print run figures are largely unavailable. Of the seven dailies in Bosnia, most are not financially viable, with both coverage and quality suffering accordingly. The largest daily is the tabloid *Dnevni Avaz* (estimated in 2004 at 35,000 to 100,000 copies), which is read by 43 percent of the population in the FBiH, followed by *Oslobodjenje* (10,000 to 30,000 copies), which is read by 10.9 percent and was formerly the main and most respected paper in the country. Both are read primarily in predominantly Bosniak regions of the FBiH.

The only nationwide daily is the independent paper *Nezavisne Novine* (9,000 to 25,000 copies), read by 12.3 percent of the population in the RS. Despite its cross-entity reach in terms of coverage, its readership remains con-

centrated largely in the RS. This paper has been well-known for reporting on corruption cases and war crimes in Bosnia. The other RS-based daily is the state-run *Glas Srpske*, which is read by 9.7 percent of the population in the RS. In the FBiH, three additional dailies are published: the tabloid *Jutarnje Novine* and the local daily *SAN* in Sarajevo and *Dnevni List* in Mostar, the latter catering primarily to a Croat audience and read by 4.5 percent of respondents in the FBiH. Dailies from Croatia and Serbia are also widely read in Bosnia and some publish special editions for Bosnia.

Some weeklies have been influential in terms of their political reporting. While a majority of the population reads no weekly magazines (61.9 percent) and most weekly magazines are not political in content, the largest one, *Slobodna Bosna* (estimated 19,000 copies in 2004) has been well-known for its sharp critique of the international community and is read primarily in the FBiH, as is *Dani* (16,000 copies). Other important independent weeklies include *Start* in the FBiH and *Novi Reporter* in the RS. In addition, a number of nationalist weeklies exist but do not have a large readership (around 1 percent in either entity or less), including *Ljiljan* and *Walter*, both of which cater to Bosniak readers.

The concentration of media ownership is not a problem in Bosnia. All dailies and weeklies except *Glas Srpske* are privately owned, but few are independent. Some display a clear political bias as part of the editorial line, but many are subject to pressure from influential political parties and business interests. Considering the small advertising market and low sales, larger companies that are often tied to political interests have tremendous influence over print and electronic media.

Newspaper distribution is, unsurprisingly, divided along entity lines. The largest distribution system in the FBiH is OPRESA, which distributes publications from both entities and both neighboring states, although Serb and RS publications are not widely available in the FBiH. In the RS, the public company Oslobodjenje is the largest, distributing significantly more publications from Serbia and Montenegro than domestic ones and only a few titles from the FBiH. Oslobodjenje generally does not distribute Croatian publications owing to a dispute over a cooperation agreement.

Journalists and media are free to organize themselves in associations, but as elsewhere in Bosnia, ethnic divisions express themselves in this arena. In total, there are six journalists unions in Bosnia, two based in the RS, two in Mostar, and two in Sarajevo—a large number for a small country such as Bosnia. In a major move during 2004, three journalists associations linked with independent and less nationalist media from Mostar, Banja Luka, and Sarajevo to set up the Association BH Journalists as the first countrywide journalists association since the war.

The Internet has become increasingly available in Bosnia in recent years, but overall Internet penetration remains low. Some 150,000 persons, or 4.5

percent of the population, have private access to the Internet. In addition, many citizens, especially youth, access the Internet in Internet cafés and clubs. The numbers are still low: only 16 percent of the population has ever used the Internet, and the number of regular users ranges between 10 and 12 percent, according to the UNDP. There are a total of 40 Internet providers and no censorship or other restriction of the Internet.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	4.75						

New local laws in the RS, local elections, and the reunification of Mostar propelled public attention to reform on the local level. Local governance in Bosnia takes place at the level of municipalities and cities. Bosnia currently has 146 municipalities, 37 of which were formed during or after the war. Many of the postwar municipalities are peripheral and lack population centers (like East Mostar), emerging as a consequence of the boundary between entities rather than from economic, demographic, or social reasons. Likewise, local government takes different forms in the Bosnian entities. There is no statewide legislation on local government, and the Constitution makes no mention of democratic local government. As a consequence, there are 11 different laws on local government—10 in the FBiH and 1 in the RS. In addition, the district of Brčko—with around 70,000 inhabitants—is based on a prewar municipality but is governed by a specific set of laws. The prewar *mjesne zajednice*, which are submunicipal units for consultation and service, have generally been underutilized.

In an attempt to simplify local governance, new laws were drafted at the entity level in late 2004. Until these are passed, local government is overseen in the RS at the entity level, whereas in the FBiH a general framework law left cantons to define the specific competencies (and funding) at the municipal level. Both entities outline general principles of local self-government in their constitutions. Neither the state nor the FBiH has any competencies in regard to local government. Most cantons have passed separate laws on local self-government, which according to the Council of Europe comply with the European Charter of Local Self-Government. Municipalities often have substantial competencies in regard to education, basic health care, and urban planning.

At the same time, the cantons often retain key powers, such as the ability to dissolve local councils and appoint administrators in particular cases. The administration of the Croat-dominated Western Bosnia canton, for example, has been trying to financially squeeze the majority Serb municipalities of Drvar and Grahovo. In the RS, the originally limited powers of the municipalities

have been enhanced in the 1999 Law on Local Self-Government. The law still falls short of European standards, as local councils can be dissolved or have their competencies reduced by the central government. The legislation has often been implemented to the disadvantage of municipalities. One particular point of contention between cantons and municipalities in the FBiH has been control over entity-run public utilities.

In the RS, municipalities are categorized into four groups according to levels of poverty and receive funding accordingly. In the FBiH, every canton has different criteria for disbursing funding to the municipalities. Municipalities in general have been underfunded and suffer from inadequate information on the share of taxes they are to receive from entity and cantonal authorities. At times, the cantons also amend the allocations to municipalities during the budgetary year, rendering financial planning for municipalities difficult. Only 10 percent of the sales taxes are transferred from entities and cantons to municipalities, although the share ought to amount to 30–40 percent, according to Transparency International. The discrepancy is a reflection of the imbalance of power between municipalities and entities/cantons. Thus, municipalities are usually unable to engage in larger projects such as modernizing local infrastructure, as they can generate income only through fines, fees, and minor local taxes.

According to the cantonal laws in the FBiH and entity law in the RS, municipalities generally do not have the right to reinforce their autonomy through judicial remedy, a requirement of the European Charter. Municipalities also have little room to determine their own institutional setup to meet local needs. The size of the municipal council is determined by the Law on Elections, based on the size of the population.

A key development in local government in 2004 was the unification of the city of Mostar. While much of the city's unification was still unrealized by the end of 2004, the symbolic merger proved some level of progress on local governance. Capital of the Herzegovina-Neretva canton, Mostar has been divided between a Bosniak- and a Croat-controlled part of town since the war. The division of the city into six municipalities (three Bosniak, three Croat) had long perpetuated the ethnic fragmentation of Mostar and rendered local government ineffective. All reform initiatives to politically integrate Mostar had failed by 2003, after which an OHR-appointed commission drafted a new statute for the city. The statute, imposed by the HR in January 2004, unifies the city into one municipality but keeps the separate municipalities and electoral units in an attempt to avoid dominance by the larger Croat community.

Also symbolic was a key Constitutional Court decision in February 2004 that declared the names of 13 municipalities (such as Serb Sarajevo) in the RS to be unconstitutional. The names in question had been changed during

or after the war to mark Serb control. The court rejected the reference to exclusively one community and, after the RS failed to rename these municipalities, gave the municipalities ethnically interim names. These new names either restored the prewar names (such as Bosanski Brod instead of Srpski Brod) or replaced ethnicity with geographic specifications (such as Eastern Mostar instead of Serb Mostar). This decision, together with the unification of Mostar, has further eroded the ethnic exclusiveness of municipalities in Bosnia, but considering the demographic dominance of one nation in most municipalities today, these steps must be considered as chiefly symbolic.

The 2001 Law on Elections allows for the direct election of municipal councils and mayors (except in Mostar). In 2004, the Bosnian Election Commission organized local elections for the first time. Local elections held in October 2004 were deemed free and fair with only a few irregularities, according to the OSCE. Containing different electoral systems for entities, mayors, and councils, the law is complicated and challenging not only for voters, but also for candidates.

With a few regional exceptions, local politics tend to be dominated by the same political parties as at the entity and state levels. Unsurprisingly, voting takes place largely along ethnic lines, and few parties appeal to voters from different backgrounds. In the FBiH, the SDP was strong in Sarajevo and in Tuzla; and in the RS, the SNSD gained ground in urban centers (Banja Luka, Trebinje) and also in some rural areas. Otherwise, the three national parties dominated most local councils.

Turnout in local elections was lower than in state and entity elections. In 2004, turnout stood at 46 percent, down from 66 percent in 2000 and 87 percent in 1997, reflecting the general decline in turnout since 1996. In addition to direct elections of councils and mayors, citizens are able to express their position in referendums, and municipalities are encouraged to hold hearings and other consultative processes open to the public. Local town councils must conduct their meetings in public, and municipalities are equally bound by the freedom of information legislation. However, such practices, as well as the use of the Law on Freedom of Information, have been slow to change relations between citizens and municipalities.

Employment at the municipal level is often partisan and based on patronage. An ethnic bias has also been a feature of municipal governments in the past, although gross injustices have been somewhat reduced by the requirement that the composition of all public administrations must follow the 1991 census. As the ethnic composition of most municipalities was dramatically changed by the war, recruitment on the basis of the 1991 census sought to include returning refugees into local administrations. One side result has been that many municipal employees are not residing in their place of work, but continue to live as refugees in a different entity or canton.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.00	6.00	5.50	5.25	5.00	4.50	4.25

The Constitution, with the exception of its human rights provisions, can be changed by a two-thirds majority in the Bosnian House of Representatives and a simple majority in the House of People. However, fundamental differences among Serb, Croat, and Bosniak deputies have prevented any constitutional reforms since the document came into force in 1995. In 2004, discussions over constitutional amendments gathered momentum, caused in part by the 10-year anniversary of the Dayton peace accords in 2005. But without consensus on the substance and need for constitutional reforms, changes appear unlikely. The constitutions of the RS and FBiH, both passed prior to the signing of the Dayton accords, are subordinated to the Bosnian Constitution.

The Constitutional Court is critical to upholding the state Constitution. It can rule on any constitutional dispute between the two entities or between the central government and the entities. The other state-level court is the State Court of Bosnia and Herzegovina, established by the HR in December 2000. This court is charged with cases that lie within the purview of the state, such as citizenship and foreign trade. In February 2004, the OHR created a section for organized crime, economic crime, and corruption within the State Court of Bosnia and Herzegovina. A special section with the same focus within the Office of the State Prosecutor was established in August 2004, and six international judges and two international prosecutors were named by the OHR.

The criminal codes have been reformed in both entities (FBiH: 1998; RS: 2000) and at the state level (January 2003) through the OHR. The state criminal code provided the legal basis for the State Court of Bosnia and Herzegovina. Despite these reforms, problems remain with law enforcement. International assistance through the UN and the EU has been only moderately successful in securing reform. Accordingly, in July 2004 the OHR established a police reconstruction commission with the task to unify and reform the fragmented police forces.

The Bosnian Constitution guarantees all key human rights and makes most international human rights instruments directly applicable in Bosnia. The Constitution further states that the European Convention on Human Rights applies in Bosnia and Herzegovina and takes precedence over other laws. Often, these standards are not implemented owing to a lack of specific legislation. For example, there is still no comprehensive antidiscrimination legislation, despite a formal state commitment to all relevant human rights instruments.

Bosnia has nine ombudsmen, three for each entity and three at the state level. The state-level ombudsman was established by the Dayton peace accords and detailed in the 2001 Law on the Ombudsman. In 2004, three state-

level ombudsmen replaced the international ombudsman. The ombudsmen investigate complaints of alleged human rights violations, provide advice to individuals addressing the institution, and issue suggestions to relevant authorities on correcting their human rights shortcomings. The total number of pending cases was 3,084 between January and May 2004, 735 of which were inherited from the international ombudsman. During the first five months of 2004, the institution was able to resolve approximately two thirds of the cases and issued 14 recommendations to institutions. The high number of cases still reflects the importance of the ombudsman institution and also the administrative hurdles that most citizens encounter in everyday life in regard to housing, employment, and education.

A second key human rights institution has been the Human Rights Commission, part of the Constitutional Court, which in 2003 took over cases from the Human Rights Chamber. Unlike the ombudsmen, the chamber could make binding decisions in cases of serious human rights violations before closing in 2003. The commission itself resolved some 3,280 cases during its year of operation from January 2004 to January 2005, leaving the court with a backlog of 5,661 unresolved cases and no clear legal mandate to pursue these cases. To resolve this impasse, the Constitutional Court proposed a constitutional act on the Constitutional Court to broaden its mandate. At the level of the executive, there are ministries for human rights and refugees at the entity and state levels. The ministries are responsible for monitoring and implementing international human rights instruments and facilitating the return of refugees.

Enforcing the right of refugees and internally displaced persons (IDPs) to return to their former homes—a key provision of the Dayton accords—has been the greatest challenge to human rights in postwar Bosnia. In September 2004, the number of returned refugees had reached 1 million, with 1.2 million remaining displaced within Bosnia and around the world. The number of minority returns has declined dramatically, from 102,111 in 2002, to 44,868 in 2003 and 14,199 in 2004, according to the UN High Commissioner for Human Rights (UNHCR). The decline is related to the near completed process of property return, according to the Property Law Implementation Process of the OHR, UNHCR, and OSCE. While the process was not completed by January 2004, as originally planned, all property was finally restituted by July 2004 with the exception of some properties in Banja Luka and Donji Vakuf, both in the RS. In September 2004, the implementation rate had reached 92.71 percent, with only 615 open cases out of 198,307 where the property claims were upheld, pointing to a successful process of property restitution. With the near completion of property restitution, the return of refugees is most likely also reaching its end.

The protection of minorities outside the three dominant communities has been long neglected. Roma, the largest such minority (a population of

20,000 to 50,000 in 2003), have been particularly hard hit despite a 2003 law protecting national minorities. The transformation of the law into legal reality in the entities has exceeded the six-month deadline. Roma organizations have also criticized the requirement that minority protection extend only to those considered citizens, as many Roma in Bosnia lack Bosnian citizenship. The RS passed a minority law specifying regulations of the state law in September 2004, while the FBiH still lacks minority legislation.

According to changes in the Law on Elections passed by the Parliament in April 2004, there is one reserved seat on municipal councils for minorities larger than 3 percent of the population within the municipality. The committee is currently implementing the 2002–2006 framework plan in primary areas of concern for Roma. Despite these steps, overall government efforts and funding for Roma and other minorities remain minimal. Bosnia's state report on the treatment of minorities to the Council of Europe in February 2004 detailed efforts to improve the rights of minorities, but the council had not released a public assessment by the end of 2004.

The judicial system moved toward a less politicized and more professional judiciary during 2004. The Independent Judicial Commission (IJC), established in 2000 to oversee the reform of the judiciary, completed its work in March 2004. In the process of reform, the commission oversaw the merger of several courts and the reduction of judges by 28 percent, which at the same time contributed to judicial backlogs of up to three to four years. The High Judicial and Prosecutorial Councils, created in 2002, were merged into a single council by a parliamentary decision in May 2004, and the IJC staff and tasks were transferred to the council.

The council is responsible for the appointment of all judges (except the Constitutional Court) and prosecutors and can determine the size of courts, recommend judges to the entity constitutional courts, and discipline and remove judges and prosecutors. The reappointment process of judges includes vetting of the applicant's background during the war and in regard to corruption. These competencies and a clear appointment process constitute a major advancement. Critics have noted that owing to the number of decisions the council has to take, the process lacks clear recourse for those rejected and prevents thorough investigation of applications. Others, including the Helsinki Committee, have noted the lack of consultation with domestic organizations and experts in the reform process, reinforcing the external imposition of reform.

A key aspect of legal reform in Bosnia has been to address the legacy of the war. In the past, efforts to address war crimes have been limited largely to the International Criminal Tribunal for the Former Yugoslavia (ICTY). Cooperation with the ICTY in the RS has been minimal, although in 2004 the police of the RS raided several locations and arrested a number of low-profile war criminals. In May 2004, six high-level indicted Croats, including former Bosnian foreign minister Jadranko Prlic, surrendered voluntarily to the ICTY and were tempo-

rarily released a few months later pending trial. Yet the two most indicted war criminals, Radovan Karadzic and Ratko Mladic, remain at large.

The War Crimes Chamber in the State Court of Bosnia and Herzegovina became operational in 2005 after an extended setup period, taking over lower-level cases from the ICTY. While a national war crimes court has been generally welcomed, human rights organizations have criticized the process for a lack of planning and insufficient involvement of local human rights and victims groups.

In December 2003, a commission was established in the RS to investigate the mass murder of approximately 8,000 men in Srebrenica in 1995 under pressure of the OHR. The final report, published in October 2004, acknowledged the mass murder and led to an RS government apology for the events in Srebrenica in November 2004. A Truth and Reconciliation Commission (TRC) has been under discussion for years in Bosnia, originally proposed by NGOs. A draft law has been in parliamentary procedure since 2001, but there is a lack of political will to establish a TRC with the power to investigate human rights violations that occurred during the conflict.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	5.75	5.50	5.00	4.75	4.50

Corruption in Bosnia has become a major focus of attention for the international community and domestic media in recent years. The bureaucratic legacy of the Communist period and the monopolistic rule of national parties reinforced opportunities for corruption, as did the massive foreign aid flowing into Bosnia. Governments at the state and entity levels have been largely following international pressure to address corruption, and most efforts have been ad hoc and uncoordinated. The first action plan by the entity and state governments was developed in December 2002 and amended with an implementation timetable in October 2003. According to Transparency International Bosnia, by mid-2004, 40 percent of the initial action plan had been implemented in legislation, but in many other respects, the governments have failed to meet the deadlines they set themselves. The lack of cooperation among the governments at entity, cantonal, and state levels has often exacerbated the susceptibility of Bosnia to corruption.

Since 2000, a number of legislative reforms have sought to prevent corruption, including provisions in the 2001 Law on Elections, Law on Public Procurement, and Law on Conflict of Interest. The Law on Conflict of Interest, which came into effect in 2002 after being imposed by the OHR, regulates conflicts of interest for elected and executive officials and advisers. Transparency International has pointed out that the law is applied only selec-

tively and many cases go unpunished because of the small size of the Bosnian Election Commission and the weak instruments at its disposal. The law covers 5,057 officials and about 130,000 persons (if relatives covered by the law are included), with only 1 full-time investigator employed by the commission.

In addition to elected and appointed officials, political parties are obliged to file regular financial reports. The Law on Elections, passed in August 2001, obliges parties and candidates to disclose all resources and donations. Most major parties have been accused of receiving contributions exceeding the limit of eight average monthly salaries (approximately US\$1,850) as individual donations from companies and wealthy individuals. Low party membership and salaries that barely meet living expenses have forced parties to lower (and in some cases waive) membership dues, which in turn requires them to solicit alternative financing. Consequently, misreporting by political parties is common, and the full financing of parties remains unclear.

In July 2004, an international auditor report on the SDS, commissioned by the OHR, revealed numerous cases of corruption and abuse of resources by the party, including the free use of municipal property and the failure to pay for public utilities, as well as unclear and incomplete reporting of income. While the report did not reveal evidence that the party was financing Radovan Karadzic, it did demonstrate the lack of financial transparency in the SDS, which is likely to be similar in other dominant parties in Bosnia.

Domestic auditing institutions at the entity and state levels are key to combating corruption. While the state and RS auditing offices are said to be effective and impartial in their work, Transparency International reports that the FBiH office has been criticized for not being fully independent politically. Partly as a result, the OHR appointed a number of international audits to investigate high-profile cases in the energy and telecommunications sectors during 2003, areas that had been neglected by the domestic auditing offices. While instrumental in investigating corruption, the international audits have been criticized for undermining the development of domestic structures, as they receive greater attention and resources but cannot constitute a long-term replacement for domestic institutions.

A 2004 audit report on state-level institutions noted that there is a lack of regulation regarding the use of funds, allowing for corruption and abuse of resources. According to the report, some 40–50 percent of the state budget is not subject to adequate rules and laws. Audits in 2004 at the entity level revealed continued loopholes in the regulations and breaches of laws in regard to public spending, reported *Nezavisne Novine*.

In addition to new cases of corruption and abuse of resources revealed in 2004 through audit reports, a number of cases made public in 2003 continued to dominate the headlines in 2004. An auditor's report published in 2004 confirmed the misuse of funds at the RS-owned logging and wood-processing company *Srpske Sume*. Subsequently, the director was dismissed by the HR

for possible involvement in the financing of indicted war criminal Radovan Karadzic.

The reform of the civil service in recent years resulted in the creation of new laws on the civil service and the establishment of state and entity agencies in 2002 and 2003. These agencies have set up clear and transparent recruitment practices and have publicized job advertisements consistently. Public procurement, on the other hand, has been more problematic. There is no legal framework at the state level, allowing for the aforementioned waste of money in the state presidency. Regulations at the entity level have been in place since 1998 for the FBiH and since 2001 for the RS, but these are often incomplete and contradictory. However incomplete, public procurement procedures have been largely enforced in recent years owing to the work of the auditing organizations. The EU has furthermore funded the Customs and Fiscal Assistance Office, which unified the Bosnian customs and tax systems, increasing the entity (and thus state) budgets and reducing opportunities for corruption, in particular in connection with goods smuggled into Bosnia.

Most anticorruption efforts in Bosnia are conducted by civil society, primarily the Bosnian chapter of Transparency International, which has been active since 2001, and the OHR, which has investigated corruption cases through its Anticrime and Corruption Unit. The latter primarily assists local institutions and aims at initiating criminal proceedings against individuals involved in corruption.

There has been increasing awareness of corruption in Bosnian society in recent years. Corruption accusations carry weight and have been potent means to discredit politicians. At the same time, the increasingly common charges of corruption have undermined voters' resolve to base electoral choices on corruption allegations. More than half of Bosnian citizens indicated in a June 2004 OSCE opinion poll that they believe almost nothing or only a little of media reports on politicians.

A 2004 opinion poll by Transparency International Bosnia indicates that citizens consider the entity governments most corrupt, followed by the state-level government and the presidency. The governing parties (SDA, SDS, HDZ) and the SNSD in the RS are considered to be the most corrupt parties in the country. The victory of these parties at the local elections demonstrated that despite concern for corruption in Bosnia, voters have disregarded party corruption either because other issues are of greater concern or because all parties are considered corrupt, differing only by opportunity.

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Bulgaria

<i>Capital</i>	Sofia
<i>Population</i>	7,500,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$7,130
<i>Private sector as % of GDP</i>	75%
<i>Ethnic groups</i>	Bulgarian (84 percent), Turk (9 percent), Roma (5 percent), other (2 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	3.25	2.75	2.25	2.00	2.00	2.00	1.75	1.75
Civil Society	4.00	3.75	3.75	3.50	3.25	3.25	3.00	2.75
Independent Media	3.75	3.50	3.50	3.25	3.25	3.50	3.50	3.50
Governance	4.25	4.00	3.75	3.50	3.50	3.75	3.75	n/a
National Democratic Governance	n/a	3.50						
Local Democratic Governance	n/a	3.50						
Judicial Framework and Independence*	4.25	3.75	3.50	3.50	3.50	3.50	3.25	3.25
Corruption	n/a	n/a	4.75	4.75	4.50	4.25	4.25	4.00
Democracy Score	3.90	3.55	3.58	3.42	3.33	3.38	3.25	3.18

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

In the 15 years since the collapse of Communism, Bulgaria has managed to consolidate its democratic governance system with a stable Parliament, sound government structures, an active civil society, and a free media. Over this period a number of general, presidential, and local elections have been held freely, fairly, and in an orderly manner. Power has changed hands peacefully. Bulgaria has made significant progress in establishing the rule of law, yet further efforts are needed in this respect. After a period of poor performance, the economy has recorded seven years of robust growth. Economic reforms have advanced considerably, with more work needed to improve the business environment. In 2004, the country officially became a NATO member, and a target date of 2007 was reconfirmed by the European Commission for entry into the European Union (EU). Despite these positive achievements, more attention must be paid to reforming the judiciary and to fighting corruption and organized crime. Better efforts are also needed to bring the public back to politics, to reestablish its trust in democratic institutions, and to relegitimize politics as a tool for engendering social change.

National Democratic Governance. In spite of the deepening fragmentation of the parliamentary majority in 2004, the ruling coalition remained stable. Members of the New Time political club, which was part of the ruling National Movement Simeon II (NMSII), formed a separate parliamentary group, and the governmental coalition lost its majority in the Parliament. This had no effect on the government but led to the increased political significance of Parliament at the expense of the government and caused temporary delays in adopting legislation. From an economic point of view, 2004 proved to be successful, with continued stable growth. Privatization continued at a satisfactory pace, while foreign investments grew and the budget ran a surplus. These positive achievements aside, the government did not manage to pass the reform of the Investigation Service in Parliament. The European Commission's regular report on Bulgaria's progress toward accession gave the country's judicial system reform and its fight against organized crime and corruption an unsatisfactory assessment. More efforts are also needed to reform the education and health care systems. *The national democratic governance rating is 3.50 owing to Bulgaria's established and stable democratic system of governance, but taking into account problems in the effective functioning of the system of checks and balances.*

Electoral Process. Apart from interim local elections in a few municipalities, no elections were held in Bulgaria in 2004. Voter turnout in the last local elections in October 2003 was around 50 percent. The leftist Bulgarian Socialist Party (BSP) won the most votes, followed by the center-right Union of Democratic Forces (UDF). The two parties in the ruling coalition, the NMSII and the Movement for Rights and Freedoms (MRF), followed behind with approximately equal shares of the vote. According to public opinion poll data, the BSP has the chance to win the most votes in the upcoming parliamentary elections in 2005, but still not enough to form a government on its own. The right-centered UDF split into two different groups in early 2004, deepening the disintegration of the right-centered political space. The incumbent NMSII has managed to stabilize its electoral position, and now it is sure to succeed in entering the next Parliament. MRF, the smaller coalition partner, kept its stable electoral position, with political support based mainly on Turkish minority representation. *There are no considerable changes that may lead to an improvement or decline in the electoral process rating, and it remains unchanged at 1.75.*

Civil Society. For more than a decade, Bulgaria has managed to develop a vibrant civil society. However, the nongovernmental organization (NGO) sector has still not developed sustainable fund-raising mechanisms. So far, more than 80 percent of funding for NGOs comes from foreign sources. Furthermore, a large percentage of foreign donors intend to withdraw their support from the country in the next few years, which could cause problems for the financial stability of the NGO sector. A report on local grant making in Bulgaria warns that the business community and the state still do not sufficiently trust NGOs and prefer to fund a number of crucial social activities directly. These negative assessments aside, the report is positive about the emergence and development of a local grant-making community. In 2004, NGO presence in all important spheres of public life remained significant. Governmental structures, the National Assembly, and the media have all gradually learned to tap NGO expertise in the service of various policy-making fields. *Bulgaria's civil society rating improves from 3.00 to 2.75 owing to the government's increased receptivity to advocacy efforts from the sector.*

Independent Media. Media freedom in Bulgaria remained unchanged during 2004. Print media are independent from state interference but still not fully independent from economic and political special interests. Electronic media are still not fully free from state influence. In March 2004, the Council for Electronic Media, which is charged with defending the state media's independence, dismissed the director-general of Bulgarian National Television for mismanagement. Later, this decision was revoked in court, with appeals pending. Libel is still a criminal offense in the penal code, and journalists

were investigated on two occasions in 2004 for the “illegal” use of hidden cameras to collect information. In September, a journalist from the most popular national daily was fined because she had quoted official information provided by the Ministry of the Interior. This tense atmosphere may lead to self-censorship as noted by the 2004 regular report on Bulgaria’s progress toward EU accession. In November 2004, most major media in the country agreed on a unified code of ethics for journalists, to be enforced by the media and journalists themselves. *The independent media rating for Bulgaria remains unchanged at 3.50.*

Local Democratic Governance. Local self-government in Bulgaria is exercised at the municipal level, with councils and mayors elected in universal, equal, secret-ballot elections. Four such elections have taken place under the current Constitution, all free and fair, producing a multiplicity of local actors and coalitions. Local governments are empowered to resolve problems and make policies at the local level. They are responsible to the local public, and mechanisms currently exist for monitoring and public control. However, the process of actual decentralization is not advanced and slow to happen. Municipalities have no right to set taxes, and their revenues are dominated by central government subsidies. They lack adequate resources to serve the public to the full extent of their legally defined competencies. The administrative capacity of municipalities remains limited. Important reforms are still needed, including constitutional changes regarding the taxation rights of municipalities. *A rating of 3.50 is given to local democratic governance in Bulgaria for the reforms enshrined in law that enable citizens to choose local leaders in free and fair elections, but also taking into account that in practice many important aspects of the reforms have not yet been completed. This is necessary to provide the resources and capacity for local leaders to fulfill their responsibilities and to operate with transparency and accountability.*

Judicial Framework and Independence. The judicial system remains a pressing problem for Bulgarian society as it strives to reform and integrate into the Euro-Atlantic community. While the framework for an independent judiciary and basic political, human, and civil rights are in place, the manner in which judicial power is constituted and functions creates problems in the enforcement of this framework. Courts are slow, and the prosecution is ineffective, while the Supreme Judicial Council, the body of power in the judiciary, lacks sufficient mechanisms to oversee the performance of judges and prosecutors. While some procedures have improved over 2004, the most important changes, including amendments to the Constitution, are still needed. Social and political consensus on these necessary reforms has progressed significantly, but the respective legislation has yet to come. *Bulgaria’s rating on judicial framework and independence remains unchanged at 3.25.*

Corruption. In 2004, Bulgaria continued to deepen the regulatory and administrative framework for fighting corruption. The implementation of anticorruption measures, coupled with other reform processes in the country over recent years, has led to a discernible medium-term trend toward lower levels of corruption in the country. The same trend can be observed in the economy's level of freedom from governmental burdens and involvement, even though many more improvements are possible. However, on two occasions in 2004 the prosecution started actions against foreign journalists who used hidden cameras to record acts of corruption, which could be seen as discouraging future revelations of corruption. *Owing to continued improvements in the direct measurement of the level of corruption in Bulgaria, the country's rating is improved to 4.00.*

Outlook for 2005. Two major events will shape Bulgaria in 2005: the parliamentary elections scheduled for midyear and the signing of the treaty of Bulgaria's accession to the EU. Both events will have a definitive impact on the legislative, administrative, and judicial framework of the country. The three most important legislative developments stemming from them are the constitutional changes required for EU membership, the continued enhancement of the judiciary, and the overhaul of the penal procedure code.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	3.50						

In the 15 years since the collapse of Communism, Bulgaria has succeeded in producing a stable democratic system of governance. According to its 1991 Constitution, Bulgaria is a republic with a parliamentary form of government. The entire power of the state derives from the people, who exercise this power directly and through the bodies established by the Constitution. Supreme power belongs to the Parliament, which elects and controls the government. The Constitution also stipulates the separation of power among the legislative, executive, and judicial branches, guaranteeing a system of checks and balances.

Recent practice, however, has shown some problems in the effectiveness of this system. The judicial branch enjoys significant independence, without sufficient accountability to the other branches of power and society as a

whole. Over the last few years, government attempts to reform the judicial system have failed. In 2003, the Constitutional Court struck down a new law involving a reorganization of the judicial system, declaring that only a Grand National Assembly has the right to change the structure of state power. Reform of the judicial system is a key condition for Bulgaria's integration into the European Union (EU). Although some positive steps were made (in September 2003, the Constitution was changed and the immunity of magistrates was reduced), the government did not manage in 2004 to pass through Parliament the reform of the Investigation Service, which would have moved investigation duties from the judicial to the executive branch, and Bulgaria received an unsatisfactory assessment in judicial reform in the regular report of the European Commission on the country's progress toward EU accession.

The public's ability to monitor the activities of government is ensured by the Access to Public Information Act, in force since 2000. It provides a mechanism to initiate proceedings in cases where the right to access information is violated. On the other hand, the Protection of Classified Information Act, in force since 2002 as a condition for Bulgaria to join NATO, is often used by government to refuse access to information. Apart from the legislative framework, the 2003 annual report on the state of access to public information in the country, prepared by the nonprofit Access to Information Program Association, concludes that there is still not enough political will to enforce the law. According to the report, more than 60 cases charging violations of the act have been initiated since 2000. In over 20 of these, the Supreme Administrative Court revoked the government's refusal to provide the public with information.

The process of economic liberalization in Bulgaria started in 1991. The country's transition to a market economy has been long and difficult, with almost all of the largest companies remaining state owned until 1997 and maintaining their monopoly market positions. After 1998, privatization efforts were intensified, and during 2004 state influence over the economy was much weaker when compared with that of the private sector. As a whole, there are no significant government barriers to economic activity. Since 1998, Bulgaria's score in the annual Index of Economic Freedom, produced by the Heritage Foundation, has improved steadily from 3.60 to 2.74 in 2005 (covering data up to 2004). The country is classified as "mostly free," with an index score of 1 representing the freest.

During Bulgaria's transition, all changes of government—and all critical situations requiring major state decisions under conditions of urgency, tension, or uncertainty—have followed legal and constitutional procedures. No important political players question democracy as the desired basis for the country's political system. Bulgarian citizens recognize the legitimacy of all state institutions, and government authority extends over the full ter-

ritory of the country. Although there is a considerable Turkish minority in Bulgaria (about 8 percent of the population), it is well integrated into society and politically represented. For this reason, the last 15 years have witnessed no serious threats to national sovereignty or territorial integrity based on ethnic conflict.

However, in recent years public opinion polls have registered a growing discontent over the government's failure to meet expectations for quicker improvements in Bulgaria's standard of living. Various 2004 surveys suggest that public disaffection, combined with the growing political importance of issues such as fighting crime, could provoke the appearance of a possible "strong-arm" party, representing nondemocratic ideas and sentiments. This risk is aggravated by a lack of public trust in major state institutions. According to BBSS Gallup data from October 2004, 75 percent of respondents stated that they do not trust the Parliament, 63 percent do not trust the government and courts of law, and 60 percent do not trust the prosecution.

Bulgaria has a one-chamber National Assembly, which according to the Constitution holds the legislative authority and has the right to exercise parliamentary control over the executive. The 240-member National Assembly is elected directly for a term of four years. Until 2001, the Bulgarian political system was dominated by two parties: the Bulgarian Socialist Party (BSP), successor to the former Communist Party and situated to the left of the political spectrum, and the Union of Democratic Forces (UDF), situated to the right of the political center. According to the Constitution, the National Assembly formally holds the supreme power. In practice, however, one of these parties had a majority in the Parliament between 1995 and 2001, and the center of actual decision making was shifted from the National Assembly to the government and political party leadership. This bipolar episode ended with the victory of the National Movement Simeon II (NMSII) in the 2001 general elections. In 2003 and 2004, the NMSII parliamentary group split, several new parliamentary groups were formed, and the ruling coalition lost its parliamentary majority. Consequently, the political importance of the National Assembly increased. This trend will probably be reinforced in the future, as it is likely that none of the current political parties will win a majority in the next Parliament. At the same time, the appearance of new parliamentary groups caused temporary delays in adopting legislation and complicated the political process. For example, the Ombudsman Act came into force in 2004, but parliamentary groups could not agree on a candidate and thus failed to elect an ombudsman within the legally defined period.

The Bulgarian National Assembly has established parliamentary practices with strong committees and subcommittees. It has also involved a considerable number of experts and nongovernmental organizations (NGOs) as consultants into the legislative process. The National Assembly has sufficient resources in terms of revenues and enough professional and research staff to meet its

constitutional responsibilities. Over the last 15 years, the National Assembly has established a tradition of transparency and accountability to the public. Committee hearings and legislative sessions are open to the public and the media, and most bills can be found on the Bulgarian Parliament's Web site. All sessions of the Parliament are broadcast live on the parliamentary radio channel; some are also broadcast on television.

Information about the Bulgarian government's decisions and activities can be found on its Web site and through the ministries' public relations offices. However, the current government has had systematic problems in its communications with the media. In 2002, the Office of the Prime Minister announced that attendance at monthly briefings would be limited to only four media, two of which would be state owned. The work of the Council of Ministers is observable only through regular press conferences with members and through a daily bulletin published on the Bulgarian government's Web site.

Bulgaria's civil service is regulated by the Administration Act of 1998 and the Civil Service Act of 2000. These introduce competition for civil servant appointments, with selection based on the professional qualifications of candidates. The Civil Service Act has been amended several times since its adoption (most recently in August 2004) to improve the recruitment and performance of civil servants. Yet there is still room for improvement in the selection of candidates and the efficiency and quality of administrative services available to citizens. One of the official motives for the adoption of the Civil Service Act was its potential to help curb corruption. Although it is problematic to use public perception surveys as a measure of actual corruption, such surveys have indicated that civil servants are still perceived as one of the most corrupt professional groups in Bulgarian society.

The executive is subject to supervision by the legislature. Every Friday, ministers are obligated to answer questions raised by members of Parliament (MPs). Governmental structures are also obligated to provide information upon request on behalf of parliamentary committees or MPs. However, the current National Assembly Speaker is periodically accused by the opposition of using formalities to prevent the prime minister from answering MPs' questions. The executive is also supervised by the National Audit Office (NAO) through regular financial or performance audits to all governmental structures and agencies. The NAO comprises 11 members, elected and dismissed by the Parliament, to which it reports yearly. For example, an NAO report in April 2004 resulted in the creation of an ad hoc parliamentary committee to investigate the spending of moneys received under various EU programs in the Ministry of Regional Development and Public Works.

Since the military and security services are a part of the executive branch, they also are subject to parliamentary control. The Parliament discusses and approves the budgets of these services as part of the total state budget. MPs

are also empowered to inquire into the performance of different military and security structures operating under the Ministries of Defense and the Interior. At the same time, to avoid centralizing power in this key area, the government proposes, and the president approves, candidates for directors of the security services and the chief of general staff of the Bulgarian armed forces. There is also judicial oversight of the military and security sector—a special military prosecution body investigates military and security officials in Bulgaria.

The Bulgarian military and security services have gone through a series of reforms during Bulgaria's NATO candidacy. The government established a modern system of democratic control over the armed forces and security services, based on clear organizational and functional structures, responsibility, and accountability. As a result, more information is currently available to the public and NGOs, especially about the activities of the Ministry of Defense. Several NGOs are working on problems in the security sector and civil control over the armed forces. Still, some problems exist regarding access to information in the security sector. Often, military or security officials take advantage of the new Protection of Classified Information Act, adopted as part of the reform package required for membership in NATO, to avoid giving information to the public. With a similar justification, some lawsuits against members of the military and security sector have been classified and closed to the public.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
3.25	2.75	2.25	2.00	2.00	2.00	1.75	1.75

The Bulgarian Constitution provides all citizens over the age of 18 with the right to vote by secret ballot in municipal, legislative, and presidential elections. Small glitches aside, elections in Bulgaria under the 1991 Constitution can be assessed as free, fair, and compliant with the law. The last general elections in 2001 were similarly assessed by all observers. They marked the first completion of a full four-year term by a Bulgarian Parliament since 1991. Presidential elections in the same year registered the first victory of a left-wing candidate, representing the BSP. The local elections in October 2003 were the first in recent Bulgarian history to take place without international observers, an acknowledgment that Bulgaria has managed to establish a tradition of free and fair elections. In all branches and levels of government, power has consistently changed hands in a peaceful and orderly manner.

The 2001 general elections were won by the NMSII. It was created only three months before election day by Simeon Saxe-Coburg-Gotha, Bulgaria's former king. The NMSII won 43 percent of the vote and 120 of the 240

seats in the Parliament, owing to both the personal charisma of the former king and the party's strong populist campaign messages. The party's quick formation and lack of a clear political or ideological identity have caused internal tensions within the NMSII over the last three years, resulting in the disintegration of its parliamentary group. By the end of 2004, 22 MPs had left the group. In 2003, the NMSII was admitted to Liberal International, the world federation of liberal political parties, as an associate member.

Until 2004, the second largest party in the Parliament was the previously ruling UDF. It received 18 percent of the vote and 51 seats in 2001. The party was created in 1997 out of the umbrella Union of Democratic Forces, an organization established in 1990 as a coalition of anti-Communist political parties and civic organizations. Owing to a conflict between former prime minister Ivan Kostov and the present party leadership headed by Nadejda Mihailova, the party parliamentary group split in two in February 2004. Currently, the UDF has 14 parliamentary representatives, while the Ivan Kostov group has 28. In May, Kostov founded and became the leader of a new center-right formation under the name Democrats for a Strong Bulgaria (DSB). From a comparison of documents, statements, and actions of the DSB and UDF, it would seem at this stage that the DSB represents the more conservative spectrum of center-right political ideas, while the UDF is more liberal and closer to the political center. The UDF is a full member of the European People's Party, the major center-right party in the European Parliament.

The left-wing BSP, successor to the Bulgarian Communist Party, won 17 percent of the vote and 48 seats in 2001. Since 1990, the party has been trying to move away from its Communist legacy and build a modern leftist organization. Following the 1997 crisis, when protesters took to the streets to force the BSP government's resignation, the BSP adopted Atlanticist ideas in its platforms. In 2003, it was accepted for full membership in the Socialist International, indicating international recognition of the party's reformation. Sergey Stanishev, a former international affairs secretary of the BSP, currently leads the party.

The Movement for Rights and Freedoms (MRF) won 7 percent of the vote and 21 seats in 2001. The MRF was established in 1990 as an organization representing the Turkish minority in Bulgaria and has been represented in the Parliament ever since. The MRF gained representation in the government for the first time as a result of the 2001 elections. The party supports centrist political positions and is a member of Liberal International. Ahmed Dogan has led the party since its establishment.

Bulgaria has a proportional electoral system, except for presidential and mayoral elections. The election laws provide all political parties and candidates with equal campaigning opportunities. The electoral system ensures fair polling and the honest tabulation of ballots. The greatest challenge to Bulgaria's electoral system in recent years has been the general public's

declining confidence that individuals can influence policy making through elections. This is one of the main factors contributing to Bulgaria's weak voter turnout and low public interest in politics. Based on a bill introduced in 2002, deliberations began in 2004 on an entirely new and comprehensive electoral code combining majority and proportional elements in electing the Parliament and municipal councils. It is unsure whether the new code will be adopted in time for next year's elections.

The Bulgarian Constitution guarantees all citizens the right of free organization in political parties, movements, or other political entities. The Constitution bans the establishment of political organizations that act against national integrity and state sovereignty; call for ethnic, national, or religious hostility; or create secret military structures. Additionally, the Constitution prohibits the establishment of organizations that achieve their goals through violence.

The political party registration process in Bulgaria is liberal and uncomplicated. According to the Political Parties Act, a party needs 500 members to register. Registration takes approximately one month to complete. Parties whose applications are rejected have the right to appeal the decision. This has led to a high proliferation of parties, with more than 300 registered since 1989. Most of these have no active presence in Bulgaria's political life, suggesting that they serve the personal and economic goals of their leaders. In October 2004, the Parliament passed on first reading a bill raising the number of members required for new party registration to 5,000. If the bill passes the second reading, all existing political formations would be obliged to reregister under the new requirements, which may reduce the number of registered political parties by 90 percent. The draft also foresees a reform of party funding, including more transparent fund-raising and a reduction in the range of funding sources allowed by law.

The Bulgarian electoral system is multiparty based, with parliamentary mechanisms for the opposition to influence decision making. The threshold for gaining representation in the Parliament is 4 percent of the votes cast. Fifty-four political parties and coalitions were registered to participate in the 2001 parliamentary elections, and 146 were registered for the 2003 local elections. The large number of political parties participating in local elections reflects the reality that local interests usually work toward their goals through independent participation, a strategy that is less likely to succeed on the national level. According to data from the Alpha Research polling agency, 30 percent of participants in the 1999 local elections and 41 percent in the 2003 local elections voted for small or locally represented political entities.

Voter turnout in the last legislative elections was 67 percent. During the last presidential elections, voter turnout was 42 percent in the first round and 55 percent in the second. Voter turnout in the 2003 local elections was around 50 percent in both rounds. In all cases, the numbers are lower than in

previous elections. According to Alpha Research, approximately 6 percent of the population is currently affiliated with the various political parties. These data reflect a growing distance between voters and politics, based chiefly on public disappointment with reforms in which successive left and right governments failed to meet expectations for improving standards of living. As a result, people are less confident that they can solve problems through political and collective instruments and turn instead to individual strategies. Over 2004, public opinion poll agencies, such as Gallup BBSS Bulgaria, continued to measure low levels of trust in state institutions. About 15 percent of respondents state that they trust the Parliament, and about 20 percent trust the government. (Answers of “Do not know” constitute missing percents.) Poll results also indicate that public disaffection, combined with the growing political importance of issues such as fighting crime, could provoke the appearance of a possible “strong-arm” party.

Although MRF bylaws state that members are welcome regardless of their ethnicity or religion, the party is for all intents and purposes an ethnic one, representing the interests of Bulgarian Turks. As part of the current governing coalition, this Turkish minority party is well represented in all levels of government. In contrast, the Roma minority is still poorly represented in government structures, with some exceptions at the municipal level. The general hypothesis is that the political system discriminates against the Roma minority and impedes their political expression. Equally important, however, is the fact that a political party consolidating Roma interests and representing them at the national level still does not exist, even though attempts to create one have been made.

In Bulgaria, there is a strong political mechanism enabling different parties to come to power consecutively and peacefully. None of the Bulgarian governments since 1990 have been reelected, suggesting that ruling parties do not use their position in power to influence the results of elections or to prevent the opposition from coming to power. This fact was proven again in the last legislative elections. In 2001, the movement led by Simeon Saxe-Coburg-Gotha was formed just three months before the elections but still succeeded in winning and forming a new government.

No particular businesses or other interests interfere directly in the vote of the general population. However, there are many suspicions that powerful economic interests influence the decision-making process by lobbying political parties or providing illicit party financing. A scandal exploded at the start of 2004 when it became clear that some Bulgarian companies close to the BSP had received oil gifts from the former Iraqi regime of Saddam Hussein. There are suspicions that in fact the oil gifts were destined for the BSP in return for political support of the Iraqi regime. A special ad hoc committee was created in the Parliament to investigate BSP involvement. The committee has not yet released its conclusions.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
4.00	3.75	3.75	3.50	3.25	3.25	3.00	2.75

According to 2002 data from the National Statistical Institute, Bulgaria has 14,779 registered NGOs. Current data on the number that are active are not available, but according to the 1998 *Directory of Nonprofit Organizations in Bulgaria*, more than 1,000 nonprofit organizations were active in over 50 towns. Their work is focused on crucial areas of Bulgarian social life, including human rights, minority issues, health care, education, women's issues, charity work, public policy, the environment, culture, science, social services, information technology, religion, sports, and business development. It remains unclear how many people are actively engaged in private volunteerism today.

All ethnic and minority groups, including Turks, Roma, Muslims, Armenians, and Jews, have their own NGOs, all of which are engaged in a variety of civic activities. Roma-sponsored NGOs are especially interesting in this respect. Although this ethnic minority is not represented in government, some Roma NGOs function as political discussion clubs and protoparties. There are around 150 functioning Roma NGOs throughout the country. The number of registered Roma groups is at least three times greater.

Churches engage in charitable activities by distributing aid and creating local networks that assist the elderly and children. Organizations of Muslim, Catholic, and Protestant communities are among the most dynamic in the country. Their main activities include charitable work and organized gatherings of their members. Although the Orthodox Church remains the most influential in Bulgaria, only a small percentage of the population attends services regularly.

The state observes the right of citizens to form and participate in organizations representing their interests. In general, NGOs and other civil society organizations do not experience significant state or other influence on their activities, which are regulated by the Noneconomic Purpose Legal Persons Act. Antiliberal nonprofit institutions are constitutionally banned, and no antiliberal NGOs are officially registered. Several informal organizations could be considered antiliberal, but they have a weak public influence.

NGO registration is inexpensive and takes approximately one month to complete. By law, all NGOs are listed in a transparent public document known as the Central Register of NGOs. Groups are allowed to engage in for-profit activities under certain conditions, and all groups are required to conduct annual audits. The law distinguishes between NGOs acting for public benefit and those that act for private benefit. Public NGOs are not obliged to pay taxes on their funding resources, but they must be listed and report their activities annually in the Central Register.

Over the last 15 years of transition in Bulgaria, NGOs have developed sufficient organizational capacities and have become an important part of the democratic process. Unfortunately, even though the Corporate Taxation Act of 1997 instituted various tax incentives, these have not induced businesses to give money to NGOs. The state usually funds some specific NGOs in the area of social services. However, most NGOs rely on funding from foreign sources. Regrettably, a significant number of large foreign NGOs and their donors intend to withdraw from the country in the next few years, a fact that could cause funding problems for some organizations. According to a 2004 report prepared by the Bulgarian Donors Forum, an association of donor organizations acting in Bulgaria, the government and business do not sufficiently trust the NGO sector and prefer to spend money directly on social activities. Focusing on Bulgaria's sustained economic development over the last few years, the report shares positive expectations about the future development of a local charitable and philanthropic community. However, it warns that the emerging philanthropic community prefers to fund activities based on a "welfare approach," where results are achieved more quickly and visibly, as compared with the "transformational approach," which aims to change the social environment and institutions over the long term.

According to existing legislation, NGOs are allowed to carry out for-profit activities, provided the work does not clash with their stated organizational aims and is registered separately. Though the government does not tax NGOs, groups must pay normal taxes on all such for-profit work, and they must invest all net profits into their main activities.

Since the collapse of Communism in 1989, NGOs have proved to be an important and needed part of Bulgarian society. The government has gradually learned to be tolerant of them and has occasionally taken the initiative to make use of their expertise. Simultaneously, a partnership between the media and NGOs continues to develop and has become reliable and stable. In November 2004, the government stated its readiness to include NGOs in preparing projects and monitoring the spending of financial assistance received through EU preaccession and accession programs.

In 2001, a permanent Parliamentary Committee on the Problems of Civil Society was created to serve as a bridge between civil society and the Parliament. This reflects the government's changing attitudes toward the NGO sector. The commission's public council includes 21 members representing 28 NGOs. Other parliamentary committees recruit NGO experts as advisers for public hearings on issues of national importance. In spite of this positive practice, no formal mechanism yet exists for the various structures of civil society to consult in the development of legislation.

The participation of interest groups in politics remains largely unregulated. As advocates for increased transparency and decreased clientelism, think tanks have repeatedly urged the Parliament to legalize and regulate lobbying.

As a result, the Parliamentary Committee on the Problems of Civil Society launched a bill in the middle of 2002 calling for the registration of lobbyists and the publicizing of lobbying activities. The bill is still under consideration.

Bulgaria has three major independent trade unions. Participation in trade unions is free, and the state respects the right of workers to form their own organizations. Trade unions take part along with the government and employers in the Tripartite Commission for Negotiations on various issues. Workers' rights to engage in collective bargaining and to strike are protected by law. There is also a growing number of farmers' groups and small-business associations.

Bulgaria's education system is sufficiently free of political influence and propaganda. The most serious problems facing Bulgarian students are the continuous revisions in educational requirements imposed by the Ministry of Education, such as changes in the required number of years of schooling and mandatory comprehensive examinations. Education sector reform has proved to be fairly difficult and unpopular. In October 2004, the government gave up trying to introduce a new test system to replace teacher examinations and written exams as a method of evaluation in primary schools. Some political commentators consider this move an attempt to avoid public disaffection in light of the forthcoming 2005 general elections.

Currently, according to data from the National Statistical Institute, there are 6,648 educational institutions in Bulgaria, including 3,278 child care centers, 3,319 primary and secondary schools, and 51 colleges and universities. Of these, 128 are privately owned, including 24 child care centers, 90 primary and secondary schools, and 14 colleges and universities.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
3.75	3.50	3.50	3.25	3.25	3.50	3.50	3.50

Article 40 of the Bulgarian Constitution proclaims that media are free and shall not be subject to censorship. An injunction on or confiscation of printed matter or other media formats is allowed only through a court act. The citizen's right to seek, obtain, and disseminate information is also guaranteed by the Constitution. Access to public information is guaranteed by the Access to Public Information Act.

No specific legislation protects journalists from victimization by state or nonstate actors. Libel is a criminal offense in the penal code. When criticizing government officials, journalists can be accused of libel. Both prosecutors and individual citizens can bring charges against a person for libel, the penalty for which is a monetary fee. Since the penal code was amended in 2000, a number of cases have been brought to court. So far, only a few have finished with sentences, but this atmosphere may lead to self-censorship, as noted by the

European Commission's 2004 regular report on Bulgaria's progress toward EU accession. Several cases of investigations against journalists illustrate the atmosphere in which Bulgarian media operate. In September 2004, a journalist from the most popular national daily was fined because she had quoted official information provided by the Ministry of the Interior. In November 2004, the prosecutor's office filed charges of illegal use of special surveillance devices for collecting information against a Romanian reporter investigating customs bribery on the Danube border. A few days later, the prosecutor's office in Sofia launched a similar preliminary investigation against the BBC journalists who had created the scandalous film *Buying the Games*. The film accuses Bulgarian International Olympic Committee member Ivan Slavkov of corruption.

In general, Bulgarian media are independent of the state, and there is free competition among different information sources and points of view. But it is not certain whether the media are independent of special interests, either political or economic. Although print media have successfully emancipated themselves from governmental control, electronic media are still not fully free from state influence and interference. National Radio and National Television are state owned and remain among the most influential broadcasters in the country. Although they are not governed directly by the government, they cannot be pronounced politically independent, since the parliamentary majority approves their budgets. The Council for Electronic Media (CEM) is responsible for electing directors of state radio and television as well as overseeing their performance. Its nine members are appointed partly by the National Assembly and the president. However, throughout its existence the council has not managed to establish a reputation of political independence. In March 2004, the director-general of Bulgarian National Television was dismissed by CEM for mismanagement, but the decision was revoked by the court in October.

With the exception of a few local newspapers and the official *State Gazette*, all print media in Bulgaria are privately owned. Overall, there are 533 newspapers and magazines. At the end of 2004, the nation's largest newspapers with the highest levels of circulation were *Troud*, *24 Hours*, *Standard*, *Monitor*, *Sega*, *Novinar*, *Douma*, *Dnevnik*, and *Capital* (weekly). Their circulation is subject to trade secret, and no reliable information can be obtained. *Troud* and *24 Hours*, which enjoy the highest circulation, are owned by the German publishing group Westdeutsche Allgemeine Zeitung. The newspaper market includes many other dailies, guaranteeing that readers have a broad selection of information sources and points of view.

The radio business as a whole has experienced radical change over the last six to seven years. In 2003, there were 89 radio stations. Of these, 11 provide national coverage, and only 1 is state owned. There are also 77 local radio stations. As for television, there are 98 stations in the country, 3 of which reach national audiences through wireless broadcasting and only 1 of which is state owned. The rest are cable networks.

The public's interest in politics has declined over the last few years. This has resulted in a decrease in circulation at the main newspapers, especially party newspapers. Only the BSP-affiliated *Douma* is of any public significance. Low public interest in newspapers has led to their increased commercialization. It is often suspected that newspapers are used by different economic players to pursue financial or political interests.

The largest private newspapers are printed in IPK Rodina, the state-owned print house. In some cases, this permits a degree of government interference in the work of print media. However, during the last few years this has not resulted in any direct political pressure. There are a number of private distribution networks as well.

Among Bulgaria's most important journalistic associations are the Media Coalition and the Free Speech Civil Forum Association. The Journalist Union, a holdover from the Communist period, is trying to reform its image. More than 50 percent of the journalists in Bulgaria are women. The publishers of the biggest newspapers are united in their own organizations, such as the Union of Newspaper Publishers. A few NGOs are also working on media problems. Of these, the most important is the Media Development Center, an organization providing journalists with training and legal advice.

In November 2004, journalists from 160 national and regional press and electronic and online media signed the Bulgarian media code of ethics. The code includes provisions to serve as standards regarding the use of information by unidentified sources, the preliminary nondisclosure of a source's identity, respect to everyone's personal life, and nonpublication of children's personal pictures (unless they are of public interest). Adopting the code of ethics showed that after a long process of development, Bulgarian media have matured enough to assume self-regulation of their activities.

The Internet in Bulgaria is free of regulation and restrictions for private citizens. According to data reported by the Alpha Research polling agency in November 2004, the percentage of adult Bulgarians who have access to the Internet has increased over the last year by seven points, rising to 23 percent.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	3.50						

The basic framework for democratic local self-government in Bulgaria is provided in Chapter 7 of the Bulgarian Constitution. It envisages the municipality as the basic unit of local self-government (Article 136[1]), with democratic elections for municipal councils and mayors (Articles 138 and 139[1]) and the right of municipalities to own property (Article 140) and maintain budgets

(Article 141[1]). Municipalities are defined as legal persons (Article 136[3]), and local democracy can also work directly through referendums or through general assemblies of citizens. Pursuant to the constitutional framework, local democratic governance in Bulgaria is elaborated in more detail in numerous normative acts, the more important being the Local Self-Government and Local Administration Act of 1991, the Local Elections Act of 1995, and the Local Taxes and Fees Act of 1997.

In Bulgaria, the process of decentralizing powers and responsibilities to the local level of governance is ongoing; no substantial decentralization has taken place as of yet, especially in terms of placing resources under the discretion of local governments. At the same time, however, the above-mentioned legislation allows municipalities to have competencies in designing, institutionalizing, and implementing solutions to problems affecting their citizens. Also, dialogue between local and national levels of governance is well structured in the legislative branch (with a specific standing parliamentary committee on local governance matters), the executive branch (where the voice of local governance is the National Association of Municipalities in the Republic of Bulgaria [NAMRB]), and civil society (through the activities of numerous NGOs devoted to local government issues and advocacy). In practice, the NAMRB is consulted regularly by the central government on different issues, proposals, and policies related to local governance.

All citizens of Bulgaria are constitutionally and legislatively entitled to vote directly through secret ballot in regular elections for municipal councils and mayors. Under the current Constitution, such elections have been held in 1991, 1995, 1999, and 2003, with numerous mayoral by-elections in between in different municipalities. All of these elections have been free and fair, with the 2003 local elections being the first in recent Bulgarian history to be held without any outside monitoring and oversight. All respective international bodies decided that no such oversight was necessary.

Voter turnout has declined over the four local elections since the beginning of transition in Bulgaria, falling to around 50 percent for the 2003 elections. At the same time, local players are becoming more active at these elections and try to engage the local public in the electoral process. This was reflected in the formation of numerous strictly local political organizations and coalitions aimed at entering the local government level and serving the local public in many municipalities in the 2003 elections. As a result, the political competition in these elections was broadly based. At present, almost no municipality in Bulgaria has a council with a single party majority, and in most cases even the two largest party groups cannot form a majority in the municipal councils, thus leading to a multiplicity of locally defined and locally focused coalitions throughout the country. In this setting, it is difficult for any single agenda—of a national party, the central authorities, or a national or local economic group—to dominate voters' choices and sentiments or the actions of the local government.

Local government bodies in Bulgaria are open to citizens regardless of their gender, ethnicity, or other status, and there are many examples of women mayors and different ethnic groups holding office or being part of majorities in municipal councils. Citizens and civic society organizations are fully entitled to address and attempt to influence the local authorities, and such practices have developed to some extent throughout the country. Also, there is a lively set of local and regional press and electronic (mostly radio) media, whose main focus is local governance and the problems of the local public. This relatively good foundation, however, has not yet led to a well-institutionalized and productive dialogue between the local governments and the local public. The most important reason for this is the still inadequate resource base for local governments and the relative lack of administrative capacity at the local level. For both local governments and local civil society, these issues make dialogue with the national level of governance more important than interactions between themselves.

The municipalities in Bulgaria have the right to organize and form associations both domestically and internationally, with the NAMRB being the most auspicious example. Under the laws regulating local government, they have the right to legislate locally, to design policies, and to make various decisions, and their acts are respected at the national level. However, these rights contrast sharply with the actual resources Bulgarian municipalities have under their control and discretion.

Municipal governments have three sources of revenue: central budget subsidies, local taxes and fees, and municipal property. A law regulating the issuance of municipal debt as a fourth source of financing is pending but has not yet been passed by the Parliament. Since the Constitution requires the Parliament to approve all taxes and tax rates, local and property tax rates are adopted centrally. Data from the NAMRB indicate that only about 7 to 10 percent of all tax revenues are devoted strictly to local governments. Once the municipalities receive their subsidies from the central government, they have complete control over their own budgets. The only exception applies to money received from the central budget for targeted national programs.

Developments in the fiscal relationship between central and local levels of power in 2004 focused on the government's medium-term program of fiscal decentralization. So far, the policy has not produced tangible results, most likely because constitutional reforms are needed to provide local governments with extra powers in the area of taxation. For this purpose, representatives of major national parties have expressed consensus for a constitutional change allowing municipalities to at least set tax rates, but as of yet no formal procedures to change the Constitution have been started. Thus, the situation can be characterized by a lack of sufficient resources for municipalities to address local problems and to provide quality services and policies to the local public.

This lack of sufficient resources under the control of local governments has two main consequences. First is the potential that at least some local governments will become dependent on local economic actors. Second, the inherent interest of a local government to be accountable to its public is overshadowed by the more pressing need to remain on favorable terms with the central government, which controls most of the money. Even though there are formal mechanisms for transparency and public and media control over the activities and decisions of the local authorities, they are not particularly effective or relevant at this point in Bulgarian local government reforms.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.25	3.75	3.50	3.50	3.50	3.50	3.25	3.25

The judicial system in Bulgaria remains a pressing problem for Bulgarian society as it strives to reform and integrate into the Euro-Atlantic community. While the basic framework for an independent judiciary and basic political, human, and civil rights is in place, the manner in which judicial power is constituted and functions creates problems in the enforcement of this framework.

Under the Bulgarian Constitution, there is separation of powers among the different branches of government. The legislature adopts the country's supreme rules, but implementing them falls to the executive branch. The judiciary, whose main body of power is the Supreme Judicial Council (SJC, entrusted with making all appointments and organizing the work of the judiciary), provides a check on both the legislative branch and acts of the executive. Problems with the judiciary stem from the fact that even after constitutional changes in 2003, the Bulgarian judicial system is completely unaccountable to anyone for its performance, and the SJC has very limited power to govern some of the components of the system, namely investigation and prosecution. The Bulgarian Constitution is applied directly by the Constitutional Court, which has established itself as a legitimate, independent, and impartial body interpreting and enforcing the Constitution.

Bulgaria's Constitution provides adequate provisions for the protection of political, civil, and human rights—among them freedom of expression (Article 39), religious belief (Article 37), and association (Article 44), as well as the rights to privacy (Articles 32, 33, and 34), property and inheritance (Article 17), and economic initiative and enterprise (Article 19). Article 19 bans the abuse of monopoly power.

The protection of these rights by the state is generally effective in practice, but problems remain, especially in the areas of discrimination and the protection of religious beliefs. A prime example of the latter occurred

in summer 2004, when the Bulgarian prosecution and police took sides in a dispute between two rival Eastern Orthodox churches and resorted to violence to remove representatives of one of the two churches from their temples and places of worship. Both the prosecution and the police cited the execution of the new Religious Beliefs Act (in force since December 2002) as their primary motive. But their actions indicate otherwise; in “restoring” to one church possession of the temples used by the other church for more than 10 years, the authorities resorted to violence without attempting other means of resolution. Since the church that stood to gain from these actions is considerably more popular in the country than its rival, a more likely motive for the prosecution and the police was the hope that their widely publicized firm approach would increase their public approval, which has been severely damaged by the authorities’ inability to enforce laws and punish criminals.

Adjudication by Bulgarian courts is slow and inconsistent. Imbalances in the legal power structure create mechanisms for opportunistic magistrates and citizens to abuse the system. The extent to which such abuse actually occurs is unknown, but public trust in the judicial branch is low. Surveys of public opinion, such as those conducted by Gallup International, have found that Bulgarian citizens do not believe the law applies equally to all. More specifically, respondents feel that wealthy people, politically connected people, and the state employees receive better treatment than the average citizen.

In March 2004, changes to the Bulgarian penal code decriminalized homosexual behavior and criminalized various other acts, including child abuse and the use of child labor, money laundering, abuse of classified information, and irregular treatment of detainees. Bulgarian criminal law ensures a presumption of innocence until proven guilty and provides for fair and public trials. The defense receives full opportunity to examine evidence, develop a case, and defend it, as well as to appeal decisions.

Bulgarian legislation and practice include sufficient guarantees against search without warrant and arbitrary arrest. However, once persons are arrested, their rights are not sufficiently secure. In 2004, the Bulgarian Helsinki Committee report on human rights (covering 2003) stated that there is continued physical abuse of arrested persons, excessive detentions, and extremely slow court procedures.

Judges in Bulgaria are appointed by the SJC. Amendments in the Judicial System Act, in force since April 2004, regulate the appointment of judges in light of constitutional changes adopted in 2003. The newly created attestations and proposals committees under the SJC are now empowered to appoint and dismiss administrative positions within the judiciary, and these positions are exhaustively described in terms of rights, responsibilities, nomination, and mandate. Under changes in the Judicial System Act, more detailed procedural rules for the appointment of administrators in the judicial system have been developed. In 2004, a new National Institute for the Judiciary began provid-

ing training for judges, and as a result of changes in the laws regulating the judiciary, all newly appointed judges must successfully complete a six-month training program before assuming the bench.

While various reports find that there are attempts to influence the courts and some actual corruption in the court system, partiality and unfairness in court rulings are not systematic. The judicial system in Bulgaria is independent from political and other influences, and members of the judiciary are immune from prosecution except in the case of a serious crime and with the permission of the SJC. Less than half the members of the SJC are appointed by the Parliament. Over 2003–2004, the Supreme Administrative Court, whose primary role is the judicial review of executive acts, ruled both for and against official positions made by all political parties in different cases and could not be viewed as operating under political control or influence. However, the level of public satisfaction with the work of judges remains low. Various public opinion polls suggest that the public perceives judges as slow, inconsistent, not impartial, and corruptible.

The authority of the courts is recognized, and judicial decisions are enforced effectively. However, the enforcement process is considered slow, allowing obligated parties to avoid procedures for significant periods of time, especially with respect to civil law decisions. In 2004 the ruling parliamentary coalition proposed that this problem be addressed by using private companies to enforce court decisions in a public-private partnership scheme. Toward the end of 2004, a draft bill based on this proposal was introduced in the Parliament.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	4.75	4.75	4.50	4.25	4.25	4.00

The first measurement by Transparency International of corruption perceptions in Bulgaria in 1998 indicated high levels of corruption seriously affecting the whole society and its potential to achieve macroeconomic growth. By 2004, the perceptions index had improved considerably, thanks to deepening economic and administrative reforms and specific actions by government to address the phenomenon. But corruption remains an important social problem.

In 2004, the Bulgarian government continued implementing a regulatory and administrative framework for fighting corruption. This process was spearheaded by the Commission for Coordinating Actions Against Corruption (CCAAC), created by the Council of Ministers in 2002. Its work concentrated in four different directions. First, regional units were initiated in different Bulgarian districts to coordinate actions against corruption. Second, the CCAAC began cooperating with units to fight corruption

within the judicial system, namely with the prosecution and the Commission for Prevention and Action Against Corruption under the SJC. Third, the CCAAC prepared a draft ethical code for public servants, which was later adopted by the Council of Ministers and published in the *State Gazette* on June 22, 2004, as “code for the conduct of servants in the public administration.” Fourth, the CCAAC adopted a strategy to provide public servants with anticorruption training.

Concerning the overall economic reform process in Bulgaria and the environment in which corruption exists, the country is relatively free of excessive state involvement. It has been recognized as a functioning market economy by the European Commission. The private sector produces approximately three quarters of the gross value-added component of Bulgaria’s gross domestic product (GDP) and employs about two thirds of the labor in Bulgaria, with continued privatization. On a consolidated basis, the government redistributes around 40 percent of the country’s GDP, with budget deficits that are negligibly small (less than 1 percent of GDP since 1998). The structure of the taxation system, with the exception of social security, relies mostly on nondistortionary indirect taxes—that is, taxes that have a negligible effect on relative prices and do not distort market price signals—while government-regulated prices have a 14.6 percent share of the consumer basket. Bulgaria is classified as “mostly free” in the Heritage Foundation’s Index of Economic Freedom, and its scores on fiscal burden and government intervention are very good. In the Economic Freedom of the World Index developed by the Fraser Institute, Bulgaria has a score of 6, with 10 representing the highest degree of economic freedom.

The continued implementation of anticorruption measures in Bulgaria, coupled with other reform processes in the country over recent years, has led to a discernible medium-term trend toward lower levels of corruption in the country. This is visible in both existing measurements of corruption in the country. The first is performed by the local branch of Transparency International, called Transparency Without Borders, which compiles an annual Corruption Perceptions Index (CPI). The dynamics of this index since the start of its publication in 1998 are shown in the following table.

Transparency International (TI) Corruption Perceptions Index (CPI) and Ranking

Year	TI CPI for Bulgaria	TI rank for Bulgaria
1998	2.9	66 th out of 85
1999	3.3	63 rd out of 99
2000	3.5	52 nd out of 90
2001	3.9	47 th out of 91
2002	4.0	45 th out of 102
2003	3.9	54 th out of 133
2004	4.1	54 th out of 146

Looking at the medium-term trend, the CPI for Bulgaria has risen by 1.2 points within six years—a significant improvement—and the trend can be qualified as consolidated. In relative terms, when compared with its two most pertinent regions—the new members and candidate members to the EU (New Europe) and the region of southeastern Europe (17 countries in total)—Bulgaria's progress in this respect is second only to Latvia's.

This finding is seconded by a broad coalition of Bulgarian NGOs known as Coalition 2000, which has measured the level of corruption in Bulgaria since 1998. Over the last six years, all different measures used by Coalition 2000 (divided broadly into four groups—corruption attitudes, acts, perceptions, and expectations) have shown significant decreases in the registered levels of corruption, and the trend has been confirmed over 2004 relative to 2003.

Administrative pressure on Bulgaria's economic activity decreased moderately in 2004 owing to the implementation of the Limitation of Administrative Regulation and Control over Economic Activity Act (in force since December 2003) and several changes in the Public Procurement Act aimed at making procedures more transparent and efficient. However, the decrease is slow, and the implementation of improved regulation takes time.

The Civil Service Act, which has been in force since 2000, limits the ability of civil servants to engage in private economic activities. For higher levels of government, there is no such legal requirement, and limitations are imposed by the public solely through elections and the media. The degree to which government officials are actually involved in private economic activities is difficult to assess. There have been no major public or media revelations of such illicit involvement, which suggests that these practices remain limited. At the same time, all state bodies are obliged under the Administration Act, the Public Servants Act, and the Public Procurement Act to publicize available administrative positions and procurement contracts and to use concourses for selection. The number of such publications and procedures reflected in the press and on the Internet is constantly increasing, indicating that these provisions are having an impact. Despite these developments, the public seems convinced that selection is based on personal connections, clientele, or business relations rather than merit.

Financial disclosure by Bulgarian officials is conducted via the Public Register within the National Audit Office under the Publicity of Personal Property of High Government Officials in the Republic of Bulgaria Act. The register is available to the public through guaranteed media access. In most cases, public officials submit the required declarations on time, but the practice of nonsubmission by some MPs (who cannot be prosecuted) continues. Since their introduction in 2003, regulatory provisions aimed at limiting conflicts of interest have not been used in legal practice, and it is difficult to assess their relevance and effectiveness.

The Bulgarian state has a limited capacity to effectively prevent, investigate, and prosecute corruption. Deficiencies in the legal system, rather than the lack of political will, are largely to blame. A prime example of this situation is the fact that on two occasions the Bulgarian prosecution started action against journalists (a team from the BBC and a Romanian investigative journalist) who used hidden cameras to tape concrete cases of corruption. In neither of these cases was any action started against the persons under investigation by the journalists. This is a severe step backward in the protection of civil society activists or members of the media who try to expose corruption.

After averaging about 700 per month in 2003, the number of media outlets alleging corruption in Bulgaria rose to around 800 per month for the first 11 months of 2004 (according to Coalition 2000's monthly media monitoring), which suggests that the media do not feel too threatened to report corruption. The problem with many of these stories is that Bulgarian media tend to paint any suspicious occurrence as a proven act of corruption, regardless of the facts and evidence. As a result, they are in fact instrumental in exposing cases of corruption. But such practices may also be nurturing the public perception of the widespread nature of the problem. A prime example of this in 2003–2004 was the highly publicized allegation of a foreign businessperson who accused the ex–prime minister of Bulgaria of asking for and receiving an “election campaign contribution.” After the story dominated the media for more than a month, none of the allegations were substantiated by investigations. This development, however, was not publicized by the media.

Bulgarian public attitudes toward corruption have two levels, according to Coalition 2000. On the one hand, public intolerance for official corruption is growing. On the other hand, many Bulgarians still feel that resorting to acts of corruption is an effective way to solve problems. However, Coalition 2000 continues to report a drop in the readiness of average citizens to engage in corrupt practices.

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Croatia

<i>Capital</i>	Zagreb
<i>Population</i>	4,400,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$10,240
<i>Private sector as % of GDP</i>	60%
<i>Ethnic groups</i>	Croat (90 percent), Serb (5 percent), other [including Bosniak, Hungarian, Slovene, Czech, Roma, Albanian, Montenegrin] (5 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	4.00	4.25	4.25	3.25	3.25	3.25	3.25	3.00
Civil Society	3.50	3.50	3.50	2.75	2.75	3.00	3.00	3.00
Independent Media	4.75	4.75	5.00	3.50	3.50	3.75	3.75	3.75
Governance	4.00	4.00	4.00	3.50	3.50	3.75	3.75	n/a
National Democratic Governance	n/a	3.50						
Local Democratic Governance	n/a	3.75						
Judicial Framework and Independence*	4.75	4.75	4.75	3.75	3.75	4.25	4.50	4.50
Corruption	n/a	n/a	5.25	4.50	4.50	4.75	4.75	4.75
Democracy Score	4.20	4.25	4.46	3.54	3.54	3.79	3.83	3.75

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

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EXECUTIVE SUMMARY

Thirteen years after Croatia split from Yugoslavia and declared independence, the country has not completely recovered from the bloody war which marked its separation. Even now, the consequences of war hang over the country and are apparent, on the one hand, in politics and the judicial system, where collaboration with international legal institutions is still a very sensitive subject, and on the other hand, in the traumatized economy. The regions that suffered most are still financed with significant amounts of budget money and so are war veterans and refugees. Until 2000, under the authoritarian leadership of President Franjo Tudjman, the Croatian Democratic Union (HDZ) was the dominant force in both national and local governance. During his rule accusations of many human-rights violations and extreme nationalist politics slowed the process of transition and blocked Croatia's chances of progressing further toward European integration. Tudjman's leadership, his politics of involvement in the war in the neighboring Bosnia and Herzegovina, as well as his discriminatory steps against the Serbian national minority in Croatia, all led to the international isolation of the country.

By the end of the 1990s, the opposition gained pace, capitalizing on public frustration with the authoritarian regime and promising sweeping changes and prosperity. Tudjman died in December 1999, and the following year the HDZ was ousted in parliamentary and presidential elections. A center-left coalition took power and launched a series of reforms of state structures. Presidential powers were limited through constitutional changes that defined Croatia as a parliamentary democracy in which the head of the state holds a largely ceremonial role. However, the president still co-creates foreign policy with the prime minister and influences domestic affairs. Other changes included abolishing the upper house of Parliament in 2001 and introducing health and defense reforms that are now under way. The pro-reform coalition put Croatia on the fast track to European Union accession during its term in office, but near-constant infighting significantly weakened the government's focus and effectiveness, leaving it unable to adequately tackle pressing domestic issues such as high unemployment, an inefficient judiciary, and corruption. As a consequence, the coalition lost the confidence of the electorate and was defeated in November 2003 general elections. The HDZ regained power under the leadership of Ivo Sanader, who insisted that the

party had broken with its nationalist past. He promoted a new image of a conservative party committed to democracy and the rule of law.

Sanader has managed to convince the international community that his party has truly transformed itself and uprooted its hard-line policies. He has signed agreements with representatives of the national minorities, initiated judicial reform, and extradited to the Hague-based International Criminal Tribunal for the Former Yugoslavia (ICTY) eight suspects accused of war crimes and atrocities during the 1990s conflicts. Sanader also declared that joining the EU and NATO were Croatia's foreign-policy priorities. Croatia passed the first major European test successfully in April 2004 when it received a positive assessment (*avis*) from the European Commission on its readiness to begin EU membership negotiations. Soon the country was granted membership candidacy status and Brussels specified that accession talks could start in 2005 provided Croatia cooperated fully with the ICTY. Sanader's government hoped to finish the negotiations and fulfill all the conditions over a period of two years, enabling Croatia to join the EU in the next enlargement round in 2007, together with Romania and Bulgaria. However, most analysts see 2009 as more realistic.

National Democratic Governance. The European Commission's positive assessment and achievement of EU candidacy status gave the official confirmation that Croatia had built stable, well-functioning democratic institutions which respect the limits of their responsibilities. But Brussels also warned that Zagreb still had big tasks to take care of before joining the Union: more effort on minority rights, refugee return, judicial reform, regional cooperation, combating corruption, and cooperation with the UN war-crimes tribunal. Despite the HDZ's campaign promises to reorganize and downsize the state apparatus, the government machinery still remains extensive. There are fewer ministries—14, down from 19—but little apparent cost savings or increased efficiency. Nor has the freedom of information law passed in 2003 yet become fully functional. These factors contribute to the widespread perception of the administration as unprofessional and irresponsible. *Croatia's rating for national democratic governance is set at 3.50. Although the EU has officially acknowledged Croatia as a country devoted to democracy and human rights, the public sector remains slow and heavily bureaucratized.*

Electoral Process. After almost four years in opposition, the HDZ swept back into power in the November 2003 parliamentary elections, and formed a majority coalition with the backing of the Croatian Pensioners Party (HSU) and representatives of the ethnic minorities who, for the first time, became part of Croatia's political mainstream. Presidential elections scheduled for 2 January 2005 will be the fourth since independence in 1991. Incumbent president Stjepan Mesic was expected to be challenged by a record 13 candi-

dates, but all opinion surveys found that Mesic, who took office in February 2000, still enjoyed the backing of most Croats. His most serious challenger was expected to be Deputy Prime Minister Jadranka Kosor of the HDZ. A novelty of the presidential race was a new campaign finance law that bars donations by public companies or companies in majority state ownership and requires candidates to report the amount and sources of campaign funds to the Election Commission within 15 days of polling day. A leading NGO, GONG, although praising the new regulations, pointed to its many deficiencies, such as its failure to foresee sanctions for irregularities. GONG also recommended making the State Electoral Commission (DIP) a permanent body and extending campaign finance rules to cover all elections, not just presidential. *Croatia's rating for electoral process improves from 3.25 to 3.00 on the strength of the new campaign-financing law. The lack of a permanent election commission remains a weak point in the electoral system.*

Civil Society. There are around 17,000 registered nongovernmental organizations (NGOs) in Croatia. Although this number is quite high, their impact on the decision-making process is still low. For most, financing remains one of the biggest problems. An additional stumbling block is the government's decision to re-introduce the compulsory value added tax on foreign donations for a substantial part of the civil society sector. Humanitarian, religious, and sports organizations remain exempt from this tax. As the Organization for Security and Cooperation in Europe (OSCE) has noted, many NGOs face financial and other difficulties that stem from a lack of clear legal and procedural standards. New regulations designed to ease the functioning of civil society groups are being prepared. *The civil society rating remains 3.00 reflecting the government's decision to impose an additional financial burden on NGOs despite their growing number.*

Independent Media. Freedom of the press is generally respected, but additional legal reforms are needed to safeguard journalists from unjustified prosecution. This is especially important with regard to a 2004 provision of the media legislation which gives the State Attorney's Office the authority to demand that a journalist reveals a source if considered necessary for the protection of the public interest and national security. The Croatian Journalists' Association objected, warning that the law does not clearly define who determines the public interest and that it would be very easy to abuse that ambiguity and to endanger investigative journalism. The association also stated that access to information had deteriorated since the HDZ's return to power. The journalists claimed that officials and state agencies frequently avoid answering their questions in a timely manner and tend to withhold information. They also demanded that libel should be addressed exclusively through civil procedures. However, journalists' vulnerability to libel charges

has been slightly eased by a decision that their criminal responsibility is limited to cases where the libel is found to be intentional. At the end of 2004, the public was stirred by a scandal involving a journalist interrogated for several hours by security agents during an investigation into organized crime. An investigation concluded that agents may have made procedural errors but had not broken the law. The whole affair ended in dismissal of the head of the Counterintelligence Agency (POA). The incident not only revealed inadequacies in the supervision of the secret services, it also reminded many, as pointed out by the Croatian Helsinki Committee, of the 1990s, when “the journalists were the first victims of the degeneration of democracy.” The state remained the largest single owner on the media market and is exempt from anti-monopoly legislation. *The independent media rating remains 3.75. Although several important laws were adopted, overall access to information deteriorated and the state remained the largest media owner.*

Local Democratic Governance. Despite the constitutional obligation to devolve power to local representative bodies, in practice the system of state governance is still centralized. Local governance and self-governance reforms announced several years ago met with frequent delays and had not fully taken effect in 2004. Scarce financial resources continue to hamper local authorities from achieving their constitutionally-mandated authority. At the same time, it is very obvious that some local authorities lack the ability to manage their resources successfully and/or meet the needs of citizens efficiently. During the 2003 parliamentary election campaign, all parties supported the idea of direct election of mayors, but after coming to power, the HDZ scotched the idea, arguing that society was not yet ready for such a major change. There are two levels of subnational government in Croatia. Cities and municipalities comprise the level of local self-government, and counties are the units of regional self-government. Municipal and county elections are held every four years; the next elections will take place in May 2005. *The rating for local democratic governance is set at 3.75. The constitution establishes a framework for local self-government, but in practice the system is still centralized and local authorities remain dependent on financial support from central authorities.*

Judicial Framework and Independence. The state of the judicial system remains the country’s main social problem and the key area where the European Commission has told the government to do more to achieve positive changes and European standards. The court system is faced with a backlog of 1.3 million cases, most dating from the pre-2000 period. The European Commission’s *avis* concluded that citizens’ rights are not being fully protected owing to delays in judicial proceedings. The government initiated

the first concrete efforts aimed at systemic judicial reform. These should be completed by the end of 2007. In order to reduce the number of unresolved cases, the state increased the number of court consultants and gave them additional powers; it also allowed the transfer of cases from overburdened courts to those less burdened. Simultaneously, Croatia's judiciary is preparing to deal with war-crimes cases expected to be transferred from the ICTY as the tribunal begins winding up its mission. These will be cases involving medium- and low-level defendants. Parliament has accepted amendments to the criminal code, the first stage in the Justice Ministry's planned reform of criminal law. The second stage will focus on introducing harsher penalties and extending the statute of limitations. *The rating remains 4.50. Despite the first concrete steps toward systematic judicial reform, the court system is still faced with a sizeable backlog of cases and unreasonably long trials.*

Corruption. Transparency International's Corruption Perception Index suggests that Croatia is making little progress against corruption. The perception of corruption in 2004 was slightly poorer than in the previous year. Croatia shared 67th position on the list of 146 countries. Citizens believe that corruption is widespread in the health system, judiciary, and local government. Mild penalties for engaging in corrupt acts and the prevalent custom of bribing are the most important causes of corruption. The conflict of interest law passed in 2003 established a commission to prevent conflicts of interest. However, in 2004 the commission's role was mostly decorative as its work was blocked by numerous disputes over the nomination of members and their responsibilities. The new HDZ government came into office declaring its commitment to the principle of transparency, but throughout 2004 the government was drawn into several affairs which shook public confidence in its efforts to curb corruption. In the autumn, Foreign Minister Miomir Zuzul was linked to a series of corruption scandals which provoked the opposition to call for his resignation. The Justice Ministry plans to propose a new national anti-corruption program in 2005. *The rating remains 4.75.*

Outlook for 2005. The challenges facing the government in the near term are closely linked to the EU accession process. Accession talks with Brussels were provisionally set for March 2005, but the government has been warned that the European Commission will meticulously scrutinize fulfillment of certain conditions: further judicial reform, return of war refugees, and cooperation with the ICTY. Croatia's steps toward greater European integration in 2005 and its EU membership negotiations will be overseen by a newly elected president. On the local level, elections will be held in spring, decentralization measures should pick up, and a local-government reform is expected to begin.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	3.50						

During 13 years of independence, Croatia has managed to consolidate its democratic governance system, based on a constitutionally-guaranteed separation of legislative, executive, and judicial powers. The pace of transition slowed due to the war in the first half of the 1990s and the ethnic and territorial divisions that accompanied it. The most recent parliamentary elections, held in November 2003, were judged free and fair, and proved the maturity of the political system and the established mechanisms for transferring power. The sluggish legal system and inert state administration, which citizens perceive as unprofessional and irresponsible, continue to be sore points. Setbacks to reforms in the administration and judicial sectors have also affected Croatia's rating on the World Economic Forum's *Global Competitiveness Report 2004–2005*. Ranked alongside 103 other countries, Croatia dropped from the previous year's 53rd position to 61st on the growth competition index and from 62nd to 67th on the business competition index.

The Croatian Democratic Union (HDZ) returned to government in 2003 promising a more efficient and slimmed-down state apparatus. State bureaucracy remains extensive, however. Although the party cut the number of ministries from 19 to 14—as well as founding four new major state offices—neither cost savings nor increased efficiency ensued because the government simultaneously set up many supplementary bodies. Around 70 different committees, commissions, councils, or working groups now help Prime Minister Ivo Sanader and his cabinet with everyday tasks. The civil service is still politicized to a great extent and lacks clear distinctions between political and career posts. Large amounts of budget money are poured into the administration. More than 57,000 people work in the state administration, and according to World Bank data, the costs of the bureaucracy amount to 11.5 percent of GDP. Croatia, thus, spends more resources on the public sector than any other country in the region except Montenegro.

In the foreign-policy arena, 2004 was exceptionally good for Croatia. In April, it received a positive opinion (*avis*) from the European Commission on its readiness to begin full EU accession negotiations. The commissioners stated that Croatia had stable, well-functioning democratic institutions which respect the limits of their responsibilities. Zagreb received indications that it could be able to fulfill all criteria to close negotiations within five years. In June, the EU granted the country official membership candidate

status and in December European leaders specified that accession talks could start in March 2005, provided Zagreb cooperated fully with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague.

Although the tribunal continued to hand down indictments of Croatian war-crimes suspects in 2004, this did not shatter political peace nor, as previously, fuel an atmosphere of insecurity in the country. The shadow of war crimes remained a serious obstacle to Croatia's ambitions to join the European bloc. Eight accused Croatian army officers have voluntarily surrendered to the ICTY, but the case of General Ante Gotovina, one of The Hague's most wanted fugitives, remained unresolved. He is accused of crimes against humanity, murder, and the disappearance of ethnic Serbian civilians during the 1990s war for independence. In her report to the UN Security Council in November 2004, the tribunal's chief prosecutor, Carla del Ponte, urged the international community to keep up the pressure on Croatia to hand over Gotovina. Del Ponte stated that Gotovina had enjoyed and continued to benefit from a well-organized support network, including forces from within the state structures. The government repeatedly claimed it was doing everything possible to find and extradite Gotovina, phrasing its statements in the context of fulfilling the EU's demands.

By gaining candidacy status, Croatia committed itself not only to continuing reform at home, but also to encouraging further positive developments in the region. In November 2004, Prime Minister Sanader made a landmark visit to Serbia, the first Croatian head of government to do so since the disintegration of Yugoslavia. Sanader's visit was interpreted as a strong signal that the two neighboring countries were ready to put the legacy of war behind them. Throughout 2004 Croatia could not manage to solve a maritime border dispute with Slovenia; nevertheless, new EU member Slovenia supported Croatia's EU aspirations.

Candidacy status opened the door to financial aid from three EU funds: the PHARE institution-building program, ISPA for infrastructure support, and the SAPARD rural development program, amounting to 105 million euros (\$136 million) in 2005 and 140 million euros in 2006. By accepting these funds Croatia has the obligation to develop and implement projects intended to speed up refugee return, judicial reform, minority rights, the battle against corruption, and cooperation with the ICTY.

Since the end of the Tudjman era, marked by authoritarian nationalism, the Croatian constitution has been changed to shift power away from the head of state to the legislature. The Croatian Parliament (*Hrvatski sabor*) is a unicameral body constitutionally mandated to supervise the government. Parliamentary sessions are broadcast on national television (HTV), although audience figures are very low, averaging 2.4 percent. Information about the work of the parliament and the government is available on the

Internet and via public-relations departments within the ministries. Nevertheless, media professionals criticize the system as too closed. In October 2003 Croatia adopted an act on the right of access to information, which has not yet become fully functional. The Croatian Journalists' Association has repeatedly warned that access to information has been limited since the HDZ gained power. This was confirmed by a study conducted by a group of 17 respected NGOs as part of a campaign to increase the public's awareness of its right to information. The study found that between September and November 2004, state offices answered less than half of the questions received. The government's public-relations office performed worst. The Croatian Helsinki Committee concluded that those in power still do not understand the importance of adhering to standards of transparency, good communication, and responsibility.

The activities of the intelligence agencies are no longer as controversial as during the 1990s, but security agencies are often still accused of having a hidden agendas and acting in certain politicians' or lobbyists' interests.

A reorganization took place in 2002, when Croatian parliament adopted the new law on security services, following which the Tudjman-era intelligence community was dissolved. The change affected the Croatian Intelligence Service (HIS), Service for the Protection of the Constitutional Order (SZUP), Security Information Services (SIS), and Intelligence Service (OS). The National Security Office (UNS), an umbrella organization that coordinated various intelligence activities, was dissolved. SZUP was replaced with the Counterintelligence Agency (POA), HIS by the Intelligence Agency (OA), SIS and OS by the Military and Security Agency (VSA).

The president and the prime minister have shared authority over the appointment or removal of the head of the secret services. They can be neither appointed nor relieved of their duties without the signatures of both the president and the prime minister. Work of the intelligence community is supervised by the Parliament through its Committee for Internal Policy and National Security and—since 2003—by the Council for Civilian Supervision, and is coordinated by the Council for the National Security.

Despite the reorganization, an effective system of civilian control to guarantee that they function in accordance with the law—key to the establishment of a transparent and democratic state—is not completely in place. The lack of real supervision is also visible in the constant leaks of documents which are then used by politicians to damage rivals. In December 2004, the head of the Counterintelligence Agency (POA) was dismissed amid a scandal provoked by agents who harshly interrogated a journalist. President Mesic entrusted the new head of the POA with forming a team of experts unencumbered by party affiliation or ties with other state services, tasked with comparing domestic and European Union intelligence services as a step toward improving the existing legislation in that sector.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
4.00	4.25	4.25	3.25	3.25	3.25	3.25	3.00

Croatia entered 2004 with a completely new distribution of political power, following the most closely contested election since the country gained independence, when in November 2003 the HDZ swept back to power, trouncing the center-left coalition led by the Social Democratic Party (SDP). The HDZ is inseparably linked with Franjo Tudjman, its longtime leader whose hard-line policies while head of state repelled the West. The party led Croatia to independence, but left it isolated on the international stage during its rule marred by numerous human-rights violations, extremism, and xenophobia.

In the 1990s, the HDZ had used war as an excuse for manipulating the electoral system for its own gain by extensive gerrymandering, media pressure, and a ban on independent observers at polling stations. The party was swept from office in 2000 when the electorate opted for the pro-reform center-left coalition. The coalition promised sweeping improvements and economic prosperity, but the pace of reform was slow and the main partners in government could not agree on how to introduce changes. The HDZ turned out to be the primary beneficiary of the government's crises. New leader Ivo Sanader declared that the party—after almost four years in opposition—had broken with its nationalist past and transformed itself into a modern, traditional conservative party. Sanader presented a strong pro-European agenda and quickly began racking up diplomatic successes abroad. After the 2003 elections, the fifth since the introduction of a multiparty system in 1990, the HDZ held 66 out of 152 parliamentary seats, then gained an outright majority in coalition with representatives of the national minorities and the Croatian Pensioners Party (HSU). By calling on Serbian refugees to return to Croatia and by signing a post-election agreement with minority representatives, Sanader has also managed to assuage international concerns and to convince the international community that his government is committed to democracy, the rule of law, and human rights. Through agreements with the HDZ, minorities have for the first time become part of the political mainstream and have been given the chance to influence the decision-making process.

The 2003 parliamentary elections were again conducted on a proportional system. The electorate voted in 12 constituencies. The country was divided into 10 territorial constituencies; another constituency was created for citizens living abroad and one for the minorities, who chose eight representatives, up from five in the previous elections in 2000. There are 8 minority MPs—in the chart, 3 of them are listed as independent deputies. The change reflected a realignment of the minority composition of Parliament in accordance with constitutional legislation on minority rights. Turnout was 59.6 percent, compared to 70 percent in the 2000 elections. Observers unanimously deemed the elections free

and fair; however, the OSCE observer mission voiced concern over the absence of a permanent, professional electoral commission. These elections took place in a less contentious and charged atmosphere than the previous national vote. Social issues were the focus of the parties' campaigns and there was almost universal support for the main foreign policy goals, primarily the process of joining NATO and the EU.

The 2003 elections had a major impact on the political arena. Radical centrist and rightwing parties such as Croatian True Revival (HIP), Croatian Bloc (HB), and the Croatian Christian Democratic Union (HKDU) were swept from the scene as the 5 percent election threshold proved too high for them. The post-election period was troublesome for the liberal option as well and liberal parties experienced turmoil.

Presidential elections scheduled to be held on 2 January 2005 will be the fourth since independence in 1991. Incumbent president Stjepan Mesic was expected to be challenged by a record 13 candidates, but all opinion surveys found that Mesic, who took office in February 2000, still enjoyed the backing of most Croats. His candidacy was also supported by the center-left opposition parties. His most serious challenger was expected to be Deputy Prime Minister Jadranka Kosor of the HDZ. Croatia's 2000 constitution restricted the president's power, but the head of the state still co-creates foreign policy with the prime minister and influences domestic affairs. Reflecting the country's democratic progress, the OSCE decided not to observe the balloting. Activists from the country's most prominent independent election watchdog, GONG, planned to monitor the voting.

A novelty of the presidential race was a new campaign finance law that bars donations by public companies or companies in majority state ownership and requires candidates to report the amount and sources of campaign funds to the Election Commission within 15 days of polling day. Although most legal experts agreed that the law marked a very positive step, they pointed out its serious deficiencies. GONG warned that the new law did not take into account the threat that donors could misuse NGOs as channels for financing a presidential campaign. There was also criticism that the legislation did not set a cap on donations and that it imposed no sanctions on irregularities in campaign financing.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
3.50	3.50	3.50	2.75	2.75	3.00	3.00	3.00

According to figures from the government's Office for Cooperation with NGOs, there are around 17,000 nongovernmental organizations in Croatia. The exact number of NGOs is between 17,000 and 19,000, but numerous

NGOs, though registered, are not active. However, the impact NGOs have on the decision-making process is still less than this very high figure might suggest. Croatians remain quite apathetic toward the idea of taking action to solve social problems, in the view of the Center for Development of Nonprofit Organizations. The state is also suspicious of the activities of civil society groups.

While in the 1990s, when the civil sector benefited from generous financial backing from abroad, its focus was on humanitarian concerns; today a number of NGOs are working on social and gender issues and environmental problems. Most NGOs are located in urban areas and there is still a large gap between the development of the civil sector in urban and in rural areas. Most government support still goes to NGOs located in the greater Zagreb area and a few other larger cities, with comparatively little making its way to NGOs in rural communities. An example of a well-developed NGO active throughout Croatia is GONG, which promotes voter awareness and monitors elections. Local authorities often do not accept NGOs as partners and have little understanding of their role. Most NGOs rely on volunteers; very few can afford to hire paid staff. NGOs throughout the country point out that government funds go more often to sports clubs and veterans' groups than to organizations working on issues of governance and human rights.

According to Justice Ministry data, since 1999, when the Office for Cooperation with NGOs was founded, the state has spent 105 million kuna (around \$17.5 million) supporting the activities of the civil sector. In 2003, this office set up the National Foundation for the Development of Civil Society to provide technical support and training to NGOs. However, throughout 2004 the foundation was not significantly involved in helping the civil scene except for making recommendations on the distribution to the sector of \$4.5 million in state funds. When EU accession talks get under way, civil society should be able to take advantage of financial help from several EU funds. For the time being, though, financing is one of the sector's biggest problems. An additional stumbling block is the government's decision to re-introduce the compulsory value added tax on foreign donations for a substantial part of the civil society sector, including for groups involved in human and minority rights, gender issues, and democratization. Humanitarian, religious, and sports organizations remain exempt from this tax. A well-organized group of NGOs initiated a petition drive against the decision and began meeting Finance Ministry officials for further discussion of the VAT decision.

As the OSCE has noted, many NGOs face financial and other difficulties that stem from a lack of clear legal and procedural standards. New regulations designed to ease the functioning of civil society groups are being prepared. These include a code of good practice, standards and criteria

for NGO programs and financial support, and a law on volunteer work. Another positive step toward the development of a solid civil society base is the formation of elected national minority councils at local and regional level. The councils are just beginning to form, but they hold the promise of becoming an important voice in the local governance process.

Trade unions are still the largest organized interest groups in Croatia and they exert significant influence on all issues related to economic and social reforms. The most vigorous and active are unions in the public and state sector. Three science and education unions organized a warning strike in schools in 2004, demanding salary hikes and higher state spending on education. Six major union associations comprise a third of Croatia's 1.4-million-strong workforce. However, union membership continues to drop, a sign that the workforce is losing faith in the strength and power of the unions and their leaders. For instance, data from the Labor Ministry shows that the strongest union alliance, the Association of Independent Trade Unions of Croatia (SSSH), lost almost 28 percent of its members between 1999 and 2003.

The education system in Croatia is generally free of political pressure, although in 2004 the governing HDZ came under attack for appointing party members or people close to the party to posts as school principals. The Catholic Church has major influence in society and it often interferes in public matters. In 2003, the government abandoned plans to introduce optional yoga classes for high-school teachers after the church slammed the idea. In 2004, the church opposed a safe-sex program in schools, labeling it as explicitly against Christian moral teaching. "Under the pretext of protecting adolescents against AIDS, they are actually practicing techniques of using condoms and other means of prevention," the Croatian Conference of Bishops fumed in its statement. The program, which was designed to help adolescents learn about AIDS and approved by the Health Ministry, is taught by experts in optional sessions in public high schools.

The teaching of Croatian history deteriorated throughout the education system in the past decade, but the problem is slowly being reversed. The HDZ government pledged to introduce new textbooks on Croatia's recent history for about 3,800 students in Serbian-language elementary and high schools in the Danube region. During the peaceful reintegration of that region (1996–1998) Croatia agreed on a five-year suspension of classroom teaching about the Homeland War, which refers to the violent conflict in Croatia during the breakup of Yugoslavia and the ensuing wars in the region.

The government also promised reforms and modernization of education system. These steps have yet to be fully defined or initiated. According to the last census from 2001, more than 7 percent of Croatian citizens are highly qualified, meaning they have university education.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
4.75	4.75	5.00	3.50	3.50	3.75	3.75	3.75

Freedom of the press is generally respected, but observers say additional legal reforms are needed to safeguard journalists from unjustified prosecution. This is especially important with regard to a 2004 provision of the media legislation which gives the State Attorney's Office the authority to demand that a journalist reveal a source if this is considered necessary for the protection of the public interest and national security. The Croatian Journalists' Association objected, warning that the law does not clearly define who determines the public interest and that it would be very easy to abuse that ambiguity and to endanger investigative journalism. On the other hand, a 2004 revision to the criminal code eased the threat of prosecutions for libel by limiting journalists' criminal responsibility to cases where libel is judged intentional. The law still treats libel in this instance as a criminal offense, however, leading the journalists' association to demand that libel be addressed exclusively through civil procedures. The association also stated that access to information had deteriorated since the HDZ-led government took office in late 2003. This was one problem cited by the press freedom advocacy group Reporters Without Borders. The organization's 2004 Press Freedom Index ranked Croatia 54th of 167 countries surveyed. The Croatian Journalists' Association also charged that government offices and agencies frequently avoid answering questions in a timely manner and tend to withhold information.

At the end of 2004, the public was stirred by a scandal involving a journalist interrogated for several hours by security agents during an investigation into organized crime. An inquiry concluded that agents might have made procedural errors but had not broken the law. The whole affair ended in dismissal of the head of the Counterintelligence Agency (POA). The incident not only revealed inadequacies in the supervision of the secret services, it also reminded many, as pointed out by the Croatian Helsinki Committee, of the 1990s, when "the journalists were the first victims of the degeneration of democracy."

The state remains the largest media owner in Croatia. After several postponements of the tender, privatization of the country's third-largest daily, *Slobodna Dalmacija*, finally got under way in November 2003. The highest tender was submitted by Europapress Holding (EPH), which already publishes several Croatian weeklies and three daily newspapers. The state Agency for the Protection of Market Competition concluded that EPH's takeover of *Slobodna Dalmacija* would not put it over the limit of 40 percent of market share. However, the agency determined that the sale could endanger the distribution market and told EPH it would have to sell its share in the Tisak

wholesale newspaper distributor before buying the daily. The future of the other state-owned and heavily subsidized daily, *Vjesnik*, is still uncertain, although the government has pledged to privatize it. Along with the two daily newspapers, the state owns the HRT national broadcaster, the Hina news agency, and dozens of other media outlets. Such a concentration has been heavily criticized by many media and legal experts, who have warned that the state is completely immune from the laws restricting monopoly. They have also pointed out that many local authorities continue to co-own local electronic and print media and that this poses a potential threat to editorial independence. The OSCE warned that such practices often result in political pressure on local media or refusal by local authorities to cooperate with private media that do not support their policies. Although the law stipulates that media outlets disclose their ownership structure, this is rarely adhered to.

During the Tudjman era, state-run Croatian Radio and Television (HRT) came under heavy pressure by the government and it acted as the HDZ's mouthpiece. Following the change of government in 2000, the public was promised that HRT would be transformed into a modern public broadcaster. However, HRT still has to deal with political pressures and faces difficulties in the process of becoming truly independent. When, for example, a speaker in Parliament criticized HRT's coverage of parliamentary activities, a heated public debate ensued, with media professionals stating that such criticism represented unacceptable political interference in the broadcaster's editorial policy.

In 2004, the new government announced it would draft new legislation, on advice from the OSCE and the Council of Europe, to enhance the role of civil society in the HRT oversight body, the HRT Program Council. During the year the Croatian media scene was enriched by the nationwide launch of a new private television station, RTL, which won the bid to broadcast on the frequency formerly used by the third program of Croatian Television. Croatia has three nationwide television stations, broadcasting on four channels, and a number of local television stations. Despite competition, HTV news still remains the most watched current-affairs program in the country.

Media professionals and leading representatives of civil society argue that Croatia still lacks a self-regulatory system to successfully arbitrate complaints against the media. They propose establishing a media council to help improve media quality and realign the media sector to the European model. As the Council has not yet been established, it is not quite clear who would be responsible for the nomination of the Council members. However, along with journalists, the members of the future Council would also be publishers and representatives of civil society tasked with the promotion of professional and ethical standards. Within the profession, the Croatian Journalists' Union has warned, many media employees still work without legal contracts and basic social security.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	3.75						

The Croatian constitution sets out a framework for democratic local self-government. Citizens exercise their right to self-government through elected local and regional representative bodies. The units of local self-government are the 120 cities and 420 municipalities; counties are the units of regional self-government. Municipalities and cities deal with issues directly affecting citizens' lives, such as land and urban planning and management, child care, social care, primary health care, primary school education, culture, sport, environmental protection, etc. Counties are responsible for issues of regional importance such as education, economic development, transport infrastructure, etc. The national capital, Zagreb, has both city and county status. Although formally substantial government powers have devolved to local authorities, in practice the system is still centralized.

In 2001, the government launched a decentralization program through legal amendments granting local self-government units greater competencies in education, health, and welfare. Despite the complementary transfer of fiscal competencies, local authorities still cannot achieve their full autonomy in these areas due to scarce financial resources. They remain dependent on financial support from central authorities. A special equalization fund was set up to assist local authorities with financing. The fund was set up in 2001 when Amendments to the Financing of Units Local Self-Government and Administration Law were passed. Pursuant to this law, the government passed a decree determining the manner of calculating the amount of equalization grants to be given to cities and counties for decentralized functions. Zagreb is the only city that is practically independent from the state budget and that has enough money for significant capital investments. Many local governments suffer from lack of management capacity, technical expertise, staff, and adequate resource levels.

Broad reform of local and self-government is constantly being postponed. During the 2003 general election campaign, all political parties supported the idea of direct election of mayors as a means to ensure greater accountability of mayors to their voters and not, as under the existing system, to the party that appointed them. However, the victorious HDZ decided not to go through with the plan, maintaining that a model for direct elections best suited to Croatian society still had not been found. However, direct election of local officeholders remains a plank in the government's reform program, which it promised to achieve by 2007. Direct election of mayors was also proposed by the Association of Alliance of Cities and Alliance of Counties, a formal and permanent body, along with the suggestion that the state channel more income-tax monies to local and regional self-government units as they take over decentralized functions. The alliance proposed that municipalities

receive 40 percent of income-tax receipts instead of the current 34 percent, and that bigger cities receive 60 percent of collected income tax.

The U.S. Agency for International Development continued to give financial assistance to Croatian towns and cities through its Local Government Reform Project, which provides training in modern financial and public administration skills and introduces basic public management models that enable local officials to address the increased demands of decentralization.

Local and regional elections are held every four years. The next elections were set for May 2005. The coalition partners from the previous national government—the Social Democratic Party, Croatian People's Party, and Croatian Peasant Party—announced that they would renew their co-operation. The last local elections in 2001 were conducted according to a proportional system and their principal result was an increase in multi-party representation in local and regional administrations. They were also marked by huge voter abstention (turnout was only 35 percent). Increased Serbian representation in local councils, formation of joint Serb-Croat administrations and election of Serbian mayors occurred in parts of central and southern Croatia. The OSCE's observer mission judged the elections fair and stated that they provided a positive example of a maturing and persistent democratization process in Croatia.

Croatia's ethnic minorities are entitled to participate in decision-making processes at the local level through their councils or representatives. A constitutional act enabled the election of National Minority Councils, which were founded in 2003 and consist of 10 elected members in municipalities, 15 in cities, and 25 in counties, depending on the minorities' total population. Individual minority representatives can also be elected when a minority group constitutes at least 100 persons within a self-government unit. Local governments are required to consult the National Minority Council on official acts affecting minority rights.

Voter turnout for the 2003 elections to the councils was very low, at approximately 15 percent of registered ethnic minority voters. Additional and repeat elections were held in 2004 but the turnout was even worse: around 7 percent in cities and 13 percent in municipalities. Out of a possible 432 councils, only 230 were constituted owing to the low level of voter participation. One reason for the low turnout may have been a widespread lack of understanding regarding the role and purpose of the councils. Some sections of the international community and many NGOs criticized the government for not providing adequate support and funding for voter awareness, including information on the purpose of the minority councils. In addition, some analysts attributed the low turnout to the stigma of being labeled a minority. The councils have yet to emerge as a significant voice for minority concerns and as a tool to help minorities participate actively in public life and management of local affairs. The work of the councils so far has focused on the formal issues of establishment and funding.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.75	4.75	4.75	3.75	3.75	4.25	4.50	4.50

The state of the judicial system remains the country's main social problem and the key area where the European Commission has told the government to do more to achieve positive changes and European standards. Reform of the judiciary, together with the return of refugees and full cooperation with the ICTY, is one of the three explicitly listed requirements which Croatia has to fulfill during the process of joining the EU.

The European Commission's *avis* on the country's readiness to begin accession talks concluded that because of delays in judicial proceedings, Croatian citizens' rights were not fully protected. The EC reiterated that Croatia has to simplify court procedures in order to limit their abuse. The court system is slowed by a backlog of 1.3 million cases, most dating from the pre-2000 period. The OSCE's mission to Croatia has cautioned that while backlog reduction is most frequently discussed in technical terms, as an improvement in the "efficiency" of the judiciary, it is in fact legally necessary in order to comply with the requirement that courts must decide cases within a reasonable amount of time.

The Constitutional Court has increased its role as an effective domestic overseer of delayed judicial proceedings. According to the OSCE, between January and October 2004, the Constitutional Court issued 165 judgments finding unreasonable delays in local courts and the Supreme Court, and ordered the state to pay more than \$250,000 in damages. This constituted nearly four times the number of such judgments issued by the court in 2003.

Aiming to reduce the number of unresolved court cases, in 2004 the state increased the number of court consultants and gave them additional powers, as well as allowing the transfer of cases from overburdened courts to those less burdened. The state will receive financial support from the EU through the CARDS program for the task of judicial reform, which the government intends to complete by the end of 2007. The judicial reform plan also includes the establishment of a free legal-aid scheme in civil cases. This was planned to be implemented at the beginning of 2005.

The European Commission designated improved cooperation with the ombudsman's office as a short-term priority for legal reform. The office was introduced in 1992 as the only place where citizens could seek free legal advice. According to the Ombudsman's 2003 annual report, most complaints were related to social welfare entitlements and property rights and a significant number had been submitted during field visits outside the capital. Croatia also established two specialized ombudsman institutions in 2003: the Ombudsman for Children and the Ombudsman for Gender Equality.

Simultaneously, Croatia's judiciary has continued preparations for dealing with cases the ICTY intends to transfer to its jurisdiction in accordance with the tribunal's completion strategy. These will be cases involving medium- and low-level defendants. The ICTY Prosecution Office indicated in September 2004 that the first indictment it would refer to Croatia would be that against retired Croatian army generals Rahim Ademi and Mirko Norac. Ademi and Norac stand accused of the killings of several dozen Serbian civilians during the 1993 "Medak Pocket" army operation. In a domestic proceeding, Norac has already been convicted and sentenced to 12 years in prison for war crimes committed in the Gospic area in 1991.

The Justice Ministry and officials from the Hague tribunal have begun preliminary training sessions in anticipation of transfer of cases from the ICTY. The participants were judges and prosecutors mainly from Zagreb, Osijek, Rijeka, and Split, where special war-crimes courtrooms have been prepared. However, some international organizations have voiced concern over the domestic judiciary's capacity to adequately address cases transferred from The Hague. In December 2004, Human Rights Watch gave its assessment that war-crimes trials in Croatia were ethnically biased basing its argument on the finding that the number of indictments against Serbs was proportionally much higher than the number of indictments against Croats. Ethnic Serbs have been convicted where the evidence did not support the charges, the organization concluded. The OSCE mission to Croatia mentioned that "the origin of defendants and, possibly even more importantly, that of victims continued to affect war-crime proceedings." The OSCE's statistical overview recorded that in 2004, as in previous years, Serbs still constituted the vast majority of war-crimes suspects at all stages of the criminal process. There were some improvements regarding war-crimes trials. In the first months of 2004, the Supreme Court reversed 15 of 23 war-crime verdicts or remanded the cases for re-trial. One of these is the so-called Lora case, in which eight men were accused of war crimes against Serbian civilians at Split's Lora military prison in 1993. Numerous irregularities and threats against prosecution witnesses had marred the original trial.

The return of ethnic Serbs who fled Croatia during the conflicts of the early and mid-1990s also needs to be addressed. Concerns remain about solving the housing problems of Serbs who lived in publicly-owned flats with occupancy or tenancy rights before they fled the country. It is estimated that up to 30,000 refugee households are affected by wartime terminations of occupancy/tenancy rights, and the government housing program for this group has gone largely unimplemented. Other refugee-related housing issues are being dealt with more forcefully. The repossession of property could be completed in 2005. This issue refers to private property belonging to Croatian Serbs and allocated for temporary use, mostly to Bosnian Croats, under the 1995 Law on Temporary Take-over and Administration of Specified Property. Approximately 1,400 such cases still remain and their resolution is linked to the physical provision of

alternative housing for the temporary occupants. There are still cases of illegally occupied residential properties, but their number is low (a few dozen). Illegal occupants are those whose private houses have meanwhile been reconstructed by the State and who should therefore leave the property, as well as those who did not leave despite being ordered to do so or who received alternative housing from the Ministry but still refuse to vacate the property.

In 2004, Parliament accepted amendments to the criminal code to introduce new crimes such as international terrorism. Any form of discrimination, including that based on sexual orientation, and the dissemination of racist or xenophobic speech by computer or otherwise, also qualify as crimes. Under the bill, libel no longer qualifies as a crime, except when the existence of intent is proven; crimes against humanity carry a prison sentence of at least five years, and from one to eight years in cases of command responsibility for such crimes. The Justice Ministry announced that these amendments represented the first stage in rewriting the criminal legislation. The second stage will focus on introducing harsher penalties and extending the statute of limitations.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	5.25	4.50	4.50	4.75	4.75	4.75

Transparency International's Corruption Perception Index suggests that Croatia is making little progress against corruption. The perception of corruption in 2004 was slightly poorer than in the previous year. Croatia shared 67th position on the list of 146 countries. These subjective rankings put the country in much the same position as in 2003 and 2002. Transparency International's Croatian branch (TIH) blamed the continued poor showing partly on a lack of convincing devotion to the anti-corruption reforms and the problem of implementing the laws against corruption.

In another 2003 survey, TIH found that almost 86 percent of Croatians believed corruption was widespread, especially in the health system, judiciary, and local government. Poor legislation, lack of sufficiently harsh punishments, and the prevalent custom of bribing were seen as the most important causes of corruption. Assessing corruption at the national level, almost 55 percent of respondents said that ministers and their deputies were inclined to corruption. A large majority of those questioned, 92 percent, thought that state officials should file property declarations annually, or as a minimum at the beginning and end of their term in office. Respondents also mentioned that public access to information on the organization and workings of public institutions and enterprises would prove to be a successful instrument in the fight against corruption. In order to encourage the public to bring suspected corruption cases to court, TIH plans to launch an anti-corruption

legal counseling center financed with European Commission funds. TIH also suggested that corruption in public administration could be reduced by introducing a well-organized system of awards for employees designed to boost professional ethics. In 2005, the Justice Ministry planned to reveal a new national corruption-prevention initiative. The ministry also proposed changes to strengthen the Office for the Prevention of Corruption and Organized Crime (USKOK). The changes were proposed in 2004 but they were not actually carried out. It was only announced that the administrative and operational capacity of the USKOK would be strengthened.

The Law on Conflict of Interest passed in 2003 established a commission to monitor and prevent the problem. However, the body's role has so far been largely decorative as numerous disputes over the nomination of members and their responsibilities have blocked its work. The commission is empowered to decide whether officials have violated the conflict-of-interest rules or used their authority for illegal benefit. It has the power to issue a warning or demand a salary deduction for violations of the law.

The new HDZ government came into office declaring its commitment to the principle of transparency, but throughout 2004 the government was drawn into several affairs which shook public confidence in its efforts to curb corruption. The media uncovered several instances where court apprentices (people training to become judges) were hired based on connections within the party and not on merit. The affair implicated the role of the Justice Minister, who herself denied any wrongdoing. In the autumn, Foreign Minister Miomir Zuzul was linked to a series of corruption scandals, provoking the opposition parties to call for his resignation. According to a media report, Zuzul allegedly took a bribe in return for securing the government's intervention on behalf of a local company in a privatization deal. Zuzul had been involved in other allegations since taking office in December 2003. The press has accused him of not paying tax on income from leased property and also claimed he arranged a lucrative deal with the U.S. firm Bechtel to build a stretch of motorway without a public tender. The government backed out of the deal on pressure from the opposition and the media and a warning from the European Commission. Prime Minister Sanader finally announced the government would invite tenders "in order to refute all suspicion of petty politics." The opposition parties claimed the scandals had damaged Zuzul's reputation and credibility to such a degree that he should resign, especially considering that he is supposed to represent Croatia in accession negotiations with the EU.

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Czech Republic

<i>Capital</i>	Prague
<i>Population</i>	10,200,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$15,780
<i>Private sector as % of GDP</i>	80%
<i>Ethnic groups</i>	Czech (81 percent), Moravian (13 percent), Slovak (3 percent), other (4 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	1.25	1.25	1.75	1.75	2.00	2.00	2.00	2.00
Civil Society	1.50	1.50	1.50	1.50	1.75	1.50	1.50	1.50
Independent Media	1.25	1.25	1.75	2.00	2.50	2.25	2.25	2.00
Governance	2.00	2.00	2.00	2.00	2.25	2.25	2.25	n/a
National Democratic Governance	n/a	2.50						
Local Democratic Governance	n/a	2.00						
Judicial Framework and Independence*	1.50	1.50	2.25	2.50	2.50	2.50	2.50	2.50
Corruption	n/a	n/a	3.25	3.75	3.75	3.50	3.50	3.50
Democracy Score	1.50	1.50	2.08	2.25	2.46	2.33	2.33	2.29

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

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EXECUTIVE SUMMARY

The fifteenth anniversary of the fall of the Berlin Wall and the Velvet Revolution prompted a good deal of reflection in 2004 on the current state of the country's development. Much progress has been made since 1989, with the Czech Republic's entry into the European Union (EU) in May capping off an impressive push to adopt the corresponding legislation in time and improve existing deficiencies. Living standards are comparatively high, especially for a former Soviet bloc country, and economic prosperity continues to spread. The political system is stable and secure, fundamental freedoms guaranteed, and the media varied and largely independent. That said, the country and its leaders often appear to be plodding along without any grand strategy to advance the Czech Republic to the next stage of development. Too many reforms remain unfinished in key areas, such as the fight against corruption, the pension and health care systems, the transfer of authority to regional administrations, the speed of the judicial system, and integration of the Roma minority.

Unfortunately, the major events of 2004 indicated that the political elite is short on personalities and an overall vision necessary to transform the Czech Republic into a thriving democracy in practice, not just on paper. Faced with dissent within his fragmented Social Democratic Party (CSSD) and the CSSD's massive defeat in the country's first elections to the European Parliament, Prime Minister Vladimir Spidla resigned, triggering the fall of the government. His successor, the popular Stanislav Gross, successfully formed the same fragile coalition as had Spidla, with only a few new faces, but he did not deliver on expectations that he would revive his party's fortunes. The CSSD's worst loss ever in the fall Senate elections was another blow to the coalition, lessening the chances of serious reform in the near future. Low turnout in these elections and those for the regional administrations demonstrated the widespread apathy and lack of civic engagement that continues to plague the country.

National Democratic Governance. The governing coalition survived a midyear shake-up and, for a short time, appeared to be gaining momentum with the young, pragmatic Gross at the helm, having quelled rebels within the CSSD. However, Gross's judgment quickly came into question over matters as wide-ranging as personnel decisions, police matters, and economic

policy—which, when combined with the fragility of his coalition, made it difficult for the government to overcome the system’s main shortcomings: a lack of transparency and effective regulation, a minimal amount of input from civil society, a contentious political atmosphere, and a slow-operating public administration. *The country does often resemble a fully functioning democracy—stable and secure, with many checks and balances in place—but it is short on leadership that will force the changes necessary to improve efficiency and accountability. As a result, the national democratic governance rating is set at 2.50—a promising figure, but still mediocre for a consolidated democracy.*

Electoral Process. It was a disappointing year for civic engagement as low voter turnout tarnished all three of the Czech Republic’s elections. Only 28 percent of the electorate took part in the country’s first elections to the European Parliament, which dealt the final blow to Prime Minister Vladimir Spidla’s leadership of the CSSD and the government. Already under fire from rebels within his party, Spidla resigned, prompting the collapse of the government. However, the shaky coalition held together with a few, mostly cosmetic, changes. The CSSD was again thrashed in fall elections to the Senate (18 percent turnout) and regional governments (around 30 percent). *With little to no progress in political party development and the inclusion of the Roma minority, the country’s rating for electoral process remains unchanged at 2.00.*

Civil Society. The reputation of nongovernmental organizations (NGOs) has continued to grow, with roughly half the population characterizing NGOs as influential in helping to solve society’s problems. Volunteerism and donations are both on the upswing. On the other hand, many politicians consider the more advocacy-oriented organizations, especially those that attempt to influence public policy, as unnecessarily interfering in and complicating their work. Many officials would prefer that NGOs operate strictly as service providers. The legal environment, already unaccommodating for NGO fundraising through taxpayer incentives, worsened with the passage of a new Law on Value-Added Tax. While extremist groups kept a low profile in 2004, there was a growing willingness on the part of leading Social Democrats to cooperate with the Communist Party (KSCM), still an outcast on the political scene. The official CSSD party line, however, remains unchanged: No coalition with the Communists is possible. *The rating for civil society remains the same at 1.50.*

Independent Media. Czech media are independent and diverse, but critics continue to speculate over behind-the-scenes political and financial interference. Public television remains especially vulnerable since the year saw little development in its precarious financial situation. Still, its news programs

showed improvement in terms of political balance and overall quality, and commercial stations also continued to demonstrate more independence than several years ago. Appearing to slow, if not stop, its slide toward infotainment, the daily press practices a decent, if unremarkable, level of journalism—though it is short on quality investigative stories and analytical pieces. Unknown assailants attacked the editor in chief of the country's top investigative paper, but threats and assaults remain rare. *Overall, relative improvements in quality and editorial independence justify a slight increase in the rating for independent media from 2.25 to 2.00.*

Local Democratic Governance. Over the past few years, the system of local government has improved considerably, especially at the regional level. The regions have made considerable progress tackling problems in fields that are neglected by the central government, including education and health care. General awareness of the new regional powers has risen, even though voter turnout remains low. However, the flow of funds from the center has failed to keep pace with the addition of newly added responsibilities, leaving local administrations short on cash and frustrated over the low percentage of their budgets that they actually control. *With a solid system of local democratic governance enshrined in law and starting to prove its worth, but needing improvements in securing resources and capacity that would enable local authorities to fulfill their duties, the local democratic governance rating is set at 2.00.*

Judicial Framework and Independence. The Czech Republic's accession to the EU has sparked the beginning of a revolution in the judicial sphere. While the new linkage of the judicial system to European law will likely improve the quality and independence of the judiciary, EU membership does not automatically bring judicial reform, which is left up to member states. In that regard, the country still has serious work to do in speeding up court cases; passing legislation to prevent police abuse, combat discrimination, and safeguard property rights; and guaranteeing judicial independence. *Since the implications of EU accession have yet to be widely felt and judicial reform has not progressed significantly, the country's ranking for judicial framework remains at 2.50.*

Corruption. The level of corruption in the lives of ordinary citizens is slowly being reduced, but much of Czech society believes that graft is still widespread in the upper echelons of power, on both national and local levels of the public administration. Despite shortcomings in the regulation of conflicts of interest, the government has still not enacted more effective legislation. The same is true in the area of public contracts, which are still seriously lacking in transparency. In the most high-profile case of the year, a coalition deputy announced that people connected with the opposition, including a lobbyist,

had tried to bribe him to vote against the government. *As a result of government inaction, the Czech Republic's corruption rating stays the same at 3.50.*

Outlook for 2005. European Parliament elections clarified just how deep the gulf has become between the ruling parties and the opposition over further European integration, with the Civic Democrats (ODS) and the KSCM skeptical about the European project in general and antagonistic to the European Constitution in particular. The triumph of the anti-Constitution viewpoint, also backed by President Vaclav Klaus, will receive increasing attention in the upcoming debate over the document's acceptance, and could determine the course of Czech politics for years to come, as well as the country's position in Europe.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.50						

The institutions of governance in the Czech Republic are stable and democratic. No single party dominates the political scene, and regular rotations of power occur on the national and local levels. Political parties generally agree on the nature and direction of democratic change, with one major exception—the largely unreformed Communist Party (KSCM), which has never served in a post-1989 government. The party continues to attract those nostalgic for the old regime (support hovers around 20 percent) and to frighten away those who worry that the KSCM will one day sit in power and backtrack on reforms. The refusal of other parties to work with the KSCM has greatly complicated the process of forming stable coalitions, since the party's 41 seats in the lower house are essentially off-limits for negotiation.

While other parties may agree on the general direction of the country's development, they clash sharply on many of the details and still show a remarkable tendency to avoid compromise, preferring inflammatory attacks that keep the general political discourse at a comparatively low level. Vladimír Špidla, prime minister and chairman of the Social Democratic Party (CSSD) until he resigned from both positions in June, had succeeded in bringing a fresh attitude of modesty and decency to the prime minister's job. Since the country's independence, that position had been held almost exclusively by charismatic personalities prone to arrogance and harsh attacks on the opposition and the media. Špidla, on the other hand,

managed to maintain a statesmanlike air and create a more constructive atmosphere within the Parliament. His replacement, Stanislav Gross, has long been popular with the public, but his moral scruples and judgment have come under intense scrutiny since he assumed power. Gross faced a torrent of criticism for standing by his chief of staff, Pavel Pribyl, after the press uncovered evidence that Pribyl had led police troops ordered to contain anti-Communist demonstrators in January 1989. Although Pribyl ended up resigning, the case prompted the media to look into the questionable, pre-1989 backgrounds of other members of Gross's administration and circle of friends.

Gross was also roundly criticized for failing to rein in spending, as his government included billions of crowns for various interest groups in the 2005 budget—just in time for the fall elections. These allocations appear to be unstructured and impulsive handouts, adding to the impression that the government's economic policy continues to rely on short-term solutions instead of implementing real reform in the health care sector, pension system, and other areas. That approach has caused the deficit to balloon in the past few years, though the government has finally implemented some sharp cutbacks.

The intersection of political and economic interests remains a subject of much speculation, owing in part to the lack of transparency in major business deals involving the state. While the country's highest control body, the Supreme Audit Office, has uncovered massive irregularities and overspending on various government contracts, politicians generally ignore its findings, calling the agency incompetent and toothless. Current law does not even allow the Supreme Audit Office to impose sanctions, reports the independent weekly *Respekt*.

While a Law on Freedom of Information is in effect that might shed light on government practices, journalists do not often invoke their rights and officials continue to be overly secretive. In September, the legislative council of the government for the second time sent back to the National Security Service a proposed Law on Secret Information and Security Clearances. The Coalition for Restricting Information Within Democratic Limits, a nongovernmental organization (NGO), had criticized the proposal for its vague demarcations of secret information, the new powers given to the security services to acquire personal data from various public administration systems, and the unreasonably privileged role given to secret information from NATO and the European Union (EU), according to a report by Transparency International—Czech Republic.

Also problematic is the government's failure to pass effective conflict-of-interest legislation or any regulation of lobbying of the executive and Parliament. The general population still tends to believe that politicians benefit financially from their positions and use their influence in illicit ways. According to opinion poll research conducted in the fall, only 25 percent of

respondents said they trusted the Chamber of Deputies (the country's lower house), while the figure was even more dismal for the Senate (20 percent), reports the news daily *Mlada Fronta Dnes*.

Critics also point to the continued practice exercised by political parties of nominating individuals to serve throughout the public administration, even at lower levels, and on the supervisory boards of companies partially owned by the state. This custom has increased both instability and clientelism, while interfering in the maturation of the civil service, already hampered by low wages, a poor reputation, and a corresponding turnover in qualified experts, according to the UN's *Human Development Report*. The Law on Civil Service, which will enter into force in 2005, should accelerate the gradual improvement now under way. In general, however, watchdogs such as the Czech branch of Transparency International agree that the public administration must be modernized and professionalized more rapidly and that financial controls need to be strengthened. Negative findings from those controls must then lead to concrete change.

While the legislature is independent from the executive branch, critics charge that such autonomy has not prevented the Parliament from passing an excessive number of poorly prepared laws. There is a chronic lack of skilled experts to assist in writing and editing legislation, as well as poor communication and insufficient cooperation among ministries and other bodies of the public administration. As a result, the Parliament sometimes hurriedly passes error-filled laws, which then require revision. For example, the 1991 Law on Commercial Activity has been amended 61 times, and the Law on Tax Income, adopted in 1992, has been amended 55 times, notes a report by the CESES Institute at Charles University.

It doesn't help matters that the executive and the legislature rarely consult civil society for input on proposed legislation. This points in part to the lack of independent public policy actors but also reflects the inability of most politicians to consider civil society a potentially important contributor to policy discussions. Legislators are still much more likely to meet with lobbyists behind closed doors than attend NGO-organized events with ordinary citizens debating key issues. Since various forms of "direct democracy" (plebiscites, petition drives, demonstrations, and so forth) are also underdeveloped and underused, public pressure remains minimal. Thus, policy making is still almost exclusively the domain of government officials, with little outside input.

While the legislature and the judiciary are generally thought to exercise sufficient supervision with respect to the military and security services, a scandal involving the widespread use of wiretaps called into question some of the safeguards over the police. The police's own data indicate that at least 10,000 phones were tapped by the end of 2004; this rate, which represents more than a threefold increase over the 1999 figures, is reportedly one

of the highest in Europe. Opposition politicians have long complained of wiretapping, although they have not furnished actual proof. One newspaper also reported that even the president, Vaclav Klaus, had unknowingly been recorded when he spoke with a businessman friend whose phone was bugged. Judges must approve each wiretap, but they rarely deny requests and their decisions are not closely monitored. There have been calls to establish a parliamentary committee to provide oversight, but others charge that this approach could violate the judiciary's independence.

Some analysts believe that the Constitution creates an overlapping of executive power between the government and the president. Actual confrontations related to this "overlap" depend largely on the personality of the president, since the position is chiefly ceremonial yet retains some important powers. For example, the president selects an individual to form a government and nominates members of the Czech National Bank governing board and justices of the Constitutional Court.

While President Klaus, an often divisive fixture on the Czech political scene since the revolution, surprised many observers by standing above the fray at the beginning of his tenure, that impression has changed in recent times. In key areas such as foreign policy, Klaus has attempted to expand his real influence on the policy-making process—surpassing any steps taken by his predecessor, Vaclav Havel. Despite the government's criticism of his activities, he has espoused his well-known Euro-skepticism at various international forums, clashing with the official government line on issues such as the European Constitution and the introduction of the euro. And in November 2004, in an undisguised attack on the independence of the judiciary, Klaus condemned the Supreme Administrative Court's decision to abolish the Senate election results in one Prague district on the grounds that campaign violations had occurred. A candidate of the Civic Democratic Party (ODS), which Klaus founded and chaired for years, had allegedly won the disputed election. Such meddling has sparked concerns that the ODS's expected win in the next parliamentary elections, plus its current dominance in the regions and Senate, could upset the constitutional balance of powers in the Czech Republic.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
1.25	1.25	1.75	1.75	2.00	2.00	2.00	2.00

The Czech Republic is far beyond the fundamental electoral challenges faced by other parts of Eastern Europe and the former Soviet Union. No one doubts the fairness of the electoral process, and reports never surface of intimidation, fraud, or any other type of manipulation on the part of the authorities. Political organizations have no problems either registering or campaigning.

While a shaky coalition government has been in power for the last few years, the system itself is solidly multiparty, with a strong opposition and diversity at all levels of government.

The Czech Republic uses a parliamentary system with two houses. Real political power resides in the Chamber of Deputies, the 200-seat lower house, to which deputies are elected by proportional vote on party ballots. The 81-seat Senate is elected on the basis of single-mandate districts. Though serving as a check on the Chamber of Deputies, the upper house is the weaker of the two parliamentary bodies and continues to suffer low regard among the general public and some political parties. The Senate can return approved bills to the lower house, but the Chamber of Deputies can override the Senate by a simple majority. In a joint session, both houses elect the president for a five-year term by a simple majority.

In 2004, the Czech Republic did not conduct parliamentary elections, but the year did see the fall of the government. In 2002, Vladimir Spidla, leader of the left-wing CSSD, formed a weak coalition with the centrist Christian Democrats (KDU-CSL) and the small right-of-center Freedom Party (US-DEU). The coalition had only a one-vote majority in the Chamber of Deputies. Throughout 2003 and early 2004, that majority became more difficult to hold together owing to dissenting voices among the CSSD's coalition partners and rebels within the CSSD itself. Supported by former prime minister Milos Zeman, the rebel members openly criticized Spidla's leadership and accused him of compromising the party's left-wing ideals.

The final blow for Spidla was his party's crushing defeat in the June 12 elections to the European Parliament, the country's first such elections following its accession to the EU in May 2004. CSSD came in fifth with only 8.8 percent of the vote, down from the 30 percent the party had garnered in the 2002 parliamentary elections. On the other hand, the two main opposition parties fared very well, with 30 percent for the ODS and 20.3 percent for the KSCM. Two newly formed groups also acquired mandates: the Association of Independent Candidates–European Democrats (SNK-ED; 11 percent) and the Independents (8.2 percent).

While the European Parliament elections served as a midterm review for the coalition, the poll also spelled out just how deep the gulf has become between the ruling parties and the opposition over further European integration, with the ODS and the KSCM skeptical about the European project in general and antagonistic to the European Constitution in particular. The triumph of the anti-Constitution viewpoint, which will receive increasing attention in the upcoming debate over the document's acceptance, could determine the course of Czech politics for years to come, as well as the country's position in Europe.

Spidla had more immediate worries. At a June 26 meeting of the CSSD's central committee, 103 out of 169 members raised their hands against him,

leading him to resign. According to the Czech Constitution, the resignation of the prime minister automatically ends the government's mandate. President Vaclav Klaus then entrusted Stanislav Gross, the interior minister, with forming the next government. Although only 34 years old, Gross is a veteran of the Czech political scene, having risen up through CSSD ranks from the age of 19 to become known as one of the country's most skilled backroom dealers.

After several weeks of deliberation, Gross emerged with a new government that looked very much like the previous one. The old and new cabinets comprised the same parties, with only four members of Spidla's team not brought back to serve with Gross. Spidla left the domestic political scene to take a post as the country's next EU commissioner.

While Gross momentarily succeeded in quelling the dissent within his own party and launched a massive PR campaign, his efforts came to naught when the CSSD was beaten soundly in the fall elections to the Senate and regional administration. The ODS won 18 Senate seats and the CSSD none. Gross responded to the results—the worst ever for the CSSD—by saying that the low turnout (only 18 percent) should call into question the continued existence of the Senate, a comment labeled sour grapes by the other parties. The election thrashing left most political commentators doubting that the CSSD would have the strength or courage to tackle any of the country's most severe problems, such as health care and pension reform.

The electorate's indifference during these and other elections—around 30 percent voted in the regional polls and 28 percent in the elections for the European Parliament—continues to be a troubling phenomenon. (It remains unclear whether the low participation in various elections in 2004 was less a continuation of a long-term trend and more a reflection of the populace's dislike of the Senate and ignorance of the European Parliament.) Apathy has certainly played a key role in the stunted development of direct or participatory forms of democracy—such as petitions, demonstrations, and referendum drives, notes the UN's *Human Development Report*. Use of these tactics has increased in the past few years with some success, yet the starting point was low—a legacy of the 1990s. During that era, the political elite, led by then prime minister Vaclav Klaus, viewed these alternative methods of public involvement in political life as illegitimate and the machinations of interest groups. That attitude remains to this day among some government representatives, and President Klaus, unsurprisingly, has not become the booster for civic involvement that former president Vaclav Havel once was.

Current legislation on communal referendums has also been a major impediment to increasing public engagement in the political life of the country. According to the law, a referendum is valid only if at least 50 percent of the electorate participates. As a result, a highly charged vote on moving

the train station in the city of Brno—at a cost of billions of crowns—was declared invalid after a scant 25 percent of the population showed up at the polls (and voted overwhelmingly against moving the station). Even seemingly important issues in smaller towns and villages—such as closing a nursery school or founding a hospice—have attracted minuscule turnouts. Examples such as these have discouraged local activists and politicians who believed that issues closer to home would reverse voter apathy, reports the newsweekly *Tyden*.

The continued low membership in political parties does not help the situation. The largest party by far remains the KSCM, with around 95,000 members, followed by the ODS (23,138), the CSSD (16,381), and the US-DEU (1,535), from data provided by the parties. Several new parties formed in time to compete in elections to the European Parliament, but these also have very small membership bases. The low figures persist despite generous state funding—parties must receive only 1.5 percent of the vote (well under the 5 percent threshold for seats in the Parliament) to qualify.

The parties' low membership base has clear repercussions for the political elite; with relatively few members to choose from for prominent party and government positions, the parties often recycle the same personalities, leading to a feeling among the public and media that talented new faces rarely surface. A key example is Prime Minister Gross's current cabinet, which features only a handful of neophytes. Parties also often reward loyalty rather than expertise, handing out ministries to individuals whose only qualification is their long service to the party. Add to these deficiencies the continued existence of poor management and insufficient democracy within parties, mediocre policy teams, and—still too often—the arrogance of power, and it becomes clear why many analysts believe the current political class does not possess the capacity to push the country forward at a dynamic pace. There are serious doubts that the almost certain triumph of the ODS in the next parliamentary elections will change much. Leading members of the elite are unable to seek, let alone achieve, consensus on issues of national interest and major reforms.

In addition to these problems, the country's largest minority, the Roma, are effectively shut out of participation in national politics. Although the number of Roma is estimated at 200,000 to 250,000, there are currently no Roma parliamentarians. Prospective Roma politicians find themselves caught in a catch-22 situation: Mainstream parties believe that Roma candidates on their candidate lists may do them more harm than good among average voters, while Czech Roma are not organized politically to a point where the parties would compete actively for their votes. There are, however, a handful of Roma who are active on the local level.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
1.50	1.50	1.50	1.50	1.75	1.50	1.50	1.50

The reputation of nonprofit organizations has continued to grow, now fully recovered from several scandals that tarnished the sector in its early years of post-Communist existence. Most Czechs now see NGOs as not only legitimate but valuable instruments for creating and preserving social cohesion. Roughly half the population characterizes NGOs as influential organizations that help solve social problems and are essential to a well-functioning democracy. Hand in hand with this growing respect has been an increase in donations from both companies and individuals. In a wide-ranging survey on civil society issues conducted by the STEM polling agency in April 2004 and reported on the NROS Web site, 47 percent of respondents said that they had made a donation to a nonprofit organization, up 4 percent from 2000.

Volunteerism has grown dramatically since 2000, with twice as many people (32 percent) now saying that they had performed unpaid work for an NGO. Yet the population as a whole continues to think of volunteerism as a way to make up for the state's deficiencies rather than as a vital part of civil society that enriches normal life—a legacy of 50 years of dependency on the state and its services under the Communist regime. Two thirds of those questioned in the STEM survey believed that there would be no need for volunteerism if the state fulfilled all its responsibilities. Three quarters thought that, in contrast with the state, people who volunteer do not actually have the power to solve society's problems.

Four kinds of NGOs exist in the Czech Republic: civic associations, public benefit organizations, foundations, and foundation funds. The most common form by far is the civic association—a legal entity comprising groups of people in pursuit of a common interest. By September 2004, the Ministry of the Interior had registered 52,687 civic associations, ranging from political think tanks to hobby groups and sports clubs. The total number of foundations was 360. According to the Czech Statistical Office, there were 4,940 church charities, 889 foundation funds (similar to foundations but not operating any of their funded assets), and 1,001 public benefit organizations (entities that provide general services to all recipients under the same conditions).

The relationship of the political elite to the nonprofit sector is varied. Through grants, the state provides extensive financial support to NGOs, with policies toward the sector coordinated through the Council for NGOs. NGOs themselves have the ability to influence decision making in the council and through various advisory bodies at ministries. In the country's most recent UN *Human Development Report*, Pavol Fric, one of the country's leading experts on the nonprofit sector, described the relationship between

the public administration and NGOs as mainly positive, even though most NGOs still feel more like supplicants than true partners.

On the other hand, many politicians consider more active organizations, especially those that attempt to influence public policy, as unnecessarily interfering in and complicating their work. The political elite is particularly wary of what it considers more “aggressive” forms of action, such as demonstrations and petition drives, and is quick to label the initiators as politically motivated even though they usually are not. Many officials would prefer that NGOs serve strictly as service providers, filling in where the state cannot or will not, according to the UN report. This attitude may help explain the remarkably small number of truly independent public policy organizations or think tanks in the Czech Republic.

The legal environment—already unaccommodating for NGO fund-raising through taxpayer incentives—worsened in 2004. In connection with the country’s entrance into the EU, the Parliament passed a new Law on Value-Added Tax that lowered to 1 million crowns (US\$43,000) the limit above which organizations must pay a value-added tax. For NGOs that make money through their own activities, the change is significant, since no distinction is made between for-profit and nonprofit organizations. In addition, several foundations that make up the Donors Forum coalition have been unsuccessful in their long-running attempts to force a change in tax laws that would allow individuals to give 1 percent of declared taxes to socially beneficial projects. These legal deficiencies appear to be the result of the state’s insensitivity to the plight of NGOs rather than a concerted effort to put financial pressure on their activities and limit their impact. Local donations, on the part of individuals and companies, are now increasingly critical as foreign funding has become more difficult to obtain since the Czech Republic’s “graduation” into the EU.

A decline in international funding—already a problem, especially at the local level—may make some NGOs even more dependent on the government for financial support. Following administrative reform, municipalities and regional governments have more responsibilities but remain short of cash. With no formal rules for working with NGOs and less transparency than on the national level, the process of handing out these limited funds is more vulnerable to cronyism and connections, according to the UN’s *Human Development Report*. While at the national level NGOs usually keep a strict distance from political parties, the situation is very different on the local level. “Active” citizens are often members of local civic organizations and at the same time local political representatives.

Journalists have become much more likely to seek out members of NGOs to comment on government initiatives and proposals, especially if other civil society actors, such as unions and professional chambers, are included in this

assessment. The local press also regularly covers the activities of local nonprofit organizations, which are increasingly seen as a vital part of the community.

While Czech civil society is certainly more vibrant than even a few years ago, grassroots initiatives that bring about change are still not commonplace. People do engage to some extent. The STEM research found that 14 percent of respondents had participated in a protest demonstration over the past five years; 43 percent had signed a petition; and 12 percent had written at least one letter to a newspaper. But motivation is often limited to a core group of activists. Several referendums have not had sufficient participation because the Law on Communal Referendums states that over 50 percent of registered voters must take part for a decision to be valid.

Regarding the “negative” side of civil society growth—that is, the emergence of extremist organizations—the situation in the Czech Republic appears to have settled down. Violent attacks on foreigners and the Roma minority occurred less frequently than in the 1990s and stayed largely out of the headlines. However, the prognosis of the Ministry of the Interior for 2004 was that extremist groups—on both the Left and the Right—would continue their attempts to unite and expand their activities, as well as increase cooperation with foreign extremist groups. As noted on its Web site, the ministry also predicted that these groups would intentionally avoid violent attacks in order to keep a low profile.

The ministry report did not label the KSCM an extremist group, although many in Czech society would disagree with that assessment. Unlike its counterparts in other Central European countries, the KSCM remains largely unreformed, having failed to renounce unambiguously its past. In 2004, there was evidence of a growing willingness on the part of leading Social Democrats to cooperate with the KSCM, an outcast on the political scene since the Velvet Revolution. In the second round of Senate elections, the CSSD even appealed to its voters to support KSCM candidates in areas where they were running against candidates of the right-wing ODS. Such moves worried some who had predicted that the two parties would start to cooperate initially on the local level, thereby “legitimizing” a partnership nationally. Others, however, have countered that any moves to free the Communists from their political ghetto have been made by individual politicians, including President Vaclav Klaus, but do not represent a major political shift. The official CSSD party line explicitly prohibits a coalition with the Communists, and KSCM support for individual bills proposed by the ruling coalition has not exceeded the level of cooperation, for example, between the Communists and the ODS. In fact, the two opposition parties voted unanimously several times in 2004 in their attempts to thwart some government policies or to depose the government in a vote of no confidence.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
1.25	1.25	1.75	2.00	2.50	2.25	2.25	2.00

For the most part, the Czech media display sufficient independence and practice a decent, if unremarkable, level of journalism. Press freedom has long been secure in the Czech Republic, and no major media are state owned. Media are generally free of political or economic bias, though allegations still surface of pressure from both business and political interests.

The national print media offer a diverse selection, from several above average daily newspapers to news/society weeklies to dozens of magazines for women and hobbyists. Foreign corporations own many of these publications, including almost all the dailies. (Media-related legislation includes minimal ownership restrictions and none on foreign ownership.) In contrast with the situation a mere six or seven years ago, the “serious” press has now matured to a point where they offer more balanced political coverage and opinions. They have, however, been influenced by the worldwide trend toward infotainment and run an increased amount of “fluff” centered on domestic and international celebrities. Only on rare occasions do any of the newspapers publish comprehensive analyses that get to the heart of policy issues, preferring shorter articles that tend to sensationalize parts of the story. Still, they do provide the population with an adequate overview of the main events and issues facing society.

According to ABC Czech Republic, the Audit Bureau of Circulations, *Mlada Fronta Dnes* sold a daily average of 299,373 copies in September 2004, as compared with the tabloid *Blesk* at 516,582, *Pravo* at 177,187, *Hospodarske Noviny* at 65,643, and *Lidove Noviny* at 71,918. *Respekt*, a respected independent weekly, suffers from low sales (16,800 copies). More successful are *Tyden* (53,597 copies) and *Reflex* (57,620 copies), both respected weeklies for culture, society, and politics. A high-quality Sunday newspaper appeared for the first time in the Czech Republic—*Nedelni Svet*, published by the same company as *Tyden*. Many Czechs also receive their news from Web sites run by the major dailies, though overall Internet usage (estimates vary widely, but probably around 20 percent of the population) continues to lag behind that of the West, largely as a result of very high dial-up costs. However, the market has heated up in the area of high-speed mobile phone access, which should boost those numbers significantly.

Even with the wide range of publications available, true investigative journalism remains at a premium, appearing occasionally in some of the daily newspapers and on some television stations, but regularly only in *Respekt*. Instead, newspapers such as *Mlada Fronta Dnes* or *Lidove Noviny* delight in running front-page exposés of the poor driving habits of ministers or faux pas at events in Brussels. Otherwise, scandals often result from leaks rather than the type of extensive (and costly) investigations that change policy.

Reservations about the overall quality and courage of the press apply to an even greater degree in the regions, where the company Vltava-Labe-Press (VLP), owned by Germany's Verlagsgruppe Passau, has achieved a near monopoly. VLP owns 76 publications, including many in every Czech region, making it extremely difficult and expensive for any other player to enter the market. (Cross-ownership regulations concern broadcast media only.) For the most part, these papers—the main source of information for approximately one fifth of the population—focus on generating revenue rather than practicing groundbreaking journalism and performing the role of public watchdog. A reporter at the Liberec VLP daily was fired for wanting to write about corruption scandals at the local municipal hall, and another VLP paper printed an apology for publishing an article that delved into problems in the CSSD, one of the paper's big sponsors. In August, however, VLP surprisingly hired a Radio Free Europe veteran, Lida Rakusanova, to take over as national editor in chief. Rakusanova installed an ethics code that warns against conflicts of interest and the practice of placing hidden advertisements in articles.

Even with the limited amount of hard-hitting journalism, attacks or planned attacks on investigative reporters do occur from time to time. At the beginning of 2004, the editor in chief of *Respekt* ended up in the hospital after being attacked by two men in front of his house. Suspicions were raised that the assault was connected with the paper's investigations into organized crime in the north Bohemian city of Most. In the summer, the daily *Pravo* reported that a Czech television journalist, Jiri Hynek, had received death threats in connection with his reporting on a high-profile bankruptcy fraud case. While Czech TV officially denied the report, Hynek insisted that the potential killers had received an offer of 1 million crowns (US\$43,000) to murder him. Hynek had also reportedly been threatened over another story he had done on imports of fertilizer from Russia.

Media critics, such as Milan Smid, a professor at Charles University, have charged that some media have shied away from stories that place top advertisers in a poor light. As Smid has written, only *Respekt* and several other smaller publications criticized Czech Telecom's monopolistic behavior before telecommunications deregulation. Smid also alleged that public television broke the story about the financial problems at Fischer, the country's largest travel agency, because the commercial media did not want to upset a powerful advertiser. More broadly, some critics have charged that commercial TV stations occasionally ignore stories that might harm their parent companies' financial interests. However, these stations are more politically balanced than they were several years ago, when the most powerful station, TV Nova, was often accused of supporting the ODS. (The December sale of TV Nova back to Central European Media Enterprises—an American company that lost control of the station in 1999 after a falling-out with Nova's then director and license holder—is not expected to affect news programming.)

Journalists are loath to complain about these ethical violations; they fear dismissal and know all too well the small size of the media market, where the number of applicants for any new position far outweighs the demand. (Along those lines, true media criticism hardly exists in the mainstream press because journalists refrain from antagonizing possible future employers.) Furthermore, some foreign media owners have been denounced for not adhering to the same employment standards they follow in their home countries. The lack of a collective bargaining agreement on the national level between publishers and the Trade Union of Journalists means employers are bound only by normal labor law. The union, which counts few influential members, has played a largely toothless role in its post-Communist history. It does, however, work in the field of media ethics, which includes the setting of standards.

Unfortunately, the public television, Czech TV, is unable to fill in the market's gaps in terms of independence and high-quality news programming. Czech TV's news programs have improved in recent years, but the station's continued financial difficulties make it particularly vulnerable to political and business interests. The Chamber of Deputies controls the level of viewer fees—the station's lifeblood—but again failed to pass a proposal in 2004 that would have raised the fees. The Chamber of Deputies also appoints the supervisory boards of both Czech TV and Czech Radio, as well as the Council for Radio and Television Broadcasting. Hard proof of direct pressure from politicians or financial groups on public broadcasters rarely surfaces, but anecdotal evidence suggests that interference still takes place, with timid responses from management. The overall situation at Czech Radio is better, but probably because the stakes—in terms of lucrative contracts and influence on the population—are lower.

In another blow against Czech TV, many media analysts also believe that TV Nova and Prima TV cooperate on programming and pricing strategies but that their ownership structures are too opaque to prove collusion and price setting. It is also widely assumed that the stations' powerful lobbying has had an undue influence on parliamentary deputies, resulting in laws that tend to favor commercial stations over public broadcasters. Some critics have called for a less politicized, more powerful broadcasting regulator that could investigate unclear ownership issues or other potential improprieties. More competition would also help significantly and will likely occur once digital television gets off the ground. However, up to now the debate on digitalization has fallen victim to a heated dispute over the regulation of licenses, and progress has been slow.

These impediments have kept market shares for the broadcasters relatively stable. TV Nova's market share is around 43–44 percent, as compared with 22–23 percent for Czech TV Channel One, 21–22 percent for TV Prima, and 8–9 percent for Czech TV Channel Two, according to *IP/RTL Group Key Facts Television 2004*.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.00						

Though long delayed, the development of local government structures and authority has become one of the country's bright spots in recent years. Landmark legislation passed in 1997 led to the creation of 14 regions, which started to function in 2001. The central government handed over significant powers to these regions in fields such as education, health care, and road maintenance. Additionally, 205 newly created municipalities took over for 73 district offices, which ceased all their activities by the end of 2002. Self-governed regions and municipalities own property and manage separate budgets. Voters directly elect regional assemblies, which then choose regional councils and regional governors. The regional councils may pass legal resolutions and levy fines. Directly elected municipal assemblies elect municipal councils and mayors. Municipalities wield considerable power over such areas as welfare, building permits, forest and waste management, and motor vehicle registration.

Some analysts now label the creation of the regions as one of the most important steps in the country's modern-day history. The regions have made considerable progress in tackling problems neglected by the central government. The education system is a prime example. Although the birth rate dropped rapidly since the end of Communism and reduced the number of pupils, the state failed to take the unpopular steps of closing schools and firing teachers. Since acquiring the power to act, some of the regions have moved much more forcefully, shuttering schools and tying funding more strictly to the number of students. The deep savings will go toward better equipment and higher salaries for teachers, reports *Respekt*. These improvements have emboldened regional administrations to seek more power and money from the state for education, and some regional leaders have even called for all funds connected to high schools to go directly to the regions instead of through the Ministry of Education, according to *Lidove Noviny*.

One area where shortcomings have been noted, however, is in environmental protection. According to *Respekt*, local businessmen and building companies still outmuscle the public interest and have managed to push through proposals that would have damaged national parks had the central administration not blocked their implementation.

Overall, the success in regional management and greater autonomy has made a strong case for allowing regional governments to manage more of their money. They currently control only 14 percent of their budgets, a fact that causes consternation among local leaders. For the other 86 percent, regions essentially act as middlemen for the state, sending money on to predetermined recipients, reports *Tyden*. That has meant that major, region-initiated

projects are currently out of reach. A new bill under debate would raise the amount of funds under management of the regions to roughly 50 percent, reports *Lidove Noviny*.

Just as vexing for local politicians has been the failure of funds flowing from the center to keep pace with their newly added responsibilities. Local politicians complain regularly that the central government has transferred major tasks to them without the money that would allow them to do their jobs well. The funds they do receive, they say, should also be based more on their communities' relative wealth rather than sheer size. The regions are allowed to keep only a tiny fraction of the tax money they help collect—3 percent—although the new bill that relates to regional financing would increase that figure fivefold, reports *Tyden*. While the government has assisted occasionally—approving, for example, a transfer of billions of crowns to help bail out impoverished hospitals—that support has not been sufficient. The municipalities, in turn, believe the regions do not yet have the competencies, money, or experience necessary to effectively influence local development.

Public knowledge about regional authorities has improved considerably but still leaves much to be desired. It is necessary to clarify for average voters the various competencies of the municipalities, regions, and central government. Before the fall elections, a poll conducted by the Factum Invenio agency showed that an unusually high number of people had no opinion about their regional administration, with 40 percent claiming ignorance even about the services these bodies provide. A third said they could not properly evaluate the work of their representatives. Another poll, conducted by the SC&C agency on the eve of the regional elections, revealed that half of the respondents did not know the name of their regional governor. Such ignorance translated into disappointing turnouts at the polls in the regional elections in November 2004 (around 30 percent) and at the local level (down 17 percent between 1994 and 2002), according to *Respekt*.

Adding to the confusion, the law allocates a broad range of responsibilities to regional governments, but in practice the transfer has been gradual and the regions have not yet assumed full control over all promised areas. Competencies have sometimes been transferred, but legislation that would force change along with “ownership” has lagged behind. For instance, the regions now receive funds to take care of socially vulnerable citizens, yet no specific law exists to bind the local authorities to certain minimum standards (there are only guidelines). Not surprisingly, some regions have taken the initiative and improved the system, while others have done little, claiming they don't have the money for major changes.

Despite these challenges, some regional politicians have already made names for themselves, indicating that the development of local governance has also had a positive overall effect on the political elite, increasing its breadth and variety. Politicians are now making their names in the regions, becom-

ing “stars” of their respective parties without feeling pressure to immediately move to Prague and take up positions in the central government. Increasingly, success at the local and regional levels is seen as a conduit to greater power on the national stage.

Policies concerning the regions have also sent shock waves through the national political scene. In the fall, the CSSD united with the Communists to pass legislation forbidding regional governments from transforming hospitals into for-profit enterprises, a move that upset the CSSD’s center-right coalition partners and worried critics about the possibility of greater cooperation between the CSSD and the Communists. Some regions had grown tired of operating inefficient, indebted hospitals and changed their status to try to force a shift in attitude and performance. Initial financial reports in the Plzen region, for example, have indicated much lower losses than in the past, according to *Respekt*.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
1.50	1.50	2.25	2.50	2.50	2.50	2.50	2.50

The Czech Republic’s accession to the EU has set the stage for a revolution in the judicial sphere. The Czech judicial system—like those of all EU member states—is now intricately linked to EU legislation. In cases where European legislation clashes with domestic laws, the former takes precedence over the latter. That new reality has the ability to change not only the lives of individual citizens, but also relations among the judiciary, the executive, and the legislature. However, while European integration will bring improvements, EU membership does not automatically bring judicial reform, which remains the domain of member states and is still a critical problem in the Czech Republic.

The four-tier judicial system consists of district courts (86), regional courts (8), high courts (2), and the Supreme Court. The Czech Constitutional Court is a well-respected institution that may be addressed directly by citizens who believe their fundamental rights have been infringed. The mandates of nine Constitutional Court judges expired in 2003, and the controversy over the naming of their successors lingered far into 2004. President Vaclav Klaus repeatedly sparred over his nominations with the Senate, which must give its approval. The dispute created a case backlog and crippled the court’s ability to deal with certain cases, until the appointment of a twelfth judge in June finally created a plenum. Klaus will likely have fewer problems in the future because the ODS, which he founded and led for a decade, swept to victory in the fall Senate elections. The verdict is still out on whether the new court will be as strong and independent in its current composition.

Although the Czech judiciary is constitutionally independent, the minister of justice appoints, transfers, and terminates the tenure of the presidents and vice presidents of the courts. Recent attempts at reform largely preserved the Ministry of Justice's central role in overseeing the judiciary and drew criticism that the executive continued to compromise the true independence of the courts, as noted in a report issued by the EUROPEUM Institute for European Policy. However, there is more talk about the potential for abuse and systematic pressure on judges to follow the ministry line than about cases of overt meddling, which remain relatively rare. Even so, in 2004 there were several instances of politicians questioning high-profile court decisions that concerned restitution cases and the rerunning of a Senate election.

Some analysts—such as Ivo Slosarcik, an expert at EUROPEUM on the impact of integration on the legal system—have surmised that the country's accession to the EU and adoption of EU law could significantly shift the balance of power. Czech judges now have the ability to essentially countermand the Parliament and rule certain pieces of legislation incompatible with EU law. The independence and prestige of lower courts may also increase, since even an ordinary court has the possibility of communicating directly with the European Court of Justice. Thus, these new circumstances carry the potential to raise the status of the Czech judiciary in relation to the executive and legislature, as long as knowledge of European law spreads through the system. While young judges have taken university courses in EU law, the same is not true of their older colleagues, who must educate themselves on these changes. Courts, in fact, still employ a number of Communist-era judges and officials, many of whom remain opposed to needed reforms.

Some judges may potentially look upon EU accession as more of a burden complicating their heavy caseload than a blessing that might increase their independence. That would especially be the case if their salaries, much improved over the past decade, are suddenly cut because of the enormous budget deficits racked up by the government in recent years.

This critical financial situation has also led to a tacit cap on hiring new judges, with new appointments slowing to a crawl. As a result, judges in waiting—they spend three years as trainees before being appointed—will have no choice but to go to the private sector, which will have a long-term negative effect on the development of the judiciary. That will be especially true in areas of the country where courts remain shorthanded and/or inefficient. The Ministry of Justice has established a judicial academy, but the school is understaffed, underfinanced, and located in an unattractive site several hours from Prague. A school for judicial clerks has existed since 1995.

The sluggishness of court proceedings continues to be a major impediment to improving the image of the judicial system. In June, the European Court of Human Rights in Strasbourg ruled against the Czech Republic in a complaint filed by a woman who said it had taken more than seven years

to settle a property dispute; at the time, it was the eighth case the country had lost because of the slowness of its courts, according to the *Prague Post*. In 2003, the average length of a civil case was 771 days in a district court and 757 days in regional courts and city courts in Prague. However, some of the figures may be deceptive, as a few very complicated cases can increase the average considerably. In general, while large problems remain in some areas—such as the settling of commercial cases (in 2003, the figure was 1,420 days, according to *Mlada Fronta Dnes*)—the backlog seems to be lessening and the overall situation appears to be improving slowly. Laggards also now face a greater likelihood of disciplinary action or even dismissal, as one judge found out in November 2004. She was fired for having a backlog of 50 unresolved business disputes.

Some judges may be slow and others incompetent, but as a whole, the judiciary is considered largely free of corruption. That view, however, was shaken by the April arrest of Usti nad Labem Regional Court judge Jiri Berka. Charged with criminal conspiracy and other counts, Berka is suspected of playing a central role in a bankruptcy fraud ring that led to the stripping of assets at a series of companies.

With some exceptions, fundamental freedoms—enshrined in the Charter of Rights and Freedoms section of the Constitution—are generally thought to be well protected in the Czech Republic. Over the past few years, the government overhauled the criminal code, which now places more of an onus on the prosecution and stricter rules on custody. Further change will occur once the country finally adopts the constitutional amendment that will allow the Czech Republic to ratify the Rome Statute of the International Criminal Court.

The country has also dragged its feet on passing antidiscrimination legislation in line with the UN Convention and European standards. Although an amendment to the labor code in 2001 mandated equal treatment for all employees, implementation lags behind as women remain underrepresented in senior positions and are paid significantly less than men for similar jobs. The situation is especially dire in high politics, where few women hold seats in the Parliament or attain other positions of leadership. Only two ministers are women, and there are no women regional governors. A poll in late December found 52 percent of Czechs in favor of obligatory quotas for women on party candidate lists, reports *Mlada Fronta Dnes*.

Discrimination against Roma in employment and housing is also a serious problem, and a government report released in January 2005 showed that the situation had worsened over the past few years. The report, which compared the current state of Roma affairs with that of the second half of the 1990s, found 75 percent of Roma out of work for over a year and at least 18,000 Roma living in ghettos that were growing in size. There were a few bright spots, however. Fewer Roma children are being shunted off automatically to

special schools for the mentally handicapped, and many more are entering higher education, according to *Mlada Fronta Dnes*.

Activist groups complain that existing legislation fails to adequately protect suspects and prisoners against various rights violations. A report released in March by the Council of Europe's Committee for the Prevention of Torture (CPT) concluded that police brutality in detention cases remained prevalent. The CPT reported cases of brutality where the police both detained and questioned individuals and said that the authorities had still not introduced basic safeguards such as the right to have an attorney present during every interrogation.

The CPT research took place two years ago, but activists such as the League of Human Rights insist that the situation has not changed since then, especially at the foreigners' detention facility near Plzen, and that police brutality is often targeted at Roma and other "outsiders" in poorer parts of the country. The country still lacks an independent monitor of detention facilities and, in general, an independent investigative body empowered to look into charges made against the police. Current review boards comprise current or former police officers and do not give the impression of impartiality. In 2000, Stanislav Gross (as interior minister) withdrew from debate the Law on Police—legislation that activists say would have improved such control mechanisms.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	3.25	3.75	3.75	3.50	3.50	3.50

Corruption is another area where gradual improvements may be more a testament to the country's overall maturation than the result of concrete actions taken by either the governing elite or the population at large. Ordinary people still complain about having to pay bribes or "give gifts" in exchange for expediting services, as excessive regulation continues to plague parts of the public administration, such as the land registry, building permit offices, and commercial registry. Yet these are exceptions rather than the rule, and most people are able to conduct their daily lives without engaging in corrupt behavior.

This overall decrease in the level of small-scale corruption does not extend to the political arena, where many view existing anticorruption measures as insufficient to dismantle the intricate web of connections between political and business elites. These impressions are sustained by the general public and also reflected in expert surveys such as the Transparency International Corruption Perceptions Index, which measures the perceived level of corruption among politicians and public officials. In the 2004 survey, the Czech

Republic ranked 51 (out of 146 countries), with a rating of 4.2 (10 indicates a country without corruption). That is a slight improvement over 2003, when the country was number 54 with a rating of 3.9. The Czech office of Transparency International cited the nontransparency of public contracts as the most pressing problem.

One of the reasons for only a slight improvement in the Transparency International ratings was the failure of the government to pass more effective conflict-of-interest legislation despite widespread criticism that the current regulations are insufficient and allow loopholes. The government has prepared a much more powerful Law on Conflict of Interest that will encompass elected representatives at all levels, from ministers down to local politicians. The new minister of justice, however, withdrew the proposed legislation from cabinet-level discussion without offering a public explanation, and the future of the bill is currently unclear. If not passed in the near future, the specter of elections in 2006 would make its controversial acceptance unlikely, warns Transparency International. The Ministry of the Interior has made clear its own intentions to pass legislation that would require property declarations from selected groups of state employees, such as police, judges, and other nonpolitical officials. But this initiative is in the early stages.

In a recent regional survey about anticorruption measures, Prague fared particularly poorly. The study, which Transparency International and the polling agency GfK Praha conducted in spring 2004, compared the existence of anticorruption tools with their perceived efficiency in the public administration of the capital cities of the Visegrad Four countries (Czech Republic, Slovakia, Poland, and Hungary). Prague finished third when judged on the mere existence of anticorruption tools—relatively strong in codes of ethical conduct and above average in terms of internal audits, but weakest in instruments preventing conflicts of interest. In the second part of the survey, which questioned experts on the actual efficacy of these tools, the Czech capital lagged considerably behind the other cities, drawing the worst rating in every category except public information policies. Overall, Budapest came in first, while Prague landed in last place.

Corruption-related cases were often in the news in 2004, including allegations of one of the highest-level bribery cases in the country's short history. The story broke in late August when a newly minted coalition deputy, Zdenek Koristka of the Freedom Union Party, told a newspaper that people connected with the opposition ODS had offered him a bribe of 10 million crowns (US\$430,000) to withhold his support of the government in a crucial parliamentary vote of confidence. After an investigation, the police arrested a lobbyist and an adviser to the ODS party chairman and charged them with attempted bribery. A few weeks later, however, the regional state attorney said the arrests had been unlawful and ordered the

charges dropped for lack of proof. The ODS claimed the whole case was politically motivated, while Koristka stuck by his accusation.

The Koristka case also prompted a parliamentary debate on the need for a code of ethics to regulate meetings between deputies and lobbyists. Currently, lobbying at neither the executive nor the parliamentary level is regulated, leaving the door open for widespread speculation about illicit, behind-the-scenes deals. While the leaders of the five parliamentary parties agreed on the need, analysts doubted whether a code—and not a law—would change the current situation much.

There were other high-profile corruption cases in 2004. The state prosecutor's office appeared likely to charge former regional development minister Petr Lachnit with breach of trust based on several controversial leases (which allegedly bilked the state of hundreds of thousands of dollars) that he signed while in office. If charged, Lachnit, who served under former prime minister Milos Zeman, would be the first minister since the fall of Communism to be prosecuted for corruption-related charges. In another case that dominated headlines, Usti nad Labem Regional Court judge Jiri Berka was charged with criminal conspiracy and other counts and suspected of playing a central role in a bankruptcy fraud ring. Karel Cermak, justice minister at the time, labeled the case the greatest corruption scandal ever in the country's judiciary.

Perhaps because the most publicized cases of corruption have occurred largely in the upper echelons of power, an increasing number of citizens have given up hope that the government will effectively root out corruption. They also do not believe that they share responsibility for eradicating illegal behavior. Instead, many see those who do take action—the whistle-blowers—as “rats” rather than as courageous individuals determined to change the system, a holdover from the informant system of the Communist regime, notes a UN *Human Development Report*. Whistle-blowers also do not receive adequate protection either in law or in practice, according to Transparency International. To a certain extent, the media has picked up the slack, exposing potential conflicts of interest and outright corruption, but investigative journalism remains a time-consuming and expensive luxury that many media believe they cannot afford.

While lack of direct proof derailed Koristka's case, the same could not be said for charges of corruption that sullied one of the country's most cherished pastimes: soccer. Rumors had been rampant for years of match fixing and finally prompted the police to bug the phones of some soccer officials. In May 2004, the police announced that they had videotaped the sports director of the Synot club as he handed a referee a bribe of 175,000 crowns (US\$7,600). Later that month, according to the *Prague Post*, the police said that up to 14 clubs in the 16-member First League had been implicated in match fixing. Most observers did not place much hope in the ability or

willingness of soccer's governing body to clean up the mess, an opinion borne out by the subsequent weakness of the disciplinary actions.

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Estonia

<i>Capital</i>	Tallinn
<i>Population</i>	1,300,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$12,260
<i>Private sector as % of GDP</i>	80%
<i>Ethnic groups</i>	Estonian (65 percent), Russian (28 percent), other (7 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	2.00	1.75	1.75	1.75	1.75	1.75	1.50	1.50
Civil Society	2.25	2.25	2.50	2.25	2.00	2.00	2.00	2.00
Independent Media	1.75	1.75	1.75	1.75	1.75	1.75	1.50	1.50
Governance	2.25	2.25	2.25	2.25	2.25	2.25	2.25	n/a
National Democratic Governance	n/a	2.50						
Local Democratic Governance	n/a	2.50						
Judicial Framework and Independence*	2.25	2.25	2.00	2.00	1.75	1.75	1.75	1.50
Corruption	n/a	n/a	3.25	2.75	2.50	2.50	2.50	2.50
Democracy Score	2.10	2.05	2.25	2.13	2.00	2.00	1.92	1.96

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Estonia is a functioning democracy that has reached the stage of democratic consolidation. The country has successfully held elections deemed to be free and fair by international observers, has transferred power peacefully between sets of ruling elites as a result of these elections, and has deepened its connections with other democratic countries of Western and Central Europe. Remaining challenges include the need for continued progress on the integration of ethnic minorities, as well as public participation rates—particularly voter turnout—and levels of trust in governing institutions, which are low by European standards.

In 2004, Estonia completed its “return to Europe,” joining NATO in March and the European Union (EU) in May. Survey data indicated that the population of Estonia considered these to be the two most important events of 2004. These memberships enhanced Estonian security, both from the specific guarantees of collective security as a NATO member and from the country’s full participation in the ongoing process of European integration. Pursuit and acquisition of EU and NATO membership also continued to drive changes in a number of domestic policies, a process that had been under way for several years. Other important events included controversy surrounding the dismantling of a newly constructed World War II monument and the resignation of three government officials due to missing grain reserves, a missing briefcase containing secret documents, and a dispute over ferry service to islands off the coast.

Parliamentary elections in 2003 brought to power a ruling coalition comprising three parties bridging the middle of the political spectrum. The government faced a crisis late in 2003 over proposed cuts in the personal income tax rate but managed to survive—partly by pushing the more difficult stages of the tax cuts beyond 2004. And despite three high-profile ministerial resignations during 2004, the government was able to last out the year. However, European Parliament election results and opinion polls showed weakening public support for the parties of the coalition and pointed to potential problems for the government.

In 2004, the most glaring weaknesses in Estonian democratic development remained the sizable portion of the population without citizenship and the relatively low levels of trust in government institutions. The country maintains such a large number of noncitizens primarily because it bases

citizenship on the principle of statehood “restoration” rather than providing automatic citizenship to all permanent residents, as did most other former Soviet states after 1991. This issue continued to be controversial in 2004 with the defeat of amendments to the Law on Citizenship that would have waived the language requirement for the naturalization of elderly residents. However, there was clear evidence of progress on citizenship and the integration of minorities into Estonian society. The waiting time for most applicants for naturalization was cut in half, and officials were considering revising upward the annual target numbers for naturalization. Low levels of trust are a less visible but equally problematic obstacle. Surveys in 2004 indicated that Estonians viewed political parties and governing institutions as the most corrupt national institutions. The lack of trust in governing institutions extends also to European institutions. According to 2004 Eurobarometer data, Estonians are well below the EU average in their trust of European institutions.

National Democratic Governance. Estonia is a strongly democratic country with accountable legislative and executive branches and civilian control of the military. In 2004, well-established government provisions allowed citizens to use their technological savvy to play a greater role in the policy process, and preparations for electronic voting in the near future continued. Negatives in 2004 included the visible instability in the ruling coalition—including three high-profile ministerial resignations—and low levels of public support for the major political parties and governing institutions. *Estonia’s new rating for national democratic governance is set at 2.25 owing to the stability of the governance framework currently in place.*

Electoral Process. The year 2004 was quiet compared with the previous year. While parliamentary elections were held in March 2003 and the EU referendum in September 2003, only the elections to the European Parliament occurred in 2004 (in June). The very low turnout for this election—less than 27 percent, third lowest of the 25 EU members—does not necessarily represent dissatisfaction with Estonia’s EU membership. It is, however, cause for some concern. The Estonian government continued discussions on altering the system for selecting the president (currently chosen by the Parliament), but for the second straight year it failed to reach consensus about the parameters for instituting a direct popular vote. The government’s commitment to increasing Estonian citizenship among the Russian-speaking portion of the population did not translate into a significant change in the makeup of the electorate. The highly complex electoral system for parliamentary elections, another negative, remained in place as well. These issues notwithstanding, there was little on which to base a change in the country’s electoral process score. *Estonia’s electoral process rating remains unchanged at 1.50.*

Civil Society. In 2004, the adoption of the implementation law of the Estonian Civil Society Development Concept was an important step. However, it is too early to see if this committed investment by the Estonian government to fostering nongovernmental organizations (NGOs) will reap significant returns. Most NGOs face organizational hurdles, including their dependence on government and foreign sources of funding. Typically, NGOs were much less involved in important political issues than were political parties and government officials, though this did not represent a new development in 2004. The smaller NGOs remain isolated from the political process owing to few resources and weaker connections to government decision makers. NGOs have been much less successful at advocating for policy change in Estonia than international governmental organizations such as the EU. *Estonia's civil society score remains at 2.00 for 2004, although changes of greater magnitude may occur in the coming year as a result of the Estonian Civil Society Development Concept.*

Independent Media. Media independence in Estonia continued to increase in 2004. The ongoing commitment by the Estonian government to provide Internet access to the general population and improvement in the portion of the population using the Internet are strong positives. Individual media outlets experience steady financial pressure as the result of a relatively large number of such outlets competing for readers and market share. *Estonia's independent media rating remains at 1.50.*

Local Democratic Governance. Ongoing discussions about a significant overhaul of local government have yet to result in a concrete plan. Corruption, a topic of less concern in Estonia than in other *Nations in Transit* countries, is most disconcerting at the local level. The 2000 decision to place local police prefectures in charge of investigating local corruption has not improved transparency or accountability in local government. In addition, a significant shake-up in the leadership of Tallinn—with the removal of Mayor Edgar Savisaar—is of particular note given the significant portion of the country's population (one third) that resides in the capital city. Savisaar's removal, driven partly by concerns about the city's budget, coincided with defections from his Center Party in the national government. *Estonia's new rating for local democratic governance is set at 2.50 owing to a vibrant system of local governance in which citizens participate; however, a continued lack of resources delegated to local authorities has impeded effective local governance.*

Judicial Framework and Independence. Estonia continued to make progress in this area in 2004. The imperatives of the EU accession process gave judicial reform an added sense of urgency. The new code of criminal procedure took

effect in the summer of 2004. In addition to familiarizing themselves with the provisions of this legislation, Estonian judges received EU-funded training in 2004 on the European Court of Justice and implementation of EU law. Legislation such as the Law on the Courts (adopted on June 19, 2002) and the code of criminal procedure (passed on February 12, 2003) has added to a strong base of judicial independence. Lifetime judicial appointments and a prohibition on taking other appointed public offices also play a valuable role. There are still concerns surrounding the conditions of prisons and the training of prosecutors. *Estonia's judicial framework and independence rating improves from 1.75 to 1.50 owing to effective reform of the criminal code and increased judicial independence.*

Corruption. Although the government and society remain highly transparent and relatively free from corruption overall, corruption remains a concern in Estonia. In 2004, Estonia's ranking in Transparency International's Corruption Perceptions Index improved slightly from the previous year, partly because of the influence of pursuing and acquiring EU membership. The Estonian public perceives the national government as more corrupt than evidence would support. This perception is likely due, in part, to the aggressive coverage of the relatively few scandals involving national political figures by Estonia's pervasive print media. Corruption at the local level appears to be a more genuine problem. *Estonia's corruption rating remains at 2.50 owing to minimal improvements at the national level and the lack of change at the local level.*

Outlook for 2005. The political events of 2005 will center on instability in the ruling coalition, ongoing debates about fiscal policy (including controversy regarding proposed tax cuts), the fate of the Center Party, local elections in October, continuing efforts at social integration, and the role of Estonia as a new member of the EU and NATO.

Government stability may be a potential area of concern in 2005, signaled by such indicators as the success of the Social Democratic Party (named the Moderate Party until February 2004) in the 2004 European Parliament election, the lack of success by the ruling coalition parties in this election, their ongoing disagreements about tax policy, and sliding support in public opinion polls for government coalition parties during 2004. Some observers believed that the coalition had been formed and maintained largely out of fear of Edgar Savisaar. His removal as Tallinn mayor also removes that force for cohesion. The defections of key Parliament members from the Center Party in 2004 threaten its viability as a leading political party in 2005. The extent to which these various possibilities play out will greatly affect the results of the 2005 local elections, scheduled for October.

The EU Constitutional Treaty, signed by representatives of the 25 member states in October 2004, must be ratified by all EU members by No-

vember 2006. Estonia is likely to ratify the treaty through a parliamentary vote rather than a referendum to the people. The EU continues to closely monitor Estonian legislation and its application, government practices, and social relations, including ongoing efforts to integrate the ethnic minority population. Whether the Estonian government will remain as strongly committed to further improvement in the areas of minority rights and rule of law now that EU and NATO membership have been attained bears monitoring in 2005 and beyond.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.25						

Estonia has a democratic political system centered on an accountable Parliament that fuses the legislative and executive branches. This design places significant power in the hands of the Parliament, the prime minister, and other government ministers. The judicial branch provides an important check on the government. The Supreme Court rules on the constitutionality of laws, and these rulings are enforced by the government.

Like many Central and Eastern European states, Estonia has a dual executive with both a president and a prime minister. By far, the prime minister is the more important chief executive, although the president occasionally plays a role in policy making by recommending changes and temporarily blocking acts of the Parliament. Like most parliamentary systems that are forced to rely on coalition governments, Estonia's has had a history of conflicts among coalition parties that threaten the stability of the ruling coalition. The overall political system has been quite stable since the restoration of the country's independence in 1991, but several shake-ups have occurred in the government. If Juhan Parts, prime minister of Estonia since 2004, survives his entire four-year parliamentary term, it would be a first for any of the Baltic states since the restoration of independence.

Warnings of coalition instability were indicated during 2004. The coalition that emerged following the spring 2003 parliamentary election—involving Res Publica, the Reform Party, and the People's Union—conflicted over taxation policy late in 2003. The Reform Party wanted a sizable reduction in the personal income tax rate (currently 26 percent), while the People's Union would support a cut only if offset by increases in other taxes and an overall

escalation in government spending. For a brief time, it appeared that the disagreement would threaten to break apart the coalition; an agreement was ultimately reached late in 2003 to lower the rate by 6 percent over a period of several years but to maintain the 26 percent rate in 2004.

The coalition survived the tax rate squabble, but at a cost. Results from a national survey conducted by the Estonian polling firm Emor indicated that support for Res Publica and the Reform Party dropped following the crisis, and at the end of 2003 both parties were supported by less than 15 percent of eligible voters. The decline continued in 2004. Though the low turnout makes it difficult to judge, the poor showing by the ruling coalition parties in the 2004 European Parliament elections also raised a red flag about their general level of support.

Similar to 2003, when two government ministers resigned, 2004 saw three high-level national resignations in Estonia. Agriculture Minister Tiit Tammsaar resigned in March after it was discovered that a large portion of the country's emergency grain stores (about one third of the 40,000-ton reserve) was missing. Though Tammsaar suggested that the grain may have been missing before the current ruling coalition took power, he pledged to resign to allow the government to better devote its attention to the final stages of accession to EU membership, reported Radio Free Europe/Radio Liberty (RFE/RL).

In September, Minister of Economic Affairs and Communications Meelis Atonen resigned because of an ongoing dispute involving ferry service from the mainland to Estonia's western islands of Saaremaa and Hiiumaa. The problems began in 2003 when the only bid for a new contract (starting in fall of 2004), made by the operator of Saaremaa Laevakompanii (Saaremaa Shipping, SLK), was deemed too expensive for the government and rejected. Atonen subsequently eased restrictions on the tender, then had to cancel it altogether when the four companies bidding for the contract were unable to meet the tender's terms. The refusal of SLK to participate in the bidding was a significant factor in the affair. The process came to be seen as an attempt by the government to break up SLK's ferry monopoly, a move Atonen eventually admitted was a mistake. Negotiations continued with SLK during the months that followed, but Atonen was unable to secure a contract agreement. The new minister, Tartu mayor Andrus Ansip, agreed on an extension of the contract with SLK a month after replacing Atonen.

In November, Defense Minister Margus Hanson resigned after a briefcase containing sensitive state documents was stolen from his house in Tartu at the end of October. Though there was no indication that Hanson participated in the theft (his house was burglarized while he slept), the Estonian security police launched a criminal case against him. Provisions in Estonian law allow for the imposition of a fine or imprisonment for officials who permit state secrets to become public through negligence. It did not

help Hanson's case that he waited several days to inform the police about the stolen briefcase.

The October removal of Tallinn mayor Edgar Savisaar added to the volatility of Estonian politics in 2004. Savisaar is a leader of the opposition Center Party, but his removal also coincided with the fracture of the Center Party within the Parliament. Though not in the government, the Center Party had as many seats as any party in the Parliament until September 13, 2004. On that date, 8 of the 28 Center Party parliamentarians left the party faction. Late in 2004, there were indications that other resignations from the party were to follow. These resignations, removals, and defections added to speculation that the success of the Social Democratic Party in the European Parliament elections earlier in the year was no fluke.

The other significant scandal in 2004 with the potential to affect the country's political stability involved the erection and removal of a controversial monument in Lihula. The monument to Estonians who fought in the German army against the Soviet Union, featuring an Estonian in a German military uniform, was put up on August 20. The sculpture, funded by Estonian veterans, drew quick and sharp criticism from Russia and from a number of Jewish organizations. The Estonian government ordered the monument removed. It was dismantled in early September, sparking small protests from veterans and other supporters of the monument. The government justified the removal in part because the monument was damaging Estonia's international reputation, as Prime Minister Juhan Parts pointed to criticism from the European Union (EU) and the United States. The Organization for Security and Cooperation in Europe (OSCE) quickly praised the government's decision to remove the monument.

Despite these controversies and resignations, the Estonian government is relatively free of corruption. The Law on Public Service, Law on Anticorruption, and Law on the Government of the Republic govern the activities of the nearly 25,000 civil servants in Estonia. EU reports on Estonia have generally complimented this legislation. A late 2003 report indicated that "there have not been any changes to the status of the civil servants and other public employees established in the Law on Public Service, in force since 1996.... Satisfactory rules are in place to provide for the openness and transparency of the public service." According to a 2002 Open Society report on corruption in Estonia, there is "very little evidence of corruption among executive officials and civil servants." Little happened in 2004 to change such perceptions.

Estonia's overall transparency in the political arena is consistent with the government's openness and embrace of technology. Both the media and the general public have access to information about legislation in its draft stage and can even shape the final look of bills, largely through the use of the policy-focused Internet sites established by the government and nongovernmental

organizations (NGOs). As early as 2001, the government began preparations for electronic voting. The process will be given a trial run in Tallinn in early 2005 and is on track for its debut in local elections later in the year.

In 2001, the government launched a Web page, *Täna Otsustan Mina* (I Decide Today), in which draft bills and amendments are uploaded for public comment. Individuals can even propose amendments to legislation, and ideas that gain significant public support are taken into account. The government estimates that around 5 percent of all proposed amendment suggestions are used. The daily work of the Estonian government reflects the country's embrace of technology in other ways as well. All cabinet meetings are now paperless, with ministers marking up legislation and voting via computer. Cabinet members can also participate in meetings online without being present at the location of the meeting. By 2004, all state and local agencies were obliged to provide services via the Internet.

An August 2004 Economist Intelligence Unit (EIU) report highlighted the success of these efforts but expressed some unease about ongoing connectivity limitations. The use of the Internet as a device for policy commentary by the general population further underscores the need to address the "digital divide." The EIU report warned of the role of e-governance efforts in encouraging an "e-elite" in the country. Examining e-governance across Central Europe, the EIU report gave Estonia the highest overall ranking—ahead of the Czech Republic and Slovenia, the only two Central European countries even close to Estonia's e-governance score. Estonia's scores rivaled those of many Western European countries. It was particularly well regarded for its "business and legal environment," "education and skills," "government policy and vision," "e-democracy" (such as the I Decide Today site), and "online public services for citizens."

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
2.00	1.75	1.75	1.75	1.75	1.75	1.50	1.50

Estonian electoral politics are highly democratic compared with what exists in many other developing democracies in East-Central Europe and Eurasia. The government's authority is based on universal and equal suffrage and the will of the people as expressed by regular, free, and fair elections conducted by secret ballot. Electoral laws, campaigning, polling, and tabulation of ballots are fair and consistent with the norms of Western European democracies. The electoral system is free of significant barriers to political organization and voter registration, and the resulting party system includes several viable political parties. There is a functioning opposition at both national and local levels.

Except for elections to the European Parliament, there were no major national elections in Estonia in 2004. In 2003, two important national elections took place, both following on the heels of local elections in late 2002. Elections for the Parliament early in 2003 led to a three-party coalition government that spanned the center of the political spectrum and included Res Publica, the Reform Party, and the People's Union. In September 2003, a national referendum on membership in the EU and the required amendment to the Estonian Constitution was supported by slightly more than two thirds (66.83 percent) of voters, as reported by the Estonian National Electoral Committee.

Estonian turnout in national and local elections has generally been 50–60 percent. The European Parliament elections on June 13, 2004, marked a low point in citizen participation. Only 26.7 percent of registered Estonian voters turned out to select six European Parliament delegates through a national proportional representation system. Of the six delegates, three came from the Social Democratic Party (formerly the Moderate Party), which received 36.8 percent of the vote. One seat each went to the Center Party (17.5 percent of the vote), the Reform Party (12.2 percent), and the Pro Patria Union (10.5 percent), reported the Estonian Ministry of Foreign Affairs.

The low turnout reflected a trend across the EU of reduced turnout for the EU Parliament elections (which declined from 63 percent in 1989 to 58 percent in 1994, 53 percent in 1999, and 45.5 percent in 2004). Turnout was well below this average among the member states that joined the EU in 2004. Still, Estonia had the third lowest turnout, ahead of only Slovakia and Poland and well behind Baltic counterparts Latvia (41.2 percent) and Lithuania (48.2 percent), reported RFE/RL. The low turnout could be attributed to the small number of seats Estonia has in the European Parliament—6 of 732—and the perception among voters that the Parliament is not an important EU institution. The Estonian government also did a much poorer job of encouraging voters to turn out than it had less than a year earlier for the EU accession referendum.

Though one need not read too much into this particular election, the incident does reinforce concerns in Estonia about voter apathy and lack of knowledge about the EU. According to an EOS Gallup Europe poll on the eve of the election, while a majority of respondents in Estonia could correctly identify the date of the upcoming election, less than one quarter could correctly answer how many countries were in the EU as a result of the 2004 expansion, and half said if they did not vote, it was because they were uninterested in European elections. Survey data and the results of the election do not, however, represent growing dissatisfaction with EU membership. In 2004, another survey indicated that support for EU membership fluctuated from month to month but never dropped below 57 percent (as of March) and was as high as 72 percent late in 2004.

The year also witnessed a continued national debate about electing the president through direct popular vote. Draft legislation, supported by the ruling coalition, was proposed to create a six-year, one-term presidency chosen by the general population. Such changes would require amending the Constitution. Currently, the president is selected by the Parliament or, if no candidate can achieve the necessary two-thirds support (68 votes), by a majority of members from an electoral body made up of the Parliament and the representatives of local government councils. Because of the multiparty makeup of the Parliament, it is not surprising that previous presidential elections—including the 2001 election of the current Estonian president, Arnold Rüütel—have ended up being decided by the special electoral body. Muddled by the fact that “campaigns” for the presidency lack any connection to the general population, this unsatisfactory process has driven the call to institute a direct election system.

The ability of social groups to achieve adequate representation through elections remained a concern in 2004. None of the predominantly Russian-speaking political parties won seats in the 2003 elections. On the other hand, the number of female deputies in the Parliament increased from 18 to 19 (out of 101). While still relatively low by the standards of some Western European countries, the percentage of female members of Parliament compares favorably with those of other Western countries such as the United States.

The decision by the Estonian government in the early and middle 1990s to adopt citizenship policies that excluded large numbers of Russian-speaking residents continues to adversely affect their representation in national government. The sizable portion of the population without Estonian citizenship (around 19 percent) and the low levels of participation by noncitizens remain the focus of Estonian government efforts to integrate social groups. The lack of voting rights in national elections for noncitizens is not unusual; other democracies support similar restrictions. However, few other democracies sustain such a large portion of the population with citizenship from another country or no citizenship at all.

Even so, the Estonian government may be commended for its policy of allowing noncitizen permanent residents to vote in local elections—a rare provision even among advanced industrial democracies. In addition, there has been a steady reduction in the percentage of noncitizens over the last decade as part of government efforts to increase minority “integration.” These efforts have been praised by the United States and Western European governments as well as international governmental organizations (IGOs) such as the OSCE and the EU. Although interest in integrating minorities has been affected by concerns over the “other integration” (that is, EU membership), the efforts of the Estonian government should not be dismissed as a ploy to gain favor with EU officials. These efforts also represent a generally held desire to move toward a more unified and productive society and recognition that the effective integration of ethnic minorities is a crucial component in the achievement

of this goal. Estonia planned to spend 83 million kroons (US\$6.5 million) on integration projects in 2004, a 38 percent increase over 2003.

The other area in which the government would be advised to consider reform is the complex parliamentary electoral system. It includes multimember electoral districts, three rounds of counting that involve calculations of votes for individual candidates and for parties, and a 5 percent threshold and modified d'Hondt method in the third round of counting. In distributing mandates, the d'Hondt method uses a formula to reduce the vote total for the party that earns the first mandate; this modified vote total is then compared with vote totals for the other parties that have not earned a seat, and the next mandate is allocated. This process continues until all mandates have been allocated. These elaborate electoral rules have arguably played a role in Estonia's relatively low voter turnout in recent national elections. Turnout for the 2003 parliamentary elections was 58.2 percent, compared with a little under 57.5 percent in the 1999 parliamentary elections and 52.7 percent in the October 2002 local elections.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
2.25	2.25	2.50	2.25	2.00	2.00	2.00	2.00

In principle, there is a commitment to autonomous organizations by the Estonian government and media. Yet in practice, NGOs continue to face numerous challenges. Thanks in part to the development of the Estonian Civil Society Development Concept (EKAK) and its acceptance by the Estonian Parliament, the situation for NGOs has improved somewhat over the last three years. The EKAK was adopted by the Parliament on December 12, 2002. This was followed in February 2003 by the signing of a "memorandum of national accord" by nearly 39 representatives of NGOs and the major political parties. This memorandum contained few specifics but committed to the development of a civil society based on ideals such as the rule of law.

In August 2004, the implementation plan for the EKAK for the period 2004–2006 was adopted. This agreement summarizes work to date by "a joint commission of the government of the Republic of Estonia and the representatives of the citizens' associations." More important, it lays out a series of activities and authorities, a timeline for implementing legislation regulating NGOs, involvement of NGOs in the decision-making process, financing of NGOs, collection of new data about NGOs, the teaching of civic education, and increasing public awareness of NGOs and their activities.

NGOs take one of three forms in Estonia: nonprofit associations, foundations, and nonprofit partnerships. The last are not required to be registered with the government. Although there were only around 600 foundations

in June 2004, nonprofit associations are numerous (increasing from around 13,500 in 2001 to over 20,000 at the midpoint of 2004). Most NGOs function in the largest cities in Estonia, and over three quarters focus exclusively on local-level activities.

Groups advocating the rights of ethnic minorities and women are not uncommon, although, as with other issues, they have been much less effective in bringing about policy change than have IGOs. NGOs have less to offer government officials than do IGOs; thus, many of the policy changes over the last decade relating to ethnic minorities have come at the insistence of European IGOs. In November 2003, the EU listed the adoption of legislation on gender equality as one of three pressing priorities for Estonia. As a result, the Estonian Parliament passed such a law in April 2004, and it came into force on May 1.

Estonian society is generally free of excessive influence from extremist and intolerant nongovernmental institutions and organizations. In fact, NGOs related to the integration of ethnic minorities into Estonian society have been some of the most vibrant in the country, partly because of the financial support provided by the Estonian government, foreign governments, and IGOs. In 2004, a new ethnic minority think tank, the Russian Institute, was formed. Though its founders had no inclination to transform it into a political organization, the failure of Russian political parties in Estonia created a void that NGOs addressing ethnic Russian concerns are steadily filling. Representatives of the President's Roundtable on National Minorities—an advisory body created by President Lennart Meri in 1993—expressed concern in late 2004 about the low level of political participation by ethnic minorities in Estonia.

Many individual NGOs lack organizational or financial capacity. Efforts by the Network of Estonian Nonprofit Organizations to improve coordination among Estonian NGOs has helped, as have the efforts of the Open Estonia Foundation—part of the network of Open Society Institute organizations established by George Soros. Open Estonia has funded millions of dollars in civil society projects over the last 10 years, often in cooperation with Western government aid (for instance, the U.S. Agency for International Development). Such funding has allowed many organizations to be established. The danger of external funding is the dependency it can create by lessening incentives for NGOs to develop their own fund-raising capacity.

The government is officially receptive to policy advocacy by NGOs and other interest groups. NGO representatives are invited to testify, comment on, and influence pending policies or legislation. One of the most valuable uses of the Internet is as a bridge between the Estonian government and the general population. A Web site run by the Estonian Law Center Foundation allows comments on legislation from the general public and particularly

welcomes input from representatives of NGOs. At the same time, the actual impact of NGO activities on public policy in Estonia is less than many would like. Only among the largest NGOs have there been significant attempts to work with political parties to represent the issue positions of groups. According to the Open Estonia Foundation, the “reluctance of civil servants and politicians to take the third sector seriously creates barriers for participation,” particularly for smaller groups.

Estonian media are relatively supportive of civil society efforts. Media outlets provide space for the discussion of civil society activities. The newspaper *Postimees* publishes the “Foorum,” a monthly supplement designed to inform the general public about NGO activities and facilitate improved communication among various NGOs. A weekly television program on ETV, *The Third Sector*, also provides information about civil society. The program airs in Russian with Estonian subtitles.

Estonia’s education system is generally free of political influence and propaganda. Yet existing contentious issues include the use of the Russian language for instruction at various levels, proposals related to privatizing higher education and implementing a system of tuition, and discussions about allowing vouchers for private schools. Developing proficiency in the Estonian language is an important component of the government’s efforts to integrate the (Russian-speaking) minority population, and Estonian is a required subject from the first grade in all Russian-language public schools. The percentage of Russian-speaking students in higher education receiving instruction in Estonian could be stronger, though this would require an improvement in the teaching of Estonian to Russians in elementary and secondary schools and an improvement in the attitudes of Russian speakers about the importance of learning Estonian.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
1.75	1.75	1.75	1.75	1.75	1.75	1.50	1.50

Estonian media are considered free by most observers. Media outlets are numerous, and legal protections for press freedom exist and are practiced. Also, there is little regulation over the establishment and functioning of media outlets, and investigative reporters are protected from victimization by powerful state or nonstate actors in other countries. The Association of Estonian Broadcasters is included regularly in government discussions on draft laws affecting the media. One concern in recent years had been that Estonia’s libel and defamation laws may have deterred some journalists from aggressively pursuing stories that cast government officials in a negative light. Although this may help explain the comparatively small number of

stories about corrupt local officials, it is not consistent with the aggressive coverage of political corruption at the national level. In addition, changes to the penal code in Estonia, which came into effect in September 2002, removed the libel and defamation provisions, which should ease journalists' fears in the future.

Considering the small size of the country, the Estonian public enjoys an impressively diverse selection of print and electronic sources of information representing a range of political viewpoints. Most of these media outlets are privately owned, although some receive government assistance. It could be argued that there are too many media outlets for the size of the country, leading to what the International Press Institute has called a “vibrant but saturated” market in which the survival of the smaller outlets is threatened. Others see the situation over the last decade as one in which the media landscape has stabilized. In addition to the large number of daily or weekly newspapers available in Estonia, there are 5 public service radio stations, 26 private radio stations, 3 nationwide television stations, and 14 licensed cable TV broadcasters. Information from Russian-language media is accessible in print (more than 24 Russian-language newspapers and magazines), over the radio (5 private radio broadcasters and 1 public service radio station offer Russian programming), and on television (2 of the 3 television stations in Estonia offer regular Russian-language programming). At the same time, the availability of Russian-language media is not in proportion to the large part of the population that speaks Russian.

In 2004, individual media outlets continued to struggle to maintain economic viability, owing largely to their significant numbers as compared with the relatively small number of potential readers/viewers in Estonia. The closing of the news operations of the Estonian News Agency (ETA) in February 2003 sparked concern about ownership concentration in Estonian media that continued into 2004. ETA, the oldest news agency in Estonia, was privatized in 1999 and faced economic hardship almost from the start. The move left Estonia with only one news agency, the Baltic News Service.

The Estonia Newspaper Association was founded as a professional association of print media outlets and has established guidelines for the conduct of print media in the country. For example, it developed rules for the coverage of political campaigns—providing “space to candidates on an equal basis,” indicating clearly when political information is in the form of an advertisement, and using caution when publishing results from public opinion polls. Likewise, the National Broadcasting Council is charged with establishing similar guidelines for radio and television coverage of political campaigns.

In February 2000, the Estonian Parliament passed legislation guaranteeing Internet access to the general population. As a result, Estonia has one of the most technologically connected populations in Europe, and some have

nicknamed the country “E-stonia” as a result. In early 2004, 30 percent of the population had a home computer, and three quarters of these computers were connected to the Internet; in all, over 50 percent of the population used the Internet, according to surveys in 2004 by the Estonian Ministry of Foreign Affairs. This is up from 44 percent in 2003, 39 percent in 2002, and 32 percent in 2001. Estonia’s usage rates are nearly double those of its Baltic neighbors, Latvia and Lithuania. Approximately 94 percent of Estonian companies have computers in the workplace, and 90 percent have computers with Internet connections, according to *Estonian Review*. In addition to high rates of Internet usage, nearly 90 percent of the population subscribes to mobile telephone service, and nearly half had digital identity cards at the end of 2004.

The country’s high rates of Internet usage come not only from the high percentage of residences with home computers, but also from a strong commitment to free Internet access points across the country. By the end of 2004, the country had established over 700 public Internet access points, as well as 380 free wireless Internet zones. Road signs with an “@” symbol point Estonian residents to the nearest Internet site, while black-and-orange “wifi/ee” signs mark wireless access points. All schools in Estonia are connected to the Internet, more than half of all households pay their bills electronically, and a government Web site allows citizens to access their various official records; the World Economic Forum ranked Estonia eighth in the world in putting the Internet to practical use. Even so, a “digital divide” remains in Estonia, particularly among those with different levels of education and between the young and the old. Around 90 percent of those ages 12 to 24 were Internet users in 2004, reported Emor.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.50						

Units of local government in Estonia include rural municipalities and towns, which are governed by elected councils and a mayor. The mayor is elected by the council, while the councils are directly elected to three-year terms (four years starting in 2005). There are also 15 counties, each headed by an appointed governor. The county governor is appointed by the national government (on the advice of the prime minister and minister for regional affairs) for a five-year term; there are no county government elections.

Local governments in Estonia have a fair degree of autonomy from the national government in terms of policy development and implementation, but they have much less fiscal autonomy than local governments in many other countries. According to law, county governors are representatives of

the national government and act as intermediaries between the national and local governments. Counties are responsible for environmental management, economic development, and supervision of local governments within their territory. Local governments generally oversee education, social welfare services, public transportation and road maintenance, and housing and public utilities. Local governments raise only around 5 percent of their budgets from local taxes and are therefore very dependent on the national government for revenue.

The lack of effective municipal reform, including consolidating the number of local governments, remains a problem. Because many municipalities in Estonia have fewer than 2,000 residents, their officials lack the personnel and administrative apparatus to efficiently administer their many tasks. The EU expressed concern in late 2003 that continued delays in this arena would jeopardize the full financing and implementation of policies (including the distribution of EU structural funds) at the local level. While the government continues to work on legislation to dramatically reduce the number of local government entities, these proposed “administrative-territorial” reforms had not been adopted by the end of 2004.

Local elections in Estonia are considered free and fair by most observers. According to the Law on Elections of Local Government Councils (passed in 1996), all noncitizens 18 years or older who have lived in their locality for at least five years are qualified to vote in local elections. Because the elections are open to noncitizens, they lead to local governments that are arguably more representative of the permanent population than the government that is voted in following national parliamentary elections. Ethnic minorities have had an easier time achieving elected office at the local level than in the national Parliament.

Corruption in local governments has been a significant area of concern for Estonia, partly because it interferes with democratic accountability at the local level. Although efforts have been made since 2001 to reform local government, corruption has been facilitated by a weak system of control. The security police had traditionally overseen local corruption investigations but lost this power in 2000; instead, local police prefectures were put in charge of investigating cases of corruption such as the bribery of local government officials.

The most noteworthy event in local governance in Estonia took place in October when the Tallinn City Council removed Mayor Edgar Savisaar. Of the 60 council members present, only 2 voted against the no-confidence motion (34 members supported it, and 24 abstained). Savisaar was replaced by former Tallinn mayor Tonis Palts. Savisaar was blamed for Tallinn’s budget problems, and his fate was sealed when the Reform Party, the coalition partner of Savisaar’s Center Party, withdrew its cooperation and announced plans to work instead with Res Publica and the People’s Union. As discussed

earlier, the move coincided with defections from the Center Party within the Parliament.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
2.25	2.25	2.00	2.00	1.75	1.75	1.75	1.50

Though the Russian government has repeatedly claimed that policies affecting Russian speakers in Estonia amount to human rights violations, most international observers disagree. As early as 1997, the European Commission concluded that “no major problems over respect for fundamental rights” exist regarding Estonia; likewise, a 2002 European Commission report highlighted the country’s respect for freedom of expression. That a large portion of the Russian-speaking minority lacks Estonian citizenship remains a source of apprehension, but scholars and international officials generally do not consider it a fundamental human rights violation. While mentioning citizenship as an area of concern, a Council of Europe report (based on a fact-finding trip to Estonia by the organization’s commissioner for human rights in October 2003) concluded that “the authorities have gone a long way to ensuring the rights of the Russian-speaking minority.”

By contrast, the country’s treatment of women and children is in need of improvement. Spousal and child abuse is not uncommon, though it may lead to prosecution. Prostitution (including child prostitution) is common. These activities point to the related problem of trafficking in persons. Estonia is a source, transit point, and destination for the trafficking of women for purposes of sexual exploitation.

In 2003, the UN Committee on the Rights of the Child evaluated Estonia’s initial report. The committee expressed concern about the need to bring Estonian legislation in line with the Rights of the Child Convention, to improve the role of NGOs in implementing the convention, and to increase government spending on programs targeting children. The committee also criticized Estonia for submitting the report eight years late. On the other hand, it praised the country’s adoption of legislation such as the new 2002 penal code, the continuation of the 2000–2007 integration program, and the establishment of comprehensive health insurance.

Those charged with a crime in Estonia are eligible for legal assistance. However, the above-mentioned report by the Council of Europe human rights commissioner called for improvements in access to free legal aid and information about legal rights provided to detainees. For the most part, suspects and prisoners are protected against arbitrary arrest, detention without trial, searches without warrants, torture and abuse, and excessive delays in the criminal justice system.

However, Estonia has been criticized for its treatment of suspects and the conditions of its prisons. In 2004, the U.S. State Department expressed concern about the use of excessive force and verbal abuse by police. This followed criticism from the UN Committee Against Torture in late 2002 for isolated incidents “of ill-treatment of detainees by officials” in some police departments. Previous criticism from the European Committee for the Prevention of Torture, based on trips to Estonia in 1997 and 1999, had also criticized detention conditions. The condition of prisons in the country was a focus of government efforts in 2004. Physical improvements were made at Murru prison, while retention of prison staff in the country improved slightly during the year. Conditions continue to warrant further attention, particularly in the areas of staff training and prisoner health.

In general, Estonia observes equality under the law for its citizens. The European Commission expressed concern in 2003 about the lack of legislation addressing discrimination “in the workplace, job training, social policy, education, access to goods and services, and housing.” Estonia also drew criticism for its lack of public information regarding discrimination and for draft antidiscrimination legislation that insufficiently reduces “inequality arising from language proficiency and ethnic origin.” Such concerns lingered in 2004, but it is important to note that general standards of justice common in the West (presumption of innocence, independence of prosecutors, and so forth) are practiced in Estonia.

The new code of criminal procedure came into effect in the summer of 2004, and EU assessments have been generally positive. The new rules will enhance the role of prosecutors in investigations. Adversarial trials—in which the prosecution and defense frame disputes, while a judge acts as a neutral arbiter—will become common. Judges continued to receive training about the new rules in 2004. In addition to preparations specific to the new code, judges have received training on the European Court of Justice, the role of national courts in the EU, and implementation of EU law. The EU’s PHARE program has coordinated and funded much of the judicial training over the last several years.

The Law on the Courts, adopted in 2002, has helped ensure judicial independence. According to EU monitoring reports, the appointment of judges for life and the rules for removing them encourage judicial independence, and the November 2003 EU report on Estonia highlighted the decrease in the number of judicial vacancies: 237 sitting judges and only 3 empty positions. Some concerns have existed about corruption in the judiciary. Although the issue is addressed in the Law on Anticorruption, it is unclear whether judicial corruption has received the attention from the Parliament that it deserves. At the same time, increases in judges’ salaries may limit incentives for corruption.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	3.25	2.75	2.50	2.50	2.50	2.50

Corruption in the Baltic states is a greater problem than in most Western European countries, but according to a recent Transparency International report, it does “not pose a vital threat to the functioning of democracy” in countries like Estonia. Despite a public perception of corruption within the national government, Estonia is considered one of the least corrupt of the Eastern European and former Soviet states. Transparency International’s 2004 Corruption Perceptions Index placed Estonia in a tie with Slovenia as the least corrupt of the new EU member states. Estonia ranked 31st in the global rankings, two spots higher than its 2003 position. The report complimented Estonia’s adoption of a national anticorruption plan and its efforts to address concerns about political party funding. Unlike many nations in transit, Estonia does not advance its anticorruption efforts as a ploy to aid its attacks on political opponents at the national level. If anything, officials removed from national office or forced to resign over the last several years have tended to be high-ranking.

Though little evidence exists of rampant corruption among national political leaders, concerns linger about political parties. The Transparency International 2004 Corruption Barometer gave corruption in political parties the highest score among 15 social and governmental institutions and sectors. In addition, an Open Society Institute report raised questions about corruption at the local level and the persistence of organized crime—again a predominantly local problem in terms of its impact on political corruption. The only real oversight of local officials (other than from voters) comes from the audit commissions of local councils, which have neither the expertise nor the incentive to pursue local corruption. The report also called into question the compliance of political parties with rules regarding funding and fund-raising.

Still, even this report gave Estonia high marks for its treatment of corruption “as a distinct crime under criminal law” (something unusual in transition countries) and for comprehensive conflict of interest rules in the country’s Law on Anticorruption. Likewise, a 2002 Organization of Economic Cooperation and Development *Anticorruption Network for Transition Economies* report stated that the Law on Anticorruption “provides the legal basis for the prevention of corruption” and declared that “Estonia has come a long way in creating a good legal basis for fighting corruption.”

Once more, the EU accession process has been an important factor in shaping Estonia’s approach to corruption. According to a 2002 Transparency International report, the EU considers the fight against corruption in

new member states to be “a vital element in building administrative capacity, strengthening the judiciary, and ensuring financial control.” It has, however, been generally supportive of Estonia’s efforts and complimentary of the country’s low levels of corruption.

A second reason for Estonia’s low levels of government corruption is, arguably, its laissez-faire approach to economics. To say that the Estonian economy is free from excessive bureaucratic regulations, registration requirements, and other controls that increase opportunities for corruption is an understatement. As 2004 came to a close, the Heritage Foundation/*Wall Street Journal’s* Index of Economic Freedom rated the Estonian economy the fourth most economically free in the world, behind only Hong Kong, Singapore, and New Zealand. An irony of the EU accession process is that the Estonians—in their zest to remove the vestiges of the old Soviet system—created an economy that was too market oriented for its Western European EU partners. Many of the issues addressed in accession talks with the EU involved the reestablishment of government control over aspects of the economy, though the EU’s concurrent concerns about corruption make it unlikely that such changes will open the door to a noticeable increase in corruption.

The final cause of low levels of corruption, as well as the government’s actions in 2003 and 2004 to address potential concerns, is a degree of intolerance among the general population for official corruption. Though corruption is far from rampant in the government, the Estonian population was not terribly trusting of any government figure other than the president in 2004. The electoral success of Res Publica in 2003 can, again, be attributed as much to displeasure with the previous ruling coalition (coupled with Res Publica’s vague claims of aggressively pursuing corruption) as to disapproval of policy positions of the party. Likewise, the Social Democratic Party’s success in the European Parliament elections in 2004 may reflect a positive assessment of it owing in part to its lack of participation in national government affairs. One of the first actions of the ruling coalition following its transition to power was the reconstitution of the Anticorruption Committee in the Parliament. This committee worked in 2004 to collect, verify, and publish information about the assets of sitting government officials.

Allegations of corruption are given an extensive airing in Estonia’s print media. This is a likely reason for the public’s perception of high levels of corruption among national political figures. Less attention has been paid in the electronic media to corruption, though it is unclear whether this is a result of political interference or simply a lack of investigative resources. Consistent with other concerns about the local level, observers have noted that local media outlets are less zealous than national media in exposing corruption. Yet whistle-blowers, anticorruption activists, investigators, and journalists enjoy

legal protections in Estonia, and there is little reason to feel insecure about investigating and reporting on cases of bribery and corruption.

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Georgia

<i>Capital</i>	Tbilisi
<i>Population</i>	4,500,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$2,260
<i>Private sector as % of GDP</i>	65%
<i>Ethnic groups</i>	Georgian (70 percent), Armenian (8 percent), Russian (6 percent), Azeri (6 percent), Ossetian (3 percent), Abkhaz (2 percent), other (5 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	5.00	4.50	4.00	4.50	5.00	5.25	5.25	4.75
Civil Society	4.50	4.25	3.75	4.00	4.00	4.00	3.50	3.50
Independent Media	4.50	4.25	3.75	3.50	3.75	4.00	4.00	4.25
Governance	4.50	5.00	4.50	4.75	5.00	5.50	5.75	n/a
National Democratic Governance	n/a	5.50						
Local Democratic Governance	n/a	6.00						
Judicial Framework and Independence*	5.00	4.75	4.00	4.00	4.25	4.50	4.50	5.00
Corruption	n/a	n/a	5.00	5.25	5.50	5.75	6.00	5.75
Democracy Score	4.70	4.55	4.17	4.33	4.58	4.83	4.83	4.96

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Since independence, Georgia has created a hybrid regime haunted by instability. There were no constitutional transitions of power after 1990, while in 1992 and 2003 elected presidents were forced out of office after public protests. In the latter case, however, the change was peaceful and did not lead to a major disruption of the constitutional process. Wars for secession from 1991 to 1993 brought some 15 percent of the country's territory under the control of unrecognized governments in Abkhazia and South Ossetia. Moreover, a local autocratic regime in the Autonomous Republic of Achara openly defied constitutional order without formally opting for secession. The 1995 Constitution conformed to main democratic criteria—this, along with the liberal policies of the government, allowed political parties to compete freely for the most part, independent media and civil society to grow, and the Parliament to develop into a fairly independent institution. However, executive power was ineffective and corrupt, and elections were increasingly rigged. The political system was overcentralized, with almost no democratic institutions on the subnational level. The government of President Eduard Shevardnadze, seen as ineffective and corrupt, lost its public support.

Public protests following the fraudulent parliamentary elections in November 2003 led to the resignation of President Shevardnadze and the cancellation of the election results by the Supreme Court. This seminal event, called “the Rose Revolution,” propelled to power a group of young Western-oriented politicians led by the charismatic Mikheil Saakashvili and the coalition of the National Movement and the United Democrats parties. The leaders had earlier constituted a reformist faction within the Shevardnadze government. The revolution led to a high level of public enthusiasm and even higher expectations. In early 2004, these political forces united into a single political party, which quickly consolidated its power in free and fair elections and embarked on an ambitious reform program. However, initially the new government focused its energies on effectiveness and the territorial integrity of the state, rather than the development of a democratic system of checks and balances.

A major success was achieved in Achara, where the local autocratic regime was changed as a result of a democratic revolution supported from Tbilisi. The region was effectively reintegrated into Georgia's political space, while formally retaining its autonomous status. An attempt to reintegrate the break-away South Ossetia, on the other hand, proved ineffective and served only

to aggravate the situation. The collection of public revenue was stepped up considerably, and some effective anticorruption measures were carried out.

However, strengthening the state was accompanied by certain setbacks in democratic freedoms and the balance of political power. Supporters of the Shevardnadze government, as well as opposition groups that chose not to support the revolution, were discredited and failed to create credible opposition forces. The opposition presence in the Parliament is almost insignificant. The new government, eager to maintain the momentum of revolutionary change and achieve fast results, has not always respected existing laws and procedures in pursuing its policies. Constitutional changes in February 2004 weakened the Parliament and moved Georgia in the direction of superpresidentialism. Independent media became less critical and pluralistic, prosecutors became less likely to follow due process, and the courts rarely dared to disagree with the prosecution.

National Democratic Governance. The Georgian political system is based on popular sovereignty, and the Constitution provides for all basic political freedoms. February 2004 changes to the Constitution skewed the balance of power in favor of the presidency and weakened the Parliament. The Rose Revolution demonstrated strong popular support for democratic institutions. The government occasionally interacts with civil society, but the level of political participation—save for elections or public protests—is concentrated within a small elite. About 15 percent of Georgian territory is controlled by the secessionist regimes of Abkhazia and South Ossetia, which are backed by Russia. In 2004, the local autocratic regime in the Autonomous Republic of Achara was overthrown in a peaceful revolution and the region was integrated into the Georgian public space. The effectiveness of the executive government increased, especially in attracting public revenue, and civilian leaders were appointed for the first time to lead the Ministries of Defense and Internal Affairs. *As Georgia is a hybrid system with considerable democratic freedoms but still lacking fully consolidated state institutions, as there are insufficient governmental checks and balances, and as the government's authority does not extend over the entire territory, the rating for national democratic governance is at 5.50.*

Electoral Process. In stark contrast with the fraudulent and chaotic parliamentary elections in November 2003, snap presidential and parliamentary elections in 2004 were considered generally free and fair, though voter lists were still not fully complete. There was no harassment of the opposition. However, the level of political pluralism was sharply reduced as the former ruling party completely disbanded and no political group could compete with Mikheil Saakashvili and his National Movement–Democrats. Only one opposition bloc of the New Rights and Industrialists was able narrowly to

overcome the 7 percent threshold for party lists. *Because elections were more free and fair in 2004 as compared with the previous year, the rating for electoral process improves from 5.25 to 4.75.*

Civil Society. Legislation regulating the activities of nongovernmental organizations (NGOs) is quite liberal. Not-for-profit organizations are easy to register, and they can operate freely. The number of NGOs is growing and civil society is vibrant and politically influential, though in 2004 its visibility diminished somewhat as compared with previous years. NGOs have accumulated important intellectual and institutional capacity, though in 2004 the sector was somewhat weakened after many leading activists joined the government. There are organizations with illiberal extreme right agendas, but in 2004 their influence diminished. The social base of NGOs is rather narrow, and organizations in most regions outside the capital are less developed. They are dependent mainly on foreign funding for their support, though the new 2004 tax code instituted tax breaks for charitable activities. Trade unions exist but have little influence. *The rating for civil society remains unchanged at 3.50.*

Independent Media. The Georgian Constitution and legislation ensure a liberal environment for the development of independent media. The 2004 Law on Freedom of Speech and Expression took libel off the criminal code and relieved journalists of legal criminal responsibility for revealing state secrets. However, in the first half of 2004 independent TV stations became less daring in criticizing the government, a development that may be based on a combination of alleged behind-the-scenes government pressure and self-censorship. The economic base of the media is weak: independent TV companies are usually unprofitable and serve to promote the agendas of their owners. The professional quality of journalists is insufficient, and there are no strong formal associations to set professional and ethical standards for the industry. *Owing to diminished pluralism in the media, the rating for independent media worsens from 4.00 to 4.25.*

Local Democratic Governance. Democratic institutions are least developed at the local level in Georgia. The Constitution does not define the territorial arrangement of the country or the competences of subnational institutions of state power. There are three levels of subnational government—regional, district, and local—with elected representatives at only the district and local levels. Local elections are usually competitive, with the opposition able to win, but elected mayors and councils do not have resources to play a decisive role in managing local affairs. Real power is concentrated in the centrally appointed administrators and local branches of central agencies. Legislation adopted in 2004 regarding the Autonomous Republic of Acharan left very

little power to the regional council. In November 2004, Georgia's Parliament ratified the European Charter of Local Self-Government, but no further steps were made to decentralize governance. *Since the existence of freely elected local authorities creates some ground for local democracy but governance is not effectively decentralized, the rating is at 6.00.*

Judicial Framework and Independence. The Georgian Constitution provides important safeguards for the protection of human rights and the independence of the judiciary. However, in 2004 the judiciary was less likely to withstand political pressure, and courts rarely disagreed with the prosecution's demands. Against the backdrop of a more active fight against organized crime, reports on torture in preliminary detention facilities increased. The prosecution often violated due process in politically sensitive cases related to allegations of corruption. On the positive side, there was important progress in curbing violence against religious minorities. *Owing to violations of due process by the prosecutor's office and a decrease in the independence of the judiciary, the rating drops from 4.50 to 5.00.*

Corruption. While a high rate of corruption has been typical for Georgia, the new government undertook resolute anticorruption measures. A number of corrupt officials were arrested, including some appointed by the new government. Changes were made to legislation to facilitate the prosecution of corruption cases. Salaries of about 10,000 public servants and law enforcement officers were dramatically increased as an incentive to limit corruption. Certain official procedures have been simplified. There is evidence of improvement in key areas such as the tax and customs offices and the police. *Owing to the resolute anticorruption measures of the new government, the rating in this category improves from 6.00 to 5.75.*

Outlook for 2005. In 2005, the new Georgian government is expected to take steps to stabilize and consolidate its power and carry out policy reforms in several key areas. Stabilizing the executive will depend on whether the frequent reshuffling of the cabinet and of regional administrations (typical of the first year in power) can be brought to an end and whether different informal networks within the ruling party will continue to work together; some analysts predict that new groups will defect from the United National Movement. The new government is expected to reform the system of local and regional government and to amend the territorial arrangement of the country, a process that should be completed by the fall of 2005 in order to create a new base for the local elections in the spring of 2006. However, by the end of 2004 the government had not put forward any specific outline for this reform. Important reforms in the areas of the judiciary and education are also expected. Equally important, the government is likely to take active

steps toward resolving the “frozen” conflicts in Abkhazia and South Ossetia. There is concern that unless a settlement is achieved by peaceful means, which appears unlikely in the short run, the government may consider using force, specifically to resolve the conflict in South Ossetia.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.50						

The 1995 Constitution defines Georgia’s political system as a democratic republic. It stipulates that the people are the source of the state’s authority, which shall be exercised through the separation of powers. Chapter 2 of the Constitution asserts all basic rights and freedoms of the individual. In practice, however, Georgia’s record of democratic governance is mixed. As a rule, people can exercise their right to political participation by creating and joining political parties, taking part in elections, and creating and taking part in public associations or demonstrations. Government, even at the highest level, interacts with and takes advice from the civil society, and in 2004 this interaction generally increased. The 1999 administrative code includes the equivalent of the U.S. Freedom of Information Act, which makes accessible all public information. In actuality, public participation in politics—save for the relatively rare election or mass protest—is restricted to a small elite.

The Georgian Constitution calls for the separation of powers among the executive, legislative, and judicial branches of government. Both president and Parliament are elected by direct popular vote. Until 2004, the design of the central government generally followed the model of the U.S. Constitution. The president could not dissolve the Parliament and needed to secure parliamentary approval when appointing ministers and adopting the budget. On February 6, 2004, the Parliament introduced changes into the Constitution that unraveled the republican balance of power in favor of the president. A new position of prime minister and the Cabinet of Ministers were established. The president must secure approval from Parliament to appoint the prime minister but can dismiss him at will. Most important, the president has acquired powers to dismiss the Parliament in specific circumstances, such as in the event of three consecutive no-confidence votes delivered to the cabinet by Parliament.

During 2004, the large majority of legislative initiatives in the Parliament came from the executive. Parliament rarely took the lead in initiating legisla-

tion. Despite a strong pro-government majority, the Parliament displayed its independence in a few important cases and successfully pushed for serious changes in draft legislation coming from the government. The Parliament is quite open to the public—interested parties may take part in discussing draft legislation in parliamentary committees and often take advantage of this opportunity. In 2004, presumably under pressure from the executive, the Parliament hastily adopted legislation without due deliberation, openly violating due procedures. This included important constitutional changes in February and October amendments to the electoral code, which removed minimal turnout requirements in by-elections for the Parliament. The government justified these changes by stressing its own political urgencies, such as the need to consolidate the new government based on a more effective design of national power.

A large part of the Georgian economy is privatized, and in 2004 the government announced an ambitious program to privatize the remaining assets, including industrial facilities and infrastructure such as utilities and ports. During Eduard Shevardnadze's presidency (1995–2003), big business depended on close contacts with the government, and tax evasion was the norm. President Mikheil Saakashvili's government, elected in January 2004, distances itself from big business, but its aggressive anticorruption policy, including strong measures against tax evasion, has made business vulnerable to government pressure. In the last days of 2004, the Parliament adopted a financial amnesty bill that forgave the backlog of tax liabilities accumulated by businesses up to January 1, 2004. As part of the same package, a new and more liberal tax code was adopted to reduce the amount of taxes and number of tax rates (for instance, the flat income tax was reduced from 20 to 12 percent).

The stability of Georgian democratic institutions is an especially challenging problem. In 1992 and 2003, the elected heads of states lost their positions after mass protests. In the November 2003 Rose Revolution, however, the changeover was peaceful, and the exercise of power returned to the constitutional framework as soon as President Shevardnadze resigned. Except for these two large disruptions, national elections have been held within constitutional limits.

Territorial control of Georgia's democratic institutions is also challenged. About 15 percent of the country's territory belongs to the self-proclaimed states of Abkhazia and South Ossetia. These regions became effectively independent following wars for secession from 1991 to 1993, and neither recognizes the sovereignty of the central government. Both regions are strongly influenced by Russia. The government of the Autonomous Republic of Achara did not formally secede and, even in the period before May 2004, continued to take part in Georgia's political life. Yet it openly defied constitutional order and turned the region into the personal fiefdom of Aslan Abashidze, the lo-

cal strongman. Like other regions with uncertain political control, Achara became the breeding ground for an illicit economy and smuggling. In May 2004, after mass protests in Achara in what can be called Georgia's second Rose Revolution, Abashidze was forced to flee. This outcome has most likely solved the problem of Achara's implicit separatism.

Since May, the new government has also tried to solve the problem of South Ossetia by attempting to win popular support with a series of humanitarian measures, while intimidating the separatist government with military force and a crackdown on smuggling, the region's economic base. In effect, this has escalated tensions and led to episodes of low-key fighting from July to August, resulting in 17 deaths and the consolidation of the local population behind their hitherto unpopular leader. A full-scale war was avoided, but occasional tensions have persisted. This episode has also led to the deterioration of relations with Russia, which informally supports separatist authorities.

In October, Abkhazia held local presidential elections that were not recognized by the international community. The opposition candidate won, but the refusal of the separatist government to concede defeat led to civil strife, with some casualties. In late December, Russian mediation ended the crisis by compelling the opposing candidates to run on a single ticket as president and vice president for a repeat vote in January 2005. Saakashvili and his ministers reiterated their support for a peaceful resolution to the "frozen" conflicts in Abkhazia and South Ossetia but did not rule out using military force if negotiations failed to work.

Popular support for democracy is linked to a strong orientation toward Western institutions, and the wish to join NATO and the European Union are points of consensus within the national political agenda. There are no influential political parties running on openly antidemocratic and anti-Western tickets, though suspicion about Western influences is crystallized around some religious Eastern Orthodox organizations.

The ineffectiveness of the executive branch has been one of the most notorious features of the Georgian government since independence and the basis for its frequent description as a "weak" or "failing" state. In the past, government agencies were overstaffed and had difficulty attracting qualified personnel because remuneration was well below living wages. Efforts were made to improve this in January 2004 by increasing the salaries of about 10,000 public servants several times through the Development and Reforms Fund under the president of Georgia. The fund is sponsored by international and Georgian donors but is expected to be fully funded by the Georgian state budget in two to three years. In 2004, the government worked to attract qualified public servants from business, civil society, and the Georgian diaspora. The number of ministries was reduced to 15, and the structure of the executive was simplified by abolishing independent departments or merging them with ministries. Staff were reduced drastically in many public agencies;

for instance, Ministry of Security personnel were decreased by half. In many agencies, effort was made to improve technical equipment. However, there is still a shortage of qualified personnel at the middle and lower levels of state bureaucracy. Many high-level officials are young (some ministers under the age of 30) and bring new openness and dynamism to government, but there is a lack of experience. There are no general policy standards for public service personnel. Although the law differentiates between political appointees and professional public servants, this distinction is often ignored in practice. By the end of 2004, some ministries (such as the Ministry of Foreign Affairs) were replacing large numbers of their employees through open competition, and other ministries are expected to follow suit.

Reforms made in 2004 brought civilian leaders for the first time to helm the Ministries of Internal Affairs and Defense. Other steps were made to bring the structure of the Ministry of Defense closer to NATO standards. Drastic personnel cuts were implemented in these ministries, but salaries were increased sharply for all military personnel. There have been impressive improvements in the level of training and equipment for the armed forces acquired through foreign assistance (such as the U.S. Train and Equip program) as well as internal resources. Budgetary procedures provide for effective parliamentary oversight over the military and security establishment, but so far these have been insufficiently exercised.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
5.00	4.50	4.00	4.50	5.00	5.25	5.25	4.75

The Constitution and the electoral code guarantee universal suffrage, equal electoral rights, and the right to direct and secret ballot. However, electoral standards generally declined from 1990 to 2003. During this period, the irregularities most frequently registered by domestic and international observers included ballot stuffing, multiple voting, erroneous voter lists, and rigging of the ballot tabulation process by electoral commissions on various levels. In most regions, political parties were free to campaign and express their views. People were usually free to express their political will, though pressure was exerted on public servants and the military to support government parties.

The November 2003 parliamentary elections constituted a nadir in this trend, leading to the Rose Revolution. President Shevardnadze resigned under popular pressure, and the Supreme Court of Georgia annulled the results of the party lists vote owing to massive fraud (the election results from most single-mandate constituencies were not annulled). Consequently, the mandate of the Parliament elected in 1999 was prolonged until the next elections.

On January 4, 2004, snap presidential elections were held. Mikheil Saakashvili, the leader of the Rose Revolution, won with 96.27 percent of the vote. The International Election Observation Mission (IEOM) of the Organization for Security and Cooperation in Europe and the Council of Europe (COE) noted “clear improvements, particularly in the conduct of voting, new voters’ lists, the legal framework, and overall election administration,” stated the COE. Significant progress was also reported by domestic observers. The lack of competition was explained by postrevolutionary euphoria and by the fact that other popular political leaders either supported Saakashvili, or—like Shalva Natelashvili of the Labor Party—chose not to run, since failure to support the Rose Revolution would have seriously undermined their public credibility.

The bloc of the National Movement and United Democrats, which led the revolution, was the clear winner in the March 2004 parliamentary elections (party lists only), receiving 66.24 percent of the vote. Only one other bloc, the New Rights–Industrialists, overcame the 7 percent threshold for political parties, with 7.96 percent. IEOM, as well as domestic observers, noted significant progress in the quality of elections in this case as well, as reported by the COE. There was no significant discrepancy between official results and those from a parallel vote tabulation conducted by the International Society for Fair Elections and Democracy, the domestic election-monitoring organization, operating in cooperation with the U.S.-based National Democratic Institute for International Affairs.

Despite progress, important flaws persist. On all levels, Georgian election commissions are based on the balance among representatives of political parties, with government parties usually calling the shots. A marked imbalance in favor of the newly dominant National Movement and United Democrats was preserved in the electoral commissions in the January and March elections. The new government refused to follow recommendations of the COE to change the election code to allow for a more balanced composition of electoral commissions before the March parliamentary elections. After the parliamentary elections, intimidation and physical abuse against opposition supporters and journalists were reported in Achara—but the local autocratic regime responsible for the abuse was ousted soon afterward. Ballot stuffing, multiple voting, and, as a result, unrealistically high turnout figures persisted in Kvemo Kartli, another Georgian province notable for especially low election standards. Since faulty voter lists had been one of the major defects in the November 2003 elections, completely new voter lists were quickly prepared based on the self-registration of voters. Consequently, full lists of eligible voters were not available on election day.

In November 2004, the Parliament approved in first reading amendments to the election code that would base electoral administration on nonpolitical public servants. According to the new system, members of the Central Electoral Commission would be selected by the president and confirmed by Par-

liament. However, the new principle raised concerns about further enlarging presidential powers, and a final decision was postponed until spring 2005.

The most substantive deficiency in the Georgian electoral system is the lack of strong and stable political parties competing at different levels. Most influential political parties are seen as machines for ensuring support for their individual leaders, rather than as vehicles for mobilizing citizens around competing interests and policy options. There is a tradition of dominant political parties—the Round Table from 1990 to 1991, the Citizens' Union of Georgia (CUG) from 1995 to 2001, and the Union of Revival of Georgia (URG) in Achara from 1992 to 2004—that tend to merge with government structures.

From 2001 to 2003, Georgia witnessed the strengthening of the opposition and a considerable increase in political pluralism. However, the Rose Revolution led to the re-creation of a single dominant party, the United National Movement, with the merger of the National Movement and the United Democrats finalized in November 2004. On the other hand, the defeats of Eduard Shevardnadze and Aslan Abashidze terminated the activities of their respective political parties, the CUG and URG. Opposition parties that did not side with the revolution (such as the Laborists and the New Rights) lost large segments of their supporters. As a result, the political opposition has low credibility and insufficient opportunities to influence the political process. While the New Rights–Industrialists bloc is the largest opposition group in the Parliament, two other groups, the Conservatives and the Republicans, broke away from the National Movement and contest its policies within the legislative branch.

The 1997 Law on Citizens' Political Associations (as well as the actual practices of government) presents no significant barriers to political organization and registration. The only important restriction is that against the creation of regionally based political parties. This provision was used by the Ministry of Justice to deny registration to Virk, a political party based in the ethnic Armenian–populated province of Samtskhe-Javakheti. Virk supports creating an ethnically based Armenian autonomy in the region, which causes concern in Georgian society.

While election turnout figures are usually considered unreliable owing to faulty or incomplete voter lists, a high level of participation is obvious in most critical elections, including the presidential and parliamentary elections in 2004. However, the lack of viable political parties restricts broad public participation mainly to elections or occasional protest actions. The level of participation of ethnic minorities is especially low—according to a 2002 census, ethnic minorities constitute more than 16 percent of the population (not counting the breakaway regions of Abkhazia and South Ossetia) and are concentrated largely in two provinces, Kvemo Kartli and Samtskhe-Javakheti. Though there is no explicit discrimination against ethnic minorities, the majority do not speak Georgian, which is the country's only official language.

This effectively disqualifies them from public and political life on a national level. Ethnic minorities are largely underrepresented in all branches of power on the national and, in some regions where they reside, the local level.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
4.50	4.25	3.75	4.00	4.00	4.00	3.50	3.50

The independent civic sector in Georgia is relatively large, vibrant, and influential, and its rights are for the most part protected. However, the social base for nongovernmental organizations (NGOs) is rather narrow, including mostly young urban professionals. According to research conducted by the Georgian Business Law Center, there were at least 3,948 public associations in Georgia by January 2002 and as many as 1,000 foundations. Numerous organizations are on paper only or were created for implementing one or two projects. However, about 200 are relatively stable, and some 30 groups have permanent staff and boards. The capacity and quality of management of leading organizations are gradually increasing, and growing local expertise on NGO management is available for less developed organizations. Training and handbooks on NGO management, fund-raising, and other resources are largely available. In 2004, a code of conduct for NGOs was created, which civil organizations are free to join.

Georgian civil society is rather diverse, with the most active and visible organizations involved in democracy promotion, good governance, human rights protection, and public policy research. Many other groups are involved in environmental, social, and similar humanitarian causes. Women's and minority groups are numerous but weakly related to the mainstream. Community-based organizations have developed in some regions but require donor assistance to survive.

The civic sector played an important role in the Rose Revolution of 2003 by providing authoritative monitoring of the electoral process and mobilizing support for democratic causes. Its influence and visibility dropped off somewhat during the first half of 2004. One of the reasons for this is that a number of leading NGO activists have joined the government. Attitudes in the civic sector have also grown more diverse. In the last period of Shevardnadze's rule, the civic sector was perceived by the wider society as more or less homogeneous and mainly critical of the government. After the Rose Revolution, attitudes of NGOs have become more diverse. Some did not support the revolution, considering it a nonconstitutional transfer of power, and continue to be extremely critical of the government. Most NGOs supported the revolution, welcomed the new government, and are open to cooperating with it, while at the same time they express strong criticism of specific activities. With op-

position parties rather weak (except from 2001 to 2003) and not necessarily democratic, NGOs often take the lead in opposing government actions that are seen to be in conflict with democratic standards.

There is no established format for interactions between the government and the civic sector, though relations became more intense in the second half of 2004. There were several meetings between NGO activists and the president. Civil society representatives are routinely included in official commissions and working groups, which define different aspects of the reform agenda, and have an impact on government decisions. This also includes public policy think tanks and representatives of interest groups. However, many activists of the civic sector often express their disappointment with the new government's tendency to make important decisions without leaving enough time for broad consultations and adequate public discussion.

The Georgian civic sector has regular access to the media. Civil society representatives are frequently invited by the media to comment on current political issues and policy reforms. However, only a small number of organizations and civil society personalities sustain high visibility in the media. Since the Shevardnadze era, independent media and NGOs are considered the driving force to promote democratic causes, and the image of NGOs in democratic-minded media is rather positive. However, when the media express suspicion of Western influences, they also tend to speak negatively of NGOs.

Free access to public information is guaranteed by the administrative code, but in practice there may be resistance by some state agencies to release information. Some NGOs report that after the new government came to power, getting public information became somewhat more difficult in practice.

According to the civil code, not-for-profit organizations have the option of being registered as associations (unions) or foundations. They can also be active without registration, but in this case they cannot conduct financial operations. Until 2004, associations were registered by local courts, while foundations were registered with the Ministry of Justice. Following an amendment to legislation, all not-for-profit organizations are now registered in branches of the Ministry of Justice. In practice, registration is quite easy. The Law on Grants exempts moneys received by not-for-profit organizations from most taxes. The new tax code passed in December 2004 instituted tax exemptions encouraging charitable activities. Businesses can now spend up to 8 percent of their gains on charitable activities to avoid taxes on that amount. Many businesses are involved in charity, but these activities are rarely institutionalized, and only a handful of Georgian businesses have formed charitable foundations. Almost no local moneys go to support civil society causes. Developed organizations usually depend on grant support from Western organizations. Only a small number use volunteer workers, and the role of income-generating activities is generally marginal. Despite some efforts to

bridge civil society and business communities, cooperation is weak.

Georgia has its fair share of public associations that pursue illiberal causes. These claim mainly to protect Eastern Orthodox values from the pernicious influence of Western liberal values. Some groups have been involved in violent attacks against religious minorities, civil society, the media, and the political opposition. The new government has been successful in curbing the activities of such groups, so that violence on behalf of “uncivil society” has largely stopped. In 2004, illiberal groups like the Orthodox Parents Association actively attacked reforms proposed by the Ministry of Education from a religious fundamentalist position, but their activism soon petered out. This and other illiberal groups may express their opinions freely but do not have much political influence or seriously disrupt public order.

Georgians are free to organize and join trade unions, but so far only a few viable independent trade unions have been created, mainly in health care and education. Those trade unions that are successors to Soviet-era organizations do not play any visible role in defending employees’ rights.

During the period of independence, education standards declined and there were numerous reports of widespread corruption, including those released by the American University Transnational Crime and Corruption Center. In 2004, the Ministry of Education launched a large-scale reform program. It made accreditation procedures stricter so that many universities that had served as “diploma mills” lost their licenses. In December 2004, a new Law on Higher Education was passed that aims to decentralize the education system and devolve more power to educational organizations. In the short term, however, the law instituted a transitional period of two years during which president-appointed rectors will implement reforms that are supposed to bring university administration and curriculums closer to European standards. The law instituted for the first time national exams for obtaining university scholarships and linked government funding of universities to the number of students who chose to use their scholarships in given universities. Opponents criticized the reform as compromising university autonomy.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
4.50	4.25	3.75	3.50	3.75	4.00	4.00	4.25

The Constitution states that “the mass media are free; censorship is impermissible” and that “citizens of the Republic of Georgia have the right to express, distribute, and defend their opinions via any media, and to receive information on questions of social and state life. Censorship of the press and other media is not permitted.” Since the mid-1990s, independent media have become relatively developed in Georgia. They are free of censorship and are

often strongly critical of the government. The strength of independent media was one of the preconditions for the success of the Rose Revolution in 2003. The chief concerns regard the media's insufficient professional standards and weak economic base, the use of libel and defamation cases against journalists, and the state TV and Radio Corporation, which continued to serve as a propaganda outlet for the government.

Despite this last concern, the media market is dominated by privately owned organizations. Rustavi-2, Imedi, and Mze are the most important independent TV channels. Until the Rose Revolution, Rustavi-2 was considered the obvious leader because of its daring news reporting, investigative programs, and pluralistic talk shows. Newspaper distribution is also mainly in private hands, though the state-owned Sakpresa distribution agency is still in business. The ownership structure of the media is quite diverse.

In June 2004, the Parliament enacted a new bill on freedom of speech and expression, sponsored by the Liberty Institute, a Georgian NGO. The law decriminalized libel, moving litigation from criminal to civil law competences. Journalists can no longer be held responsible for revealing state secrets; only relevant public servants can be charged for failing to guard them properly. Experts agree that this law brought Georgian media legislation to high international standards.

In December 2004, the Parliament passed a new Law on Broadcasting. It institutes procedures to transform the existing state TV and Radio Corporation into a public broadcasting facility that must be completed by mid-2005. TV and radio broadcasting is to be made independent from the government, with politically balanced programming. It will be supervised by a nine-member board of trustees appointed by the Parliament, with three candidates for each slot pre-selected by the president from a multiplicity of applicants.

The law entrusts the licensing of broadcasting outlets to the Broadcasting Commission, an independent body whose five members are appointed by the Parliament through the same procedure described for public broadcasting trustees. Earlier, the licensing function was performed by the National Regulatory Commission for Communication, a body of similar status created in 1999. Broadcasting licenses are issued for 10 years and extended automatically for another term unless the broadcaster violates specific requirements defined by law. This provision caused the greatest controversy, since TV and radio companies must now face open competition after 20 years of broadcasting.

In 2004, progress made in media legislation contrasted with concerns about the decreased level of actual freedom of the media. Electronic media became less inclined to report information uncomfortable to the government and less likely to provide a forum for political debate. In early February, two popular talk shows were taken off the air on the same night by Rustavi-2 and Mze. The owners of both channels insisted that this decision was motivated only by a wish to enhance programming quality, but in the Rustavi-2 case

the talk show never reappeared. The most prominent investigative program, *60 Minutes* on Rustavi 2, was also shut down. The reluctance of the media to report sensitive information was especially obvious in the period of escalation in the South Ossetia crisis. Two TV companies, Channel 9 and Iveria, were closed down altogether. In the former case, it was an owner's decision with no grounds to allege any government involvement. Iveria shut down its programming after the offices of its parent company, Omega, were taken over by the police on charges of mass tax evasion; it suffered huge losses. Omega was widely believed to play a leading role in cigarette smuggling in Georgia, but the case was never brought to court.

With the end of the South Ossetia crisis in September 2004, the government switched its primary attention to the problems of reforming governance, and the media again became gradually more diverse and critical in its programming. Debates on TV intensified as different opinions on important public policy issues were expressed, including by members of political opposition groups.

The reasons for negative changes in the media are not fully certain. If there was political pressure, as some journalists and experts allege, it occurred behind the scenes and no specific information has ever been made public. Self-censorship and a lack of editorial independence, as well as a generally weak economic base for free media, are deeper problems. The advertising market in Georgia (assessments vary from US\$7 million to US\$20 million annually) is not large enough to sustain several independent TV channels. The owners of Imedi and Mze subsidize the channels from their other businesses, and they may see these channels as tools to promote their interests in other areas. The owners have been reluctant to spoil their relations with both the old and the new government.

The greatest change was in early 2004, when it was revealed that Rustavi-2 had large tax arrears and its owner, Erosi Kitsmarishvili, had tried to begin bankruptcy proceedings. At the same time, Kitsmarishvili switched his economic interests to other areas, preferring not to upset the new government after the revolution. In fall 2004, Rustavi-2 was bought by Kimer Khalvashi, reputedly a close friend of Irakli Okruashvili, one of the top officials in the new government.

Cases of journalist harassment were rarer than in previous years, if one discounts the last months of Aslan Abashidze's dictatorship in Achara. One standout is the August 2004 case in the town of Gori, where the editor of the local newspaper was arrested on charges of illegally possessing narcotics and arms. Journalists and civil society representatives believe the narcotics were planted and that the real reason behind the arrest was the newspaper's criticism of the regional administration. The journalist pleaded guilty and was released on a plea bargain, but he later contested the decision, declaring he had agreed to the plea under pressure. As has been the case in the past,

financial audits may still be used as a method of punishment. *Georgia Times*, a Georgian newspaper, received a visit from the financial police immediately after it published materials critical of the Tbilisi prosecutor.

In Georgia, print media are less influential but also less likely to be the object of political pressure. Newspaper circulation is low—up to 10,000 copies at best for dailies and two to three times more for weeklies (more precise data is unavailable). Several successful newspapers have developed in regions outside Tbilisi over the last few years, which is a significant improvement. There are a number of independent radio stations. Green Wave, and its network of associate stations in different parts of Georgia, has become a major forum for public debate on the radio.

There are several journalist and media associations, but none plays an important role or defines professional and ethical standards recognized by the media community.

Access to the Internet is not restricted in any way, save for economic reasons: There are still no Internet providers in a number of less developed regions, and many people cannot afford to use the Internet even in larger cities where it is available. According to data from the Institute for Polling and Marketing, in early 2004, 7.7 percent of Tbilisi residents older than 16 years used the Internet, while in other major towns the share was 3.9 percent of residents.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.00						

Georgia is a strongly centralized state with weak democratic institutions on the subnational level. The 1995 Constitution did not define the structure of subnational levels of government, postponing this move until after the resolution of conflicts in Abkhazia and South Ossetia. The subnational level of governance is regulated mainly by the 1997 Law on Local Self-Government and Government, which has been amended several times. Currently there are three levels of subnational government: community (town/village), *raion* (district), and *mkhare* (province). On the first level, heads of administration are elected locally. At the *raion* level, there are elected councils, but heads of administrations are selected by the president from local elected representatives. There are no elected bodies at the *mkhare* level. Mayors of the two most important cities, Tbilisi and Poti, are appointed by the president. More important, competences of elected offices and councils are very restricted, with no control over reasonable budgetary resources. If local councils fail to approve budgets submitted by the *gamgebeli* (heads of local administrations that are appointed by the president) in the first two months of the year,

the president may dismiss them. Local administrations depend mainly on transfers from the central government, while local taxes cover only a small fraction of the budget. Key governance functions such as police, health care, and education are formally part of both local and central government, but the national level dominates.

The Autonomous Republic of Achara has a special status, which until 2004 had not been defined by the Constitution. A clause mentioning Achara's autonomous status was added to the Constitution in 2000, but actual distribution of powers was never defined owing to strained relations between the central government and the province. On June 20, snap elections to the Supreme Council of Achara brought a strong victory of 72.1 percent to the National Movement, with only the Republican Party able to overcome the 7 percent threshold. The COE gave the voting a mostly positive assessment but still stated that "the electoral process fell short of international standards in some regards," including accuracy of voter lists, secrecy of the ballot, and low competency of electoral commission staff. On July 1, 2004, the Georgian Parliament enacted a constitutional Law on the Status of the Autonomous Republic of Achara that severely restricted Achara's autonomy. It defined competences of the republic in the areas of education, culture, local infrastructure, and so forth, but at the same time it gave the Georgian president extensive rights. The president appoints the prime minister of Achara and can dismiss its Supreme Council in the event that its activities endanger the sovereignty and territorial integrity of Georgia or that it twice consecutively fails to approve the candidacy of the Achara government's chairman.

At the same time, the new Georgian government pledged to democratize the system of local government. In August 2004, a commission was created under the president to develop a specific project of reform, but no progress followed. In November, Georgia's Parliament ratified the European Charter of Local Self-Government.

Traditionally, the subnational level of government is less open to public participation than the national level, though in 2004 NGOs in some regions reported greater willingness of the local government bodies to cooperate with them.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
5.00	4.75	4.00	4.00	4.25	4.50	4.50	5.00

The Georgian Constitution provides protection for all fundamental human rights and freedoms that are mentioned in the European Convention on Human Rights. Among its provisions, the Constitution creates the post of public defender. The office is nominated by the president and elected by Parliament

for a five-year term, but it is not accountable to the president or Parliament. In 2004, this office strongly criticized a variety of government actions. The death penalty was abolished in November 1997.

However, in practice there are considerable violations of human rights in certain areas. In particular, torture in preliminary detention facilities was a major concern throughout the period of independence, and the situation did not improve after the Rose Revolution. In the first 10 months of 2004, more than 550 cases of torture by law enforcement officers were reported, which is higher than in recent years. There is consensus that this represents only a small fraction of actual cases of torture. Some human rights organizations believe that the incidence of torture worsened during the last year, but increased statistics may also indicate that detainees are now more likely to report torture. Planting evidence, such as guns and narcotics, is another typical violation that continued under the current government. According to expert opinion, the number of cases of low-ranking police officers planting evidence for reasons of extortion decreased in 2004. But this method was used more frequently in high-profile cases, where suspects were believed to have committed serious criminal acts yet there was no credible evidence against them.

In the fall of 2004, the government publicly acknowledged the problem and consulted with the human rights community on how to address it. According to some human rights experts, by the end of the year the incidence of torture and planting evidence had diminished. However, there was only one case where the prosecutor's office initiated an investigation into an occurrence of torture.

A number of human rights problems emerged as a result of the new government's crackdown on corruption. Public officials from the previous government who were widely believed to be corrupt were imprisoned in the first months of 2004, but none of the cases reached court during the year. There were numerous complaints that due procedures were not followed in these cases, such as arrests that were made without warrants. In most instances, the suspects detained on corruption charges were quickly released, having paid hefty sums to the state budget, but no provisions in the legislation allowed for such deals at that time. In February 2004, changes to the criminal code instituted the system of procedural agreements or "plea bargains" between suspects and prosecutors, motivated by the need to facilitate the speedy and effective prosecution of cases. However, the provision outlining a financial component was not added to the code until June 2004, while most of the high-profile deals involving payments had been completed by then. According to the new system, the accused are asked to repay a certain sum, which is an approximation of what they have allegedly stolen. In return, the prosecutor agrees to reduce or drop the charges. However, the new legislation does not sufficiently define discretionary powers of the prosecution when such bargains

are made, thus allowing room for arbitrary actions. In effect, preliminary detention and payments were used as actual punishment for allegedly corrupt individuals. Political leadership, including the president, often ignored requirements of the presumption of innocence, publicly describing suspects as “criminals.”

In 2004, there were cases of excessive force used to disperse public demonstrations. This continued a practice favored by the previous government.

Last year brought progress in the area of freedom of religion. During the previous five to six years, there had been a strong trend of violence against minority religious denominations, especially Jehovah’s Witnesses and the Baptist-Evangelical Church, and perpetrators of this violence were not punished. The trend broke in 2004: Basil Mkalavishvili, a defrocked Orthodox priest who led the group most active in violent attacks, was arrested. Open disruption of the religious services of minority communities largely came to an end, most dramatically with regard to Jehovah’s Witnesses, who now can conduct their services freely. Still, there were some relatively small episodes of harassment of religious minorities. In lieu of any legislation regulating matters of religion, minority religious communities cannot register their property. They also face significant difficulties in securing permits to build new places of worship. The mainstream Georgian Orthodox Church, which since October 2002 has had a constitutional agreement with the state, continues to get preferential treatment.

The Constitution provides for the independence of the judiciary, but in practice it is often compromised. Since a reform in 1998, the Georgian judiciary consists of a system of common-law courts and the separate Constitutional Court. Common-law judges are appointed by the president upon nomination by the Council of Justice. This is a consulting body whose members are appointed or elected, in equal numbers, by the president, the Parliament, and the Supreme Court. Only those who pass exams organized by the Council of Justice can be nominated as judges. By the end of the 1990s, this had led to a marked increase in the professional qualifications of judges. Later on, the passing rate jumped considerably, which indirectly shows that exam standards had declined.

Amendments to legislation passed in 2004 changed the composition of the Council of Justice so that the president’s appointees acquire greater weight within the council. In summer 2004, Kote Kemularia, a close political partner of President Saakashvili, became the new chairman of the Supreme Court. According to credible expert opinion, the actual independence of the judiciary decreased in 2004 owing to more blatant political pressure from the government, although the level of independence had not been high under Shevardnadze, either. This pressure was publicly acknowledged by the new chairman of the Supreme Court. Government representatives informally justified pressure by alleging that the judiciary was corrupt and could be

bought by criminals. The system stipulates that court-issued warrants are necessary for arresting the suspected. Contrary to the practice of previous years, however, obtaining arrest warrants through courts has become a mere formality—courts almost never refused such demands from the prosecutor's office. This included cases that had been later dismissed by the prosecutor's office as groundless (presumably owing to a new signal from the political leadership).

On the other hand, February 2004 amendments to the Constitution included a provision stating that "cases shall be considered by juries before the courts"—indicating that Georgia will institute the jury trial. This is supposed to eventually strengthen genuine independence of the judiciary. However, subsequent legislation has yet to be adopted. The low rate of executed court decisions has been a traditional problem in the Georgian judicial system during the last decade, and it has not improved in the last year. Other constitutional amendments took the prosecutor's office out of the system of the judiciary. This was probably motivated by the desire to create greater distance between the prosecutor's office and the court.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	5.00	5.25	5.50	5.75	6.00	5.75

Under the previous government, corruption was considered a major obstacle to political and economic development, and Shevardnadze was most often criticized for failing to combat it effectively. The new government declared the fight against corruption its highest priority. A Department for Coordinating Anticorruption Policies was created in the National Security Council. The prosecutor's office was entrusted with a leading role in investigating corruption-related crimes, while the National Security Council focused on developing policies for preventing corruption. A number of high-ranking officials from the previous government were imprisoned on corruption charges. Some appointees of the new government, as well as a parliamentarian from the ruling National Movement Party, police officers, prosecutors, and judges were also arrested on corruption charges. The February 2004 changes in the criminal code introducing plea bargains were motivated primarily by the wish to increase the effectiveness of anticorruption efforts. Suspects who admit guilt and provide information on grave crimes or crimes perpetrated by public officials may be relieved of criminal responsibility through a simplified procedure in court. February 2004 changes to the Law on the Prosecutor's Office and the administrative code enabled the state to confiscate the property of high-ranking state officials and members of their families if they fail to produce proof that the means for acquiring it were obtained legally. Several

confiscations were actually made during the year. In February 2004, the Parliament ratified the 1990 Strasbourg Convention on Money Laundering and made respective changes to national legislation.

As a systemic measure against corruption, some 10,000 public servants, military officers, and law enforcement personnel have been paid substantially higher salaries since January 2004 through a Development and Reforms Fund. While most public sector salaries were previously well below a living wage, and additional income was a matter of survival, current salaries of many (though not all) public servants now provide for at least a modest living. For instance, police officers have a minimum salary of 350 lari, or approximately US\$195 per month, with the official living wage being about 135 lari.

In 2004, an institute of general inspectors was created in government agencies to oversee the use of public funds (a measure resisted by the previous government). The inspectors have established hot lines for the public to report irregularities in given agencies. In November, in an effort to make the process of property registration much simpler and cheaper, the Ministry of Justice created the National Agency on Public Register. The ministry also simplified procedures for getting citizen IDs and passports. The obligatory annual inspection of cars was suspended altogether. All these functions were previously seen as highly corrupt.

There is still no statistical data on how effective the government's anti-corruption policies have been overall. Anecdotal evidence suggests that there are important positive changes in at least some areas. A sharp increase in tax collection indirectly indicates reduced corruption in tax and customs offices. The traffic police, which had become an emblem of blatant corruption in the Shevardnadze era, may be the most conspicuous example. In July, the old traffic police (consisting of some 13,000 to 14,000 people) was disbanded altogether and a new patrol police was created in its place. The new police officers were selected on a competitive basis and underwent special training supported by international organizations. So far, they have a much better reputation, and drivers are no longer harassed on the roads.

The main criticism of the government's anticorruption measures is that they are not following a coherent plan. The question is often asked why some officials of the former regime were arrested while others with the same reputation were not. An anticorruption strategy document created in the National Security Council does not include sufficiently specific steps and deadlines. The implementation of anticorruption measures is uneven from one agency to another, and there are reports that in certain regions no serious anticorruption measures have been taken at all. Some government agencies advertise jobs and use transparent competition to fill them, but this has not become an overall rule. Government contracts are usually distributed through competition, but in the recent past this was not a guarantee that the process was uncorrupt. As of yet, there is no credible data demonstrating how the new

government has influenced the situation. There is no transparency in party financing (including the new ruling party), although legislation requires it.

Legislation prohibits public officials and politicians from taking part in economic activities. In the Shevardnadze era, this prohibition was often ignored or observed merely as a formality. Although there have been no credible reports of the new government being involved in economic activities, the public desires more transparency about the economic activities of friends of powerful leaders in government.

There are laws requiring financial disclosure and disallowing conflict of interest. The Information Bureau on Property and Financial Condition of Public Officials processes financial declarations. Since February 2004, public officials are required to submit proofs of legality for any acquisitions of property, but the bureau does not have the capacity to check the existing information. Allegations of corruption are widely discussed in the media; however, there has been a noticeable decrease in investigative reporting by broadcast media.

With regard to public attitudes about corruption, many experts note a paradox. While people express strong criticism of official corruption, many of them resort to corrupt practices as an easy solution to their own problems. The unwillingness of many citizens to serve as witnesses in courts to reveal irregularities or cooperate with law enforcement in other ways (for instance, using the above-mentioned hot lines in the ministries) also decreases the effectiveness of law enforcement. Many people consider cooperation with law enforcement to be an immoral act of “denunciation.” However, most anticorruption initiatives of the government are generally popular, and people are rather critical of the government for not being consistent enough in this area. In Transparency International’s 2004 Corruption Perceptions Index, Georgia was ranked 133rd out of 145 countries surveyed.

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Hungary

Capital Budapest
Population 10,100,000
GDP/capita (PPP 2002 US\$) \$13,400
Private sector as % of GDP 80%
Ethnic groups Hungarian (90 percent), Roma (4 percent),
 German (3 percent), other (3 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Civil Society	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Independent Media	1.50	1.50	2.00	2.25	2.25	2.25	2.25	2.50
Governance	1.75	1.75	2.50	3.00	3.00	2.50	2.50	n/a
National Democratic Governance	n/a	2.00						
Local Democratic Governance	n/a	2.25						
Judicial Framework and Independence*	1.75	1.75	1.75	2.00	2.00	1.75	1.75	1.75
Corruption	n/a	n/a	2.50	3.00	3.00	2.75	2.75	2.75
Democracy Score	1.50	1.50	1.88	2.13	2.13	1.96	1.96	1.96

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Since 1989, Hungary has navigated an exceptionally successful transition from Communist dictatorship to consolidated democracy. The political elite that emerged at the onset of reforms has progressively learned the rules of democracy and a market economy. Yet since transition rolled out hand in hand with a variety of economic and psychological hardships never experienced before, Hungarian citizens are still negotiating their participation in and expectations about new democratic institutions. In particular, the ongoing reliance of human services on state support highlights the need for further reforms. However, one can be sure that the implementation of any new public policies will generally adhere to the rule of law.

The country continued to consolidate democratic practices and institutions in 2004. Arguably, the early resignation of Prime Minister Peter Medgyessy proved the most notable event of the year. In August, his government collapsed after several attempts in the first half of the year to mend the gradual loss of his cabinet's reputation within the delegating socialist-liberal coalition. Without prolonged turmoil, Ferenc Gyurcsany was elevated to the prime ministerial post. The new government was set up smoothly within the limits of the Constitution and with the constructive behavior of the opposition. A former Communist youth leader and front-runner of the early privatization process, Gyurcsany emerged in the fall as a proactive prime minister. Given that state budget figures for 2005 were already decided, Gyurcsany has limited room to influence real policy reforms until the next parliamentary election in 2006. Yet he has put popular issues on the agenda, such as taxing bank sector profits (from which he soon pulled back) and disclosing Communist-era secret service files and names of collaborators. At the end of 2004, it appeared likely that he and Fidesz-Hungarian Civic Union chairman Viktor Orban will race as equal challengers in the 2006 elections.

National Democratic Governance. In 2004, the country experienced a turbulent constitutional challenge with the resignation of the prime minister. Demonstrating the maturity of Hungary's democratic governance system, political forces stood up for the rule of law and worked in concert toward the smooth formation of a new government. The Hungarian secret services and military are under effective civilian control, and 2004 marked the abolition of Hungary's conscript army. It is still unclear how files of the former Com-

munist secret service collaborators are being handled, giving ample ground for ongoing accusations, but as of yet there is little public transparency. *Hungary's new rating for national democratic governance is set at 2.00 owing principally to the stability that prevailed throughout the government crisis.*

Electoral Process. The Hungarian electoral system adequately facilitates the free and fair succession of power among political parties of the Left and the Right. The year brought ongoing political campaigning, yet these efforts were unable to break through the general apathy of the electorate. Parliamentary by-elections were held in two settlements because previous individually elected parliamentarians moved to the European Parliament. Toward year-end, a controversial referendum stirred political discourse on two issues: whether ethnic Hungarians living abroad could receive Hungarian citizenship in a simplified process and whether the privatization of public health care institutions should be forbidden. *Hungary's rating for electoral process remains unchanged at 1.25.*

Civil Society. Hungary's civil society plays an important role in establishing participatory democracy at all levels of society. Funding of nongovernmental organizations (NGOs) continues to be problematic, but the establishment of the National Civil Fund created a unique funding mechanism for the Hungarian nonprofit sector. The legal framework governing civil society is generally favorable, and politics do not impede democratic citizen initiatives. There were a number of successful advocacy campaigns in 2004 organized by issue-based coalitions, but thanks to unreceptive policy makers, NGOs are still believed to have only a limited influence on public policy. *Hungary's rating for electoral process remains unchanged at 1.25.*

Independent Media. The media are considered to be generally free in Hungary. Controversies relating particularly to print media dominated the Hungarian media scene in 2004. Libel continues to be a criminal offense, and the recent high number of libel suits raised widespread concern. In addition, the closing of an influential print daily spotlighted the financial vulnerability of print media. The quality of journalism in Hungary is generally adequate, but the lines between factual information, analysis, and commentary are often unclear. *Hungary's independent media rating declines to 2.50 owing to the 2004 developments in legal persecution of media and the now manifest signs of financial vulnerability.*

Local Democratic Governance. Hungary's more than 3,000 local self-governments enjoy significant normative autonomy. However, their financial autonomy is highly limited and overly dependent on the state budget. Cur-

rent reforms identified two directions of modernization: the creation of a “small region” level of administration and the establishment of development regions in order to make use of European Union financial resources. Minorities are still under-represented in the Parliament, and mandates held by nonminorities in some minority self-governments are a source of concern and political debate. *Hungary’s new rating for local democratic governance is set at 2.25. Slightly lower than the score for national democratic governance, this new rating is attributable to the financial susceptibility of local governments.*

Judicial Framework and Independence. There is still a long way to go to fully implement the Law on Equal Opportunity. In-depth studies and continued media attention are required to eliminate the still widespread but often latent discrimination against the Roma. In civil proceedings, government-sponsored public defenders began providing free or government-credited legal counsel to the needy. As a result of the establishment of the highest appeal courts in 2003, the overburdened Supreme Court was able to catch up with most of its backlogged workload in 2004. *Hungary’s rating for judicial framework and independence stands unchanged at 1.75.*

Corruption. The bribing of public service employees and existence of non-transparent businesses closely associated with political parties continue to be problematic in Hungary, although various local anticorruption institutions and international conventions have aimed to put a stop to nontransparent practices. The country’s institutional framework for fighting and preventing corruption has been strengthened in the past four years, but the implementation of these laws needs further reinforcement. Stories of the fraudulent practices of public servants and politicians dominated the news during the year. *The country’s rating for corruption remains unchanged at 2.75.*

Outlook for 2005. Undoubtedly, the coming year for both political sides will set the stage for the 2006 elections and campaigning will become even louder. The Hungarian Parliament’s election of a new president will conceivably transpire by a third-round simple majority vote, given that the opposition is unlikely to support any socialist nominees (the most likely pool). None of the necessary public sector reforms are expected to occur, primarily because of the short amount of time left on the current coalition’s watch. The government and liberal civic society will continue to fight racial discrimination directed at the Romany population. At this point, it is feasible to believe that a significantly revised legislation on revealing Communist-era secret service files will boost Hungary’s reconciliation with its pre-1990 past.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.00						

In 2004, Hungary confirmed that its democratic institutions stand firm against any foreseeable instability. During the year, the country experienced a turbulent constitutional challenge caused by the August resignation of Prime Minister Peter Medgyessy. In the immediate aftermath, all political forces worked together toward the smooth and relatively prompt formation of a new government, demonstrating the maturity of Hungary's democratic governance system.

The Parliament exercises ultimate control over the government through a constructive vote of no confidence against the prime minister. This means that the Parliament can remove the prime minister and with the same vote elect his or her successor. The events surrounding Medgyessy converged slowly in 2004 to the point where parliamentary members of the Hungarian Socialist Party (MSzP) and the Alliance of Free Democrats (SzDSz) lost political confidence in the prime minister and were prepared to invoke Article 39/A of the Constitution governing the removal of the prime minister. But the breakdown of the government eventually happened more organically.

In summer 2004, after the MSzP was defeated at the European Union (EU) parliamentary elections, Medgyessy, who was not a member of the party, explored new paths of governance to recover public support for his policies. To show his determination, he prepared to exercise his exclusive prime ministerial power to restructure the cabinet. The minister of economy, an SzDSz appointee, became one of the targets of the reshuffling, but the SzDSz firmly resisted. Rejecting Medgyessy's efforts to paint its delegate as a scapegoat, the party declared that it had lost confidence in the prime minister. After several days of hesitation, the MSzP agreed to disengage Medgyessy through parliamentary means, but in an effort to salvage his political integrity, Medgyessy preempted the official action by submitting his resignation to President Ferenc Madl.

At the height of the government crisis, President Madl and all other political forces stood by democratic principles and the rule of law. As is customary after regular elections, Madl conducted consultations with leaders from all parliamentary parties. The clear effort to prolong socialist-liberal cooperation encouraged opposition politicians to reconsider any intentions to form a government, exemplified by the comment from Victor Orban, chairman of the Fidesz–Hungarian Civic Union (FIDESZ), that political legitimacy rests with the elected coalition. In this period of legal uncertainty caused by

Medgyessy's resignation, President Madl upheld legislation that stipulated the prime minister had 30 additional days to serve in office. Although this clause was later voided by the Constitutional Court, it was important for the president to take a definitive stance when legal experts were divided on the legislation's interpretation, which in fact served to reduce potential instability.

The Hungarian Constitution and an effective system of institutional checks and balances reflect the country's democratic goals and meet European standards. Indeed, Prime Minister Medgyessy's spring proposals touched on a number of significant and popular constitutional issues, such as cutting the size of the Parliament and directly electing the president. But these efforts proved stillborn, as they would have inevitably rearranged Hungary's otherwise balanced constitutional political landscape and no cross-party endorsement could have been expected. Yet at his parliamentary committee hearing, the newly sworn-in minister of justice identified the need for improving governance efficiency by revising fundamental acts that require a two-thirds majority of the legislation, exemplifying how an overall revision of the Constitution holds firm on the popular agenda.

With the stated aim of improving efficiency, consecutive governments have often abused their right to propose new legislation. Using majority parties in the Parliament to rubber-stamp its proposals, the government has been able to tighten control over Parliament-elected public servants who assume key positions. In the first half of the year, the coalition approved a legislative amendment that removed the head of the Hungarian Financial Supervisory Authority. Another peculiar feature is the recent trend to appoint various governmental appointees to coordinate among line ministries on specific topics. In 2004, nine such new positions were created, among them a functionary who paradoxically is in charge of reviewing government efficiency and thus devising central governance reforms.

Despite increased public sector spending since 2001, the overarching reforms needed to sustain long-term government efficiency have not been implemented, according to a 2004 economic survey published by the Organization for Economic Cooperation and Development (OECD). *Napi Gazdasag*, a Hungarian business daily, reported foreign investor complaints that the maze of bureaucracy is impeding the smooth launch of their businesses, but the OECD contended that "[the Hungarian public service's] efficiency is not poor in international comparison." At the same time, the OECD warned that the sheer size of the public sector "contributes more to overall inefficiency in the economy." The more than 800,000 public servants constitute 20 percent of the total labor force in Hungary and are assiduously unionized in such areas as health care and education. The new prime minister has chosen not to antagonize this robust labor force until the elections in 2006 and has currently tabled the otherwise long-planned reforms.

The Hungarian secret services and military are under effective civilian control. Of the five specialized secret services, two are overseen by an intelligence minister “without portfolio” and three by the minister of defense. With the exception of NATO commitments, military operations beyond the frontiers of the country require a two-thirds majority in the Parliament. In 2004, the government proposed to extend the mandate of Hungarian troops in Iraq until elections were held there, but this decision lacked opposition consent. Following the original schedule, they were withdrawn toward the end of 2004. In a major development, Hungary abolished its conscript army in the fall and created a fully professional military.

The functioning of both the intelligence and the military has been questioned constantly throughout Hungary’s transition period. In the spring, center-right media reported on criticisms that the intelligence minister allegedly faced at a meeting in the United States. Security experts commented perpetually, and by and large disparagingly, on the ongoing armed forces reform and policy makers’ shortsighted inability to orchestrate an army adequate to twenty-first-century security challenges. The importance of transitional justice—that is to say, reconciling with the country’s Communist-era past—has been the focus of a fierce public discourse lingering since 1990. But the legislation is insufficient, and as yet it is far from transparent how the files of former Communist secret service collaborators are being handled. The current legislation originally adopted in 1994 to cleanse the political system is practically worthless, as it was crafted with the intention to disclose only a fraction of the dossiers accumulated before 1990.

Currently, the standard practice is for unidentified persons to leak information to the press from the heaps of undisclosed files. A group of liberal thinkers and politicians published an open letter in April calling for “amnesty to the documents.” Instead, throughout the year the media continued to refer to allegations or documents about a handful of well-known people, including an influential left-wing media critic and a right-wing singer, both of whom eventually admitted to spying for the former regime. In the same fashion, accusations erupted in December around the right-wing mayor of Kaposvar, a southwestern Hungarian city.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25

Overall, Hungarian elections are repeatedly deemed free and fair, but there are deficiencies in the legal framework governing the electoral process. In 2004, considering the upcoming by-elections and potential referendums, the Constitutional Court called the Parliament’s attention to insufficiencies in

the Law on Elections and urged the Parliament to regulate how Hungarian citizens abroad could cast their ballots. Provisions to ensure these particular voters' rights in line with the Constitution have not yet been resolved permanently; only ad hoc political compromises allowed their participation in the 2004 elections.

Hungary formally became a full member of the EU on May 1, 2004, and Hungarians' first political act within the EU quickly followed in June. In order for Hungary to take part in the European Parliament's (EP) decision making between 2004 and 2009, Hungarians voted for 24 representatives to the EP from lists set up by domestic political parties. The parties paid particular attention to this election because they considered it a rehearsal for the 2006 national parliamentary elections. As a result of the voting, only four parliamentary parties cleared the 5 percent threshold for representation in the EP. With only 38.5 percent voter turnout, the governing MSzP gained 9 seats, while the major oppositional conservative party, FIDESZ, sent 12 members to the EP.

The relatively low turnout in the EP elections favored two smaller parliamentary parties. During the campaign, the liberal SzDSz distanced itself from its senior coalition partner, the MSzP, and successfully won enough support from liberal voters to pass the 5 percent threshold. The 7.74 percent gain translated into two mandates for the SzDSz in the EP. On the conservative side, party chairwoman Ibolya David of the Christian-Democratic Hungarian Democratic Forum (MDF) gained one EP mandate. Consequently, David announced a more independent direction for the MDF, while the internal opposition sought closer ties with FIDESZ. The MDF's struggle over the relationship with FIDESZ eventually led to the exclusion of its internal opposition from the parliamentary faction and the resulting split in the MDF. It is uncertain whether the split increases or harms the MDF's chances of remaining in the Parliament after the 2006 national elections.

Membership in political parties is rather low—about 1 percent of the electorate. According to a 2004 study of the Hungarian Gallup Institute, only 13 percent of the population trusts political parties; 75 percent does not. Thus, the year saw further evolutions on the political scene that helped both the Left and the Right expand their constituencies. On the Left, Prime Minister Medgyessy announced constitutional and electoral proposals in the spring; these proposals, such as setting up a common list of the four parliamentary parties for the EP elections, accelerated a decreasing trend in the MSzP's public support, which dropped to its lowest level since coming to power. The party's subsequent struggle to reverse the tendency triggered the replacement of the prime minister and the party's entire leadership, including its chairman.

On the Right, FIDESZ's "National Petition" campaign in advance of the EP elections targeted a wider audience than the party had previously reached.

Going against privatization, an increased cost of living, and affluent government politicians, FIDESZ attempted to reach out to traditional left-wing voters. Beating MSzP by 13 percent, FIDESZ was overconfident later in the year at the midterm elections and referendum. During 2004, FIDESZ had to face the challenge of mobilizing more voters than its traditional conservative base, but the party has not yet been successful.

Later in the year, the parties kept voters rapt with heated political discourse over a controversial December 5 referendum, which considered two questions. The first was a citizenship issue initiated by the World Federation of Hungarians (WFH), a worldwide nongovernmental organization (NGO) dominated largely by right-wing Hungarians living abroad. The other question concerned privatization and was proposed by the Worker's Party, the successor to the Communist Party. Voters could decide on two issues: whether ethnic Hungarians living abroad should be able to obtain Hungarian citizenship more easily and whether it should be forbidden to privatize real estate where public health care operates. Although the latter question concerned institutions, the parties treated the question as if it were about services, creating uncertainty among the public.

Beyond the concrete questions, the referendum was a tool for political combat between the two main parties, both of which played heavily on voters' emotions. FIDESZ campaigned for "yes" on both issues, claiming that citizenship is of national interest and national unity and voter participation was a moral duty. MSzP, on the other hand, called for two "no" votes and built its campaign on fears of the extra burden on state-financed social benefits that would result from possible immigration to Hungary. The voices of the two smaller parties were barely heard in the debate. SzDSz was in favor of the "no" vote, while MDF supported "yes" on citizenship and "no" on halting privatization. Low voter turnout invalidated the results, yet because the final "yes" votes outnumbered the "no" votes, the debate did not end on December 5. Claiming widespread irregularities, the WFH filed a complaint with the Supreme Court, which ordered a recount in more than 1,000 constituencies.

The current political power distribution is the result of the 2002 parliamentary elections, but as conflict of interest laws do not allow holding national and EP mandates simultaneously, 13 national parliamentary seats had to be filled in the Parliament after the June EP elections. For the EP seats, elections were held using a proportional representation format where the entire country made up one electoral district. For the 386-seat unicameral National Assembly, 176 members are elected from single-seat constituencies, 152 from regional, and 58 from national party lists by proportional representation. Out of the 13 vacant seats in 2004, 11 were filled from party lists.

For the two single-seat mandates of Szecseny and Sopron, midterm national by-elections were called in the fall. In both towns, second-round

voting was necessary because turnout in the first round did not reach the minimum 50 percent requirement. The FIDESZ candidate won the Parliament seat in Szecseny. In Sopron, the MSzP candidate receded the runoff after being accused of distributing vouchers to pensioners in his campaign, further increasing absenteeism and the consequent invalidation of the results. Until by-elections are repeated in 2005, the one mandate from Sopron remains vacant.

On the national level, ethnic minorities and women are under-represented in the Parliament. Out of the 386 seats, women won 35 in the 2002 elections. Three went on to serve as cabinet ministers in the MSzP-SzDSz government. Four Roma representatives won seats in the Parliament in 2002 from party lists as a result of prior commitments and agreements between the two largest parliamentary parties and Hungary's largest minority group. But the Parliament has not yet achieved formal representation of Roma and other minorities in Hungary as required by the Constitution. Significantly, Hungary sent the first ever Roma representatives to the EP.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25

Hungary's civil society plays an important role in establishing participatory democracy at all levels of society. Advocacy groups, trade unions, business organizations, and professional associations are trying relentlessly to bring the interests of their respective constituencies before the national government, while many voluntary local associations and service providers connect citizens and government on the local level. Internationally renowned scholar Eva Kuti summarized the strengths of the sector in a September interview in *Népszabadság*, saying that "nonprofit organizations became determinative and inescapable players of many aspects of life."

The legal framework governing NGOs is generally favorable, and politics do not impede the formation of nonregistered democratic citizen movements or petition campaigns. The State Audit Bureau's report in 2003 found problems not with NGO registration, but with the lack of a transparent and comprehensive administrative tracking system. Despite the over 400,000 estimated volunteers contributing to NGOs, the government delayed the introduction of a new Law on Volunteers that would finally provide legal recognition and protection to volunteerism.

According to the most recent statistics of the Hungarian Central Statistical Office, more than 20,000 foundations operate without endowed capital, relying mostly on current donations, and 45 percent of NGOs survive on a mere 500,000 forints (US\$2,500) or less per annum. Earned income con-

stitutes over 50 percent of their annual income, which suggests that many NGOs are de facto businesses without the actual capability to distribute profits among their members.

Funding of civil society organizations continues to be problematic, but a modest positive trend in increased revenues can also be reported. Between 2000 and 2003, the increase of the total income of the sector grew by close to 50 percent, from 495 billion forints (US\$247.5 million) to 731 billion forints (US\$365.5 million). Revenues from state resources increased to over 40 percent from the previous 28 percent, although the majority of state funds are directed at state-established institutions. A consortium of indigenous NGOs uniting training, capacity building, and institutional support programs launched the Hungarian operation of the Trust for Civil Society in Central and Eastern Europe. The trust is a joint initiative of prominent U.S. private founders aiming to bridge the funding gap for civil societies in a select group of post-Communist states until they are mature enough to compete for sponsorship on the EU level.

The establishment of the National Civil Fund (NCF) brought a unique state funding mechanism to the Hungarian nonprofit sector in 2004. Allocated from the state budget and managed by elected NGO representatives, the fund offers primarily institutional support to NGOs. Opinions diverge, however, as to the long-term utility of the NCF. Statistics indicate that on average, Budapest-based NGOs were in a better position to tap NGO funds but that the NCF alone was more likely to sponsor grassroots groups. So on the one hand, the NCF suggests a promising avenue to contribute to the sustainability of grassroots-level NGOs; on the other hand, analysts have warned of the increasing trend of NGO dependency on the state at a time when private support to the sector is shrinking. Also, *Magyar Nemzet* raised concerns about serious conflicts of interest, revealing that the decision-making bodies of the recipient NGOs often overlap with their delegating members.

Though there is ample room for improvement, philanthropic behavior is gradually embedding in Hungarian society. According to a 2003 study of the Nonprofit Research Group Association on philanthropic attitudes of corporations, almost two thirds of entrepreneurs report some form of giving. Another 20 percent was considering future giving. Businesses are more likely to invest in institutions that address the causes of the socially disadvantaged, such as education, children, and the health sector. On the individual level, besides widespread volunteerism, the so-called 1 percent legislation, whereby individuals may donate 1 percent of annual income tax to a charity, continued to be the principal mechanism for personal contributions to civil society. But a few private foundations and awards were also set up by domestic businesspeople.

A number of advocacy campaigns were organized in 2004 by issue-based coalitions. Environmental activists conducted a large protest campaign in

January against plans by the Ministry of Defense to install a radar facility in southern Hungary, a commitment the country made to NATO. Public support of environmentalists motivated the government to establish an independent expert body that reviewed the project. In April, women's groups celebrated the hard-fought draft on domestic violence, but it proved too early. Soon after, the Ministry of Justice requested to delay parliamentary debate, arguing that the bill required more work. If entered into force in 2005, the new legislation would sanction the restraining order as a new measure against spousal brutality.

Public attention to NGO initiatives throughout the year revealed diverging tendencies in assessing their advocacy potential. Observers of the third sector consistently emphasize that the ability of NGOs to influence public policy is still limited. But a court maintained that NGOs had the constitutional right to express views in the Parliament building, even in the form of interrupting floor debate. And in an interview in summer 2004, constitutional lawyer and media pundit Gyorgy Kollath asserted that investors should "pick up the glove dropped in front of them," referring to the recent wave of neighborhood initiatives and various civic protests with the potential to undermine future infrastructure projects. The mixed results and conflicting views on the advocacy potential of NGOs add to the opinion that Hungarian democracy is too immature to reconcile the principally representative nature of politics and direct citizen involvement in democratic practices.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
1.50	1.50	2.00	2.25	2.25	2.25	2.25	2.50

The media are considered to be generally free in Hungary, although controversies related to print media dominated the Hungarian media scene in 2004. Although the overall quality of journalism in Hungary is generally adequate, the lines between factual information, analysis, and commentary are often unclear. Libel continues to be a criminal offense, and the recent high number of libel suits raised widespread concern. In addition, the closing of an influential daily broadsheet spotlighted the financial vulnerability of print media. In Freedom House's annual *Survey of Press Freedom*, Hungary has been rated "Free" since 1998.

In 2004, an appeals court upheld a 10-month jail sentence (suspended for 2 years) for editor Andras Bencsik and upheld an 8-month suspended prison sentence against Laszlo Attila Bertok, a journalist from the right-wing weekly *Demokrata*. The latter case was brought by a member of Parliament (MP) after the weekly alleged that his testimony contributed to the death sentences of four individuals following the 1956 revolution. The Organization for Security

and Cooperation in Europe (OSCE) representative on freedom of the media, Miklos Haraszti (a liberal Hungarian media politician elected to the post in 2004), raised concerns about journalists receiving prison sentences for libel and called on the minister of justice to prepare a legislative reform that would decriminalize libel and defamation. Meanwhile, many in the country agreed with Supreme Court president Zoltan Lomnici that compensation in favor of the plaintiffs in civil libel cases seemed somewhat low.

The OSCE's media representative and local media organizations also criticized Hungary for using secrecy laws to arbitrarily prosecute Rita Csik, a left-wing journalist at *Nepszava*, on a charge that could result in a prison sentence of up to five years. The journalist was charged with "deliberate breach of a state secret" after she wrote a story quoting a police memorandum that cited criminal evidence collected on an MP. The parliamentary commissioner for data protection and freedom of information stated that the document was unlawfully classified. The OSCE media representative called the indictment "a dangerous attack against one of the basic freedoms (and obligations) of the press, which is to report on all facts and documents of public importance."

In the run-up to the EU elections campaign, a journalist of *Index.hu*—a Hungarian electronic news portal—attended in disguise an MSzP meeting for party campaign managers. The journalist reported that party activists were called on to perform campaign infringements. Interestingly, MSzP officials never denied what was reported but only objected that the journalist had sneaked into a nonpublic party event. The Association of Hungarian Journalists (MUOSZ)'s ethics committee president divided the Hungarian media with his controversial statement, which argued that the journalist's behavior was not only unethical, but in breach of the party's personal rights—a statement that basically violated the principles of free press.

The media landscape is dominated by market forces in Hungary. The German media company Axel Springer is active in the local newspaper market, owning 9 regional dailies out of a total of 25. In the various counties, local papers are particularly important and have managed to hold on to their monopolies; their total circulation exceeds 750,000 copies a day, which is about the same as that of the national daily papers put together.

In October, Ringier, the Swiss media giant, closed down one of the most respected daily broadsheets, *Magyar Hirlap*, on business grounds. The European Federation of Journalists sharply criticized this closure as evidence of how the concentration of media ownership threatens media pluralism. A few days after Ringier's decision, *Magyar Hirlap*'s previous editorial staff launched the daily *A Pont*. A couple of weeks later, the editorial team and domestic companies bought the *Magyar Hirlap* trademark from Ringier and renamed the new paper with the old title. Although the closure and sale did

not go smoothly, it showed that in fact there is a market for *Magyar Hírlap* and that pluralism wasn't weakened. Still, the process demonstrates the financial vulnerability of print media. That said, the Hungarian public appears to be much more concerned about the influence of the national political elite on the press and electronic media than the market effects resulting from a high degree of foreign ownership.

The 1996 Law on the Media introduced commercial broadcasting and broke up the monopoly of state-controlled public service channels. The law established the National Television and Radio Board (ORTT), a regulatory and supervisory body whose members are delegated by political parties. The ORTT monitors the activities and programs of public and commercial broadcasting stations and grants licenses and broadcasting frequencies. Half of the members of the boards of trustees of the public service broadcasters' presidium are appointed by governing political parties, the other half by the opposition, leaving too much room for political interference in public service broadcasting. Although all parties are aware of the need for reform, there's not enough political will to transform public service media into a modern, financially independent outlet free of political influence.

Since public television attracts only about 10 percent of viewers and has been on the edge of bankruptcy for years, the rationale for maintaining six state-sponsored stations is questionable. Hungarians receive information primarily from private TV channels, most of which are foreign owned. Besides the three state-supported channels, two commercial stations—RTL Klub (affiliated with the Belgian-French RTL-UFA) and TV2 (owned by a Hungarian-American-Scandinavian consortium)—also reach the entire population. There are also several commercial cable and satellite channels, such as the foreign-owned radio stations Slager and Danubius or the thematic television stations like Sport 1, Filmmuzeum, Spektrum, and Hir TV.

Hungary has over 200 local or regional public, commercial, nonprofit, and cable radio stations, most of which limit their programming to entertainment without significant original news content. The dominant national news agency is the state-owned Hungarian Telegraph Agency. Its monopoly is broken by a few small-scale, alternative Hungarian-language agencies such as the Roma Press Center, the only nonprofit news agency dedicated to covering Roma minority issues.

Television and radio broadcasting on the Internet have become increasingly popular, yet only 21 percent of the adult population reported using the Internet by 2004, reports the GfK Polling Institute. Though low, the figure indicates a significant 40 percent increase over the last year. The government's Sulinet Express program continues to narrow the digital divide between Hungary and other EU countries by reducing computer prices with tax breaks for households, contributing to an Internet-friendly environment.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.25						

Local government reform was one of the first and most successful transition laws in Hungary, and the country has been a pioneer in modernizing the sub-national government system in the region. Still, the system requires further reform to enable the subnational units to be financially viable and to procure and administer EU structural funds.

According to Article 42 of the Hungarian Constitution, “Local self-government is the independent and democratic management of local public affairs that affects the community of local citizens, the exercise of local authority in the interest of the local population.” Every village, town, and county (and the capital) has the right to freely administer local affairs autonomously. As a result, the local government system is highly fragmented, with 3,158 municipal and 19 county local governments in a country with a population of less than 10 million. Municipalities provide various services in each settlement, while county self-governments provide public services with regional character. There are seven countrywide local government associations, as local authorities have the right to form representative organizations for the protection and promotion of their common interests.

The process for electing local self-governments every four years has generally been free and fair. Although it is difficult to recruit enough candidates in smaller villages, there is generally competition for local government mandates. Mayors and local representatives, as well as their partners and children, are required to declare their assets. The 2002 conflict of interest regulations for mayors and local representatives became a focus of attention in 2004. Budapest mayor Gabor Demszky had to give up his membership in the EP after the head of the Capital Public Administration Office (FKH) declared that holding the two positions simultaneously would be a conflict of interest. The same conclusion seemingly led to the dismissal of FKH’s previous head, but ironically the decision has been upheld by the successor of the dismissed head of the FKH.

While the legal autonomy of local governments is well protected, their financial autonomy is highly limited, and they rely heavily on state subsidies. A frequent complaint from local governments is that while providing only a fragment of the necessary financial means, the Parliament continues to assign new duties to municipalities. Others say that the state’s sole duty is to create opportunity for local revenues. Although municipal governments can raise income by levying local taxes and fees, only one third of their revenues comes from local taxes. County local governments have no right to levy taxes. Among municipal governments, 91 percent represent less than 5,000 people, while 54.3 percent have populations below 1,000. According to Glen Wright, an intergovernmental fiscal relations adviser for UN and World Bank projects, these local

units generally cannot sustain the level of services mandated to them, as they usually are not economically viable with adequate local economic activity.

According to the Tocqueville Research Center, a nonpartisan Hungarian institute specializing in comparative political analysis at the subnational level, small local governments have a greater tendency toward elitist top-down governance and are less responsive to citizens' needs than larger local governments. Because local government finances are often opaque and unaccountable, the state has no trust in local government capacity to handle money adequately and may silently begin the recentralization process. Social institutions that could make local leaders accountable are weak or do not exist in smaller municipalities. Only 23 percent of municipalities have media outlets independent from local government subsidies, and there are none in 58 percent of Hungarian municipalities. The National Development Office's Operative Program aims to fully implement the tools for e-administration on the local level.

Citizens are particularly active on the local level in Hungary through various NGOs and local initiatives, but their participation in public affairs through local governments is limited. Between local elections, citizen participation in the decision-making process is guaranteed at a minimum by one yearly public hearing set by the Law on Local Government. Out of the 22 local referendums held in 2004—almost half of them required by law because of territorial changes—low voter turnout invalidated the results in 12 cases.

Pressured by the EU to approximate the subnational model of the EU financing system, Hungary is conducting further reforms and has identified two directions of modernization. With the creation of 168 "small region" units of administration (instead of the fragmented municipalities) and the establishment of 7 larger development or statistical regions for EU funds utilization, the reform also aims to increase public service quality. The legally defined 168 small regions are meant to have three important dominant functions: the performance of local governmental public services, state administration tasks where local knowledge and expertise are necessary, and the operation of regional development functions.

The 1993 Law on the Rights of National and Ethnic Minorities guarantees Hungary's 13 recognized minority groups the right to establish national and local minority self-governments. However, the law left their legal status unclear. The basic tasks of these minority governments are to organize the activities of minorities, respond to their needs, and help preserve their culture and ethnic identity. Minority self-governments are financed by the state budget, but there is no central coordination of allocations.

Besides the lack of financial autonomy, the system of minority self-governments faces other problems. Any registered voter in Hungary can vote in elections for local minority self-governments, regardless of their ethnic identity. As a result, some minority self-governments can be elected by those who do not in fact belong to the minority community. At the local level, 1,841 minority

self-governments were elected in fall 2002. However, many of the elected representatives lacked true ties to the specific minority. The Parliament has been considering measures to combat “ethnobusiness”—or the practice of nonminorities holding positions in minority self-governments to gain personal business advantages and benefits—through the registration of minority voters.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
1.75	1.75	1.75	2.00	2.00	1.75	1.75	1.75

The Hungarian Constitution, Constitutional Court, Parliament-elected ombudsmen, and ordinary courts are effectively safeguarding fundamental rights and freedoms. The Roma, however, remain the most vulnerable stratum of society and suffer massive discrimination. Although it appears that affirmative action is consistently off the agenda, other means have increased in 2004 to address the still widespread but often latent discrimination against the approximately 600,000 Roma living in Hungary. To put an end to racial discrimination in the elementary education system, the Ministry of Education introduced a new policy entailing special subsidies to schools with a considerable number of Romany children. As a component of a 570 million forints (US\$2.85 million) EU Phare program-sponsored project, the Ministry of Youth, Sport, and Equal Opportunities launched a month-long media campaign in November to raise public awareness about racial discrimination against the Roma.

Paradoxically, although the country has experienced the problem for many decades, there has been little sign of public policy based on systematically collected evidence until the last few years. In 2004, results of government-sponsored, in-depth studies were released that contradicted stereotypes entrenched in the society. For example, according to a Delphoi Consulting survey, the idea that Roma families raise many children is a myth, and their traditional, kinship-centered social networks are in fact fading away.

The media continue to play an important role in addressing the Roma problem as well. Published reports disclosed the circulation of an “ethics” textbook designed for children in the eighth and ninth grades that depicted the Roma as a social stratum with a higher probability of committing criminal acts. Less than 10 percent of the 80 publications analyzed attempted to explain the Roma problem in depth, generally focusing on Roma segregation in the labor market, and only one of these publications correlated negative stereotypes with the phenomenon.

Since 2001, the Ministry of Justice has run a network of advocates providing pro bono legal assistance to Romany clients who encounter ethnic discrimination. In criminal cases, public defenders are available to underprivileged suspects, who are often Roma. In July, the Hungarian Helsinki Committee

signed an agreement with the Budapest police chief introducing a pilot project supported by the royal Dutch government and the EU to provide legal counsel and representation for the needy at trials. As of April 2004, government-sponsored public defenders recruited mainly from the advocate and law school community began providing free or government-credited legal counsel to the needy in civil proceedings. The legislation introduced a two-step approach, but alas, the next phase whereby the socially indigent will be entitled to public defenders during litigation will not commence until 2006.

Despite the gradual improvement since 2000 due to government efforts, discriminatory practices against the Roma continue to prevail deep inside the society, and there is a long way yet to go before the recent improvements start discernibly to eradicate intolerance. The June report of the European Commission Against Racism and Intolerance stated that “Hungarian authorities [should] maintain and strengthen their efforts to improve the situation of the Roma minority, particularly in combating discrimination against Roma in the fields of health care, housing, and employment.”

In its 2004 report, Amnesty International, apart from acknowledging recent developments, warned of continued discrimination. *Magyar Nemzet Online* reported in February about an empirical study of the Hungarian Helsinki Committee. The study found that Roma were subject to a discriminatory routine of arrests and sentencing by Hungarian police and judges, respectively. In its comments submitted to the Council of Europe (COE) in September, the NGO warned also of the likelihood of abuses against Romany during police apprehension and discriminatory housing policies of local governments. The COE’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment report released in June expressed its displeasure with the confinement conditions of pretrial detainees held in police remand prisons.

July 2004 brought an important shift in legal practice. For the first time in the country’s history, a court ruled in favor of two Romany claimants against a company that turned down their job applications evidently because of their ethnicity. Later in the year, in the first plea that appeared in front of the Hungarian magistrates under the new Law on Equal Opportunity, adopted in 2003, the case ended with a similar first-instance judgment.

The Hungarian legal system ensures equality before the law. In all procedures, it guarantees the use of the mother tongue and public counsel. A significantly revised criminal procedure code came into effect in 2003. Since 1998, the National Council of Justice, composed of government representatives and members elected by judges, has the authority to appoint Supreme Court and other justices. The budget proposal necessary to govern the judiciary is developed independently by the council and submitted via the government to the legislature.

The Open Society Institute’s EU Accession Monitoring Program noted in 2001 that deficiencies in enforcing judgments “can weaken political support

for maintaining an independent judiciary.” Given their excessive degree of constitutional independence, the Hungarian judiciary and separate Constitutional Court play an eminent role in the future practice of both civic and government actors. According to the 2004 Eubarometer survey conducted by the Hungarian Gallup Institute, the judiciary is among the most trusted institutions in the country and, on average, far better trusted than in other newly acceded states.

In 2004, the Supreme Court ruled in favor of free speech, annulling a 2003 law that was to introduce new measures against incitement. Public reaction against a group of followers of the Hungarian war criminal and leader of the Arrow-Cross Party, Istvan Szalasi, vehemently refuted such behavior. In another resolution in February, the Supreme Court maintained the substantial professional independence of the supreme procurator. In December, the Budapest Highest Appeal Court stated that a decision of the Karoli Gaspar University of the Hungarian Reformed Church to expel an openly gay student from its pastoral training department was not in breach of the Law on Equal Opportunity. The court maintained that religious autonomy renders the university’s decision legal and that “neither the Constitution nor the laws may interfere in the autonomy of churches.”

Thanks to continued public attention focused on the judicial branch and court behavior, there were signs of strengthening the constitutional position of the judiciary, but also of the continued need for judges to live up to their positions. The last two presidents of the Supreme Court, Pal Solt until 2002 and Zoltan Lomnici currently, have both been uncompromising defenders of the judiciary’s integrity and are gradually earning a reputation for the judiciary equal to those of the other branches. In August 2004, Lomnici pushed the agenda toward recognizing the political rights of judges when the chairmen of three county magistrates paid a lobby visit to two high-ranking FIDESZ officials to discuss the courts’ financial needs. In response to media criticism, Lomnici argued that the judges were exercising their constitutionally limited political rights and that such behavior is endorsed even by the European Charter on the Statute of Judges. At the same time, continuously trained judges still appear to be lacking clear guidance about political behavior or appearing in public. Late in the year, a judge was reprimanded for appearing onstage at a political rally.

Since 2003, Hungarian courts operate on four levels. There are magistrates on the local and county levels with jurisdiction over their districts. The highest appeal courts with larger regional jurisdiction are based in Budapest, Pecs, and Szeged, while the Supreme Court in Budapest is in charge of issuing abstract judgments and guidance safeguarding the coherent interpretation of legislative acts. The Supreme Court also serves as an extraordinary appeal forum for cases adjudicated at the highest appeal courts. The two additional highest appeal courts to start operating as of January 2005 in Debrecen and

Gyor will not, however, end the judicial reform process lingering since 1993. While there is effectively a four-tier court structure, the legislation entirely removed from the 1998 criminal procedure reform bill those passages that stipulated a two-layer ordinary appeal system, which was the legal philosophy behind the four-tier court structure.

Court leaders throughout the year consistently applauded the 2003 establishment of the highest appeal courts. As a result, the overburdened Supreme Court was able to work off as much as 80 percent of its backlog of overdue suits. In May, Lomnici stated that there were extreme instances, but overall only approximately 2 percent of all cases were manifestly delayed and 86 percent of the newly logged pleas were adjudicated within one year. As chairman of the National Council of Justice, Lomnici reviewed current pending cases following a number of unfavorable 2004 adjudications at the European Court of Human Rights in Strasbourg pertaining to long trials. In early 2004, Laszlo Gatter, head of the Budapest Capital Court, reported in an interview that although 25 percent of all judges were employed in Budapest handling the same proportion of trial cases, the more than 50 percent of bankruptcy and commercial registration matters added to this workload laid an enormous challenge on judges to conduct all-encompassing reviews and at the same time conclude within a reasonable time.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	2.50	3.00	3.00	2.75	2.75	2.75

Anticorruption legislation has been continuously improved in Hungary and meets international standards. However, the enforcement of these laws as well as asset disclosure regulations for public officials still require further commitment from official parties. On the one hand, 2004 was particularly successful in revealing cartels and fraud charges. Still, curbing corruption was not on the government's primary agenda.

The 2002 victory of the MSzP-SzDSz coalition was to a great extent a result of its anticorruption platform. In 2003, the Parliament unanimously adopted the "glass pocket" law, a new legal package designed to increase the transparency of public funds and to fight corruption through economic regulations. The law introduced the concept of public interest data and redefined the boundaries of business secrets. Despite various promising initiatives that the MSzP-SzDSz coalition introduced while in government, many anticorruption policies were discontinued in 2004.

The Ethic Council of the Republic, an anticorruption board, disbanded in 2004 after its president and other members left allegedly because of political pressure. The council was set up in 2003 by the prime minister to propose

anticorruption laws and elaborate a code of conduct and norms for civil servants after three high-ranking officials from the Ministry of Education and the Office of the Prime Minister had to resign in 2002 for undisclosed, nontransparent practices. The State Secretariat of Public Finance, established in 2002 to monitor public procurement procedures and ensure transparency in the handling of public funds, was dismissed in the fall of 2004. The secretariat's primary role was to investigate alleged corruption charges associated with the previous Orban government. It was widely criticized for failing to intervene when current government politicians and institutions were accused of illegal or immoral activities.

Efforts in 2004 were effective in revealing questionable practices, such as fraud committed by public service employees and policemen. The Competition Authority revealed several cartels formed to mutually benefit from public procurement tenders. The Competition Authority fined highway cartels an all-time-high penalty of 7.43 billion forints (US\$39 million), demonstrating its serious commitment to fighting the illegal use of public money.

Hungary has a reputation for being one of the least corrupt post-Communist countries. Still, "grand corruption"—such as the overconsolidation of bankrupt enterprises while surpluses find their way to the ruling party for internal use—has been a problem in Hungary, according to Transparency International. In Transparency International's 2004 Corruption Perceptions Index, the country maintains its score of 4.8 on a scale of 1 (most corrupt) to 10 (least corrupt). However, according to a study by the GfK Polling Institute, Hungarians give bribes to public service employees more frequently than the Central and Eastern European average. A number of doctors use state equipment for private profit. Within the health care sector, patients are often expected to pay gratitude money to public employees for provisions they are not entitled to. A January 2004 Internet campaign against such malpractices by obstetricians proved that the gratitude money issue highly annoys the public and provides ground for an ongoing discourse. That said, corruption appears to be more endemic to political parties and public decision makers.

A series of controversies involving deputy parliamentary speaker Ferenc Wekler and Budapest mayor Gabor Demszky drew attention in 2004. In addition to using the mayoral luxury car and chauffeur while on vacation abroad, Demszky seemed to the public to be a politician accumulating advantages for his own well-being. Eventually, Demszky had to give up his EP membership because of conflicts between that role and his mayoral position. Around the same time, the media caught Wekler receiving a US\$1.4 million state subsidy to support his vineyard and reported his lobbying efforts to reclassify the vineyard into a more valuable wine region. Under pressure both by the opposition and his own party, he resigned from his deputy speaker post.

Although no independent body deals solely with corruption investigations, a number of state institutions are empowered to fight corruption. The main investigative law enforcement body is the police, while high-level corruption (involving MPs, ministers, and heads of public departments) and organized crime cases fall under the jurisdiction of the Central Investigation Department of the Office of the Prosecutor. Additional institutions with enforcement authority, such as customs and tax agencies, also have separate units to combat corruption. However, cooperation among these institutions is not yet sufficient. The State Audit Bureau of Hungary exercises ultimate financial control over all public and EU funds and is a completely independent agency reporting to the Parliament. The “glass pocket” law empowered the bureau to trace the path of public funds even through private business files and expands the circle of individuals required to declare their personal assets.

Although the commission of the EU considered the Hungarian Parliament’s proposed amendment incompatible with EU law, the Parliament adopted the modifications to the Law on Public Procurement in the fall. The new bill allows local governments and other state authorities to forgo open tenders in cases where they contract state-owned companies. President Madl returned the bill to the Parliament for reconsideration in 2005.

Lobbying and corruption are not clearly separate notions in the eyes of the public, and the long-planned Law on Lobbying has still not materialized. MPs are neither banned from engaging in business activities nor restrained from assuming positions at state-owned companies before or after their mandate. The EU found insufficiencies in internal financial control systems in the public sector and was also concerned about the lack of independence and an adequate administrative framework in state institutions.

There is a high risk of corruption in political party financing. According to both the Open Society Institute and the Group of States Against Corruption, of which Hungary is a member, there is significant evidence of illegal party funding and corruption in Hungary. The operations and activities of party-based businesses lack transparency and adequate control, and there are no effective sanctions or enforcement mechanisms in place to counter illicit bookkeeping in party financing. The State Audit Bureau has recommended that the government modify the Law on Parties in order to eliminate the discrepancy over reporting systems between the Law on Accounting and the Law on Parties. The audit bureau has also raised concerns about democratic institutions being most vulnerable to hidden party financing, which weakens the accountability of institutions and public trust in the overall democratic process.

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Kazakhstan

Capital Astana
Population 15,000,000
GDP/capita (PPP 2002 US\$) \$5,870
Private sector as % of GDP 65%
Ethnic groups Kazakh (53 percent), Russian (30 percent),
 Ukrainian (4 percent), German (2 percent),
 other (11 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	5.50	5.50	6.00	6.25	6.25	6.50	6.50	6.50
Civil Society	5.25	5.00	5.00	5.00	5.50	5.50	5.50	5.50
Independent Media	5.25	5.50	5.50	6.00	6.00	6.25	6.50	6.50
Governance	5.50	5.50	5.00	5.00	5.75	6.25	6.25	n/a
National Democratic Governance	n/a	6.50						
Local Democratic Governance	n/a	6.25						
Judicial Framework and Independence*	5.00	5.25	5.50	5.75	6.00	6.25	6.25	6.25
Corruption	n/a	n/a	6.00	6.25	6.25	6.25	6.50	6.50
Democracy Score	5.30	5.35	5.50	5.71	5.96	6.17	6.25	6.29

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

President Nursultan Nazarbaev, who has held office since 1989 under the Soviet period, has continued to strengthen his hold on the country through an enormous concentration of power in the presidency. That has allowed an inner circle of family members, friends, and business associates to exert formal and informal influence over vital economic resources and political positions. Since 1991, the rapid outmigration of Slavs (who formed almost half the population before independence) has not only eroded the prospect that Kazakhstan would develop a pluralist and democratic framework to accommodate its ethnic diversity, but instead it has allowed the regime to claim credit for the “stability” that has ensued as a result of its own tight political and ethnic control. A relatively vibrant phase of media freedom and civic and democratic activism in the early 1990s has dissipated since 1995, when Nazarbaev spearheaded the adoption of a new Constitution that vested the presidency with unchecked powers. Since then, Nazarbaev has used Kazakhstan’s accelerating economic growth and rising prosperity (it has the second highest per capita gross domestic product after Russia) to further consolidate his authoritarian rule. At the same time, he has embraced a purely formal democratization agenda by holding regular elections (none have been recognized as “free and fair”) and erecting a multiparty system comprising loyal, pro-regime parties.

The 2004 elections to the Majilis, the lower house of Parliament, affirmed a growing consolidation of the authoritarian regime under Nazarbaev’s patronage. Beneath the overt indicators of socioeconomic and political stability that the Nazarbaev regime boasts of providing, discord is growing, along with a mounting power struggle among figures and groups within the establishment. The last parliamentary elections were primarily a contest among pro-regime groups, which now control every seat in the Majilis (there is not a single opposition or genuinely independent deputy). A number of influential figures, including reformers, have left the regime, with some joining the opposition and others criticizing the regime as independent figures. Despite having obtained total control over the Parliament through elections and placed almost all media channels under the control of pro-regime parties or business groups, the government has failed to fully bring the opposition, media, or civil society into compliance.

National Democratic Governance. Nazarbaev has typically argued that the creation of a strong economy and the preservation of social stability constitute the vital preconditions for undertaking political reforms and democratization. Economic prosperity, which has primarily benefited the upper stratum, and overall stability, however, have come at the expense of developing institutions of transparency or democratic accountability. Members of the presidential family and powerful financial groups who fully control the Parliament and top political offices have continued to coerce, buy off, co-opt, and even criminalize their business rivals, political opponents, and critics, as well as independent media outlets. While Kazakhstan has established a stable and effective governance structure, the Nazarbaev regime continues to block the political participation of groups that advocate reforms and exaggerates the potential of threat posed by ethnic or religious extremism. *Kazakhstan's rating in national democratic governance is set at 6.50 because despite favorable economic growth and social stability, the regime has failed to take any substantive steps toward democratization or transparent governance.*

Electoral Process. The 2004 parliamentary elections, criticized by all major international organizations as falling short of international standards, were an exercise in the management of support to the regime by disbursing spoils among the leading pro-government parties and sidelining other interests from the contest. The three major pro-regime parties—Otan, the Civil Party, and Asar—grabbed 59 of 77 seats; “self-nominated,” nominally independent, pro-regime candidates obtained 18; and the opposition Ak Zhol won only 1 seat but refused to accept it. The ex-Speaker of the Parliament and an Otan party co-chairman condemned the elections as being a “farce” and joined the opposition. *Kazakhstan's rating for electoral process remains 6.50 because improved electoral legislation and more freedom granted to the opposition to campaign did not prevent the entire electoral contest from being stage-managed from above to ensure that no genuinely independent or opposition members were elected. Unlike the previous Parliament, which had three opposition deputies, the current Parliament has none.*

Civil Society. The regime has tried to shape civil sector development through financial incentives and pressure on nongovernmental organizations (NGOs) to cooperate more closely with the government. Informal bodies have even been set up to promote a top-down, government-monitored “democratization and growth of civil society.” Nonetheless, several established NGOs have maintained their autonomy and resisted the pressures to be co-opted. NGOs engaged in advocacy campaigns and election monitoring have been particularly effective, together with those focusing on women’s rights, health issues, children, and the elderly. Civic activists championing civil liberties and minority rights have encountered the greatest governmental resistance.

Most NGOs remain dependent on international funding. *Since no noticeable improvement took place in the civil sector in 2004, Kazakhstan's rating for civil society remains unchanged at 5.50.*

Independent Media. Some marginal improvements occurred in 2004, such as the president's veto of the much criticized Law on the Media and greater freedom to cover political issues during the preelection phase. Nonetheless, a systematic media bias in favor of pro-regime parties, together with a negative portrayal of the opposition, financial harassment, physical assaults, and the criminalization of independent journalists, denotes that no substantive improvement has taken place. The regime has become more sophisticated in using control and coercion as competition among pro-regime outlets has increased. The government has spent enormous budgetary resources on ads praising Kazakhstan's economic and democratic achievements in international media as a public relations exercise. *Despite isolated improvements, the continuing buy-off of independent media by pro-regime groups means that Kazakhstan's independent media rating remains at 6.50.*

Local Democratic Governance. Kazakhstan has maintained a unitary and centralized administration in which the president fully controls the appointment of *akims* (administrative heads) of oblast (regions) and *raions* (districts), despite sustained demands for introducing direct elections. These *akims*, who are nominated by the president and are accountable to him, are rotated continuously to prevent them from building independent support bases. In August 2005, Kazakhstan will introduce direct elections of *akims* in all villages and also in selected regions as an experiment. But the Central Election Commission, which exerts top-down control, is vested with total authority to choose the districts and conduct test polls. *Given the extremely limited authority granted to local and regional election commissions, the rating for local democratic governance is set at 6.25.*

Judicial Framework and Independence. The concentration of powers in the presidency, the capture of the Parliament by powerful, regime-connected financial interests, and the prevalence of personal patronage over formal rules have contributed to the continuing subordination of the judiciary to political interests. Kazakhstan's judicial system has lost much of its credibility by acting in full compliance with the regime's interests rather than stepping in to protect civil liberties. The local courts have been accused of many procedural and politically motivated charges. Though Kazakhstan revoked the death penalty, it has not passed an amended Law on Life Sentences. The Supreme Court has refused to review the case against a prominent opposition leader—Ghalymzhan Zhakiyanov, who remains in jail since April 2003 on politically motivated charges of corruption—despite serious allegations

of torture. *The failure of the judiciary to issue a single independent verdict that protects individuals against government abuse means that Kazakhstan's rating remains 6.25.*

Corruption. Although corruption is rampant at all levels of society, it has reached staggering proportions at the top of the hierarchy and is a direct result of the lack of transparency and public accountability in the extraction and management of the country's rich oil and metallurgical resources. There is no independent body investigating corruption allegations or conducting inquiries. The top figures within the government enjoy a virtual immunity from investigation, unless they engage in political or economic activities that challenge the president. The "Kazakhgate" trial (in which top government officials, including Nazarbaev, are alleged to have received bribes from an American oil broker) resumed in a U.S. court early in 2004 and could shed further light on top-level corruption. *Kazakhstan's corruption rating remains 6.50.*

Outlook for 2005. The uppermost concern of Nazarbaev in the current year is to secure another presidential term. Presidential elections are expected to be held in January 2006. Recent "revolutions" in the former Soviet republics of Georgia, Ukraine, and Kyrgyzstan have revitalized the opposition and civil society, stirring up deep anxieties within the regime. Notwithstanding his total control of the Parliament and Kazakhstan's growing economic success, Nazarbaev will face innumerable anticipated and unanticipated challenges in the presidential elections.

Speculation is rife on the various levels of discord within the regime: between Nazarbaev and the Asar party of his daughter Dariga Nazarbaeva and her ambitious husband, Rakhat Aliev, between Otan and the Civil Party, and between the two powerful sons-in-law of Nazarbaev. These growing signs of competition and discord among pro-regime groups as well as within the presidential family, possible defections of some regime associates to the opposition, the verdict on the Kazakhgate case expected in mid-2005, and the final outcome of the uprising in Kyrgyzstan could boost efforts by the opposition to coalesce and nominate a common candidate for the next presidential elections. The regime will find it extremely challenging to disqualify the potential candidacy of influential figures such as Zharmakhan Tuyakbai, Zamanbek Nurkadilov, and Altynbek Sarsenbaev and is likely to intensify efforts to fragment the opposition. Nazarbaev may call for early presidential elections or seek to extend his term by other means. In any event, the current year brings forth new challenges to the consolidation of authoritarian rule in Kazakhstan.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.50						

Although Kazakhstan's *Nations in Transit* ratings differ only marginally from those of other Central Asian states, its spiraling economic growth, spurred by rising oil exports, sets it apart from the rest of the region. As the emerging economic powerhouse of Central Asia, Kazakhstan has maintained an 8–10 percent annual economic growth rate since 1999, boasting the second highest annual per capita income among the Commonwealth of Independent States (CIS) states, after Russia. It also has the most dynamic financial and banking sector after Russia and has been recognized by the European Union (EU) and the United States as having “market economy status.” Kazakhstan expects to at least triple its current oil production of about 1.0 million barrels per day to 180 million tons by 2015, which will amount to 5 percent of total world output and make it among the top 10 oil exporters.

President Nursultan Nazarbaev has used this oil-dictated economic success and projections of rapid prosperity to legitimate his prolonged incumbency and to garner further domestic and international support for the “stability” provided by his regime. He has cultivated an image of Kazakhstan as a multiethnic Eurasian state, based on a resilient Muslim heritage—an “oasis” of stability in the region, with the president as the key guarantor of order and economic success. This model of stability has found resonance and support not only among the neighboring Central Asia states and Russia, but also in the West, particularly since Western companies have invested over US\$25 billion, mainly in the oil sector. Taking advantage of its geopolitical location, Kazakhstan has elbowed in to establish a close partnership with the United States in the “war on terror” by polishing its image as an antiterrorist state committed to security. Its military and security services have intensified hunts for “terrorists,” confiscated literature distributed by militant groups, and claimed to have uprooted a network of al-Qaeda terrorist operatives in Kazakhstan, according to the Jamestown Foundation's *Eurasia Daily Monitor*. It is impossible to ascertain the scale of the “terrorist threat,” given the absence of conclusive evidence and fair trials and a lack of mechanisms fostering civic accountability on the part of the security services. The military and the national security services remain firmly under the control of the president, who nominates the latter's members. The lack of transparency at the very top remains the key obstacle to introducing proper democratic governance at national and local levels.

Paradoxically, the economic upsurge since 1999 has coincided with a steady downward trend in the indicators of democratization, freedom of

the media, and civil society. Kazakhstan's new prosperity—driven almost entirely by rising oil exports rather than an overall increase in productivity in other sectors—has led to a further clampdown on autonomous political competition or societal debate, eroding some transparency that prevailed in the political process earlier.

The rapid development of the oil sector, together with a speedy and nontransparent privatization of its strategic industries, has enabled the former Communist nomenklatura—particularly the presidential family, its friends, leading regime associates, and clients—to acquire firm control over the country's rich oil and mineral resources. Soon after calling the first session of the newly elected Parliament in November 2004, Nazarbaev deplored the fact that “10 megaholdings [financial groups] in the country control almost 80 percent of its gross domestic product [GDP]” and that such “nontransparent oligarchic structures hinder the development of small and medium-size businesses.” What the statement did not reveal was that the president and his family, particularly his two daughters and two sons-in-law, other top figures within the regime, and leaders of the major pro-presidential parties, constitute these megaholdings, which not only control key economic assets, but also own all major media outlets and exert influence over the Parliament through the political parties they patronize. Nazarbaev's statement was an ominous signal to the budding group of reform-oriented entrepreneurs and businessmen, many of whom are either members or supporters of the opposition Ak Zhol (Bright Path).

The president appoints the prime minister, his cabinet, and virtually all top officials and can dismiss them at any time. The government, headed by the prime minister, bears responsibility for enacting and implementing all policies, though it enjoys very little independent power to initiate legislation. Since the ousting of Akezhan Kazhegeldin as premier in 1998 (he held that position for five years), none of his successors have been able to stay in office for more than three and a half years. The current premier, Daniyal Akhmetov, was appointed in June 2003.

Nazarbaev has yet to hold an election—either presidential or parliamentary—that qualifies as free and fair according to the standards set by international election observation missions of the Organization for Security and Cooperation in Europe (OSCE) and the Office for Democratic Institutions and Human Rights (ODIHR). The only presidential election, which was held in January 1999, barred Kazhegeldin, the most serious challenger, from contesting and was boycotted by the OSCE/ODIHR and all major international monitoring teams. Nazarbaev had earlier renewed his presidential mandate through a Soviet-style referendum in April 1995 after dissolving the Parliament on spurious grounds. He then went on to adopt a new Constitution in September 1995, again through a hastily organized referendum, which conferred unlimited power upon the president and makes the legislature and

judiciary completely subordinate to the executive. Subsequent amendments to the Constitution have further enhanced executive power, inserting a clause granting immunity to the “First President,” together with a mandate to appoint his successor and continue to act in the capacity of “adviser.”

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
5.50	5.50	6.00	6.25	6.25	6.50	6.50	6.50

The current Parliament elected in 2004 is the fourth popularly elected one since 1991. The latest elections to the Majilis (lower house of the Parliament) of September–October 2004 were faulted by the international election observation mission of the OSCE/ODIHR for “serious shortcomings,” thus falling short of “international standards for democratic elections.” The preceding parliamentary elections of 1995 and 1999 were also noted for similar shortcomings.

In December 1993, Nazarbaev engineered the dissolution of the Soviet-era Parliament to acquire a more loyal legislature through elections in March 1994. The first elected postindependence Parliament was dissolved again on a specious technicality in March 1995, as it was not as pliant as expected. Subsequent constitutional amendments and political practice have further eroded the authority of the parliaments elected in December 1995, October 1999, and September 2004.

Kazakhstan’s two-chambered Parliament consists of the Senate (upper house) and the Majilis. The 77 members of the Majilis are elected for five-year terms. Since 1999, 10 seats have been filled by proportional representation from party lists in which parties are required to cross a 7 percent barrier. The remaining 67 seats are contested in single-member constituencies, in which the winning candidate must receive more than 50 percent of the first-round vote. If no candidate attains the required number of votes, the two candidates receiving the greatest number compete in a second round to determine the ultimate victor. The Senate has 39 members who serve six-year terms. Thirty-two are chosen indirectly, through a joint session of the *maslihats* (local councils) from each oblast and from the new capital, Astana, and the former capital, Almaty. The president nominates the remaining 7 members.

According to the Constitution, the president is above party politics but has the right to ban any political party. Nazarbaev maintains close though informal connections with the array of pro-presidential parties and is the de facto patron and benefactor of Otan (Fatherland), formed in 1999, which won a majority of seats in the parliaments elected in 1999 and 2004.

Despite being made fully subordinate to the executive bodies, the previous parliaments still had a handful of independent or opposition deputies who defied their rubber-stamp roles. The 2004 Parliament, in contrast, is

packed entirely with members of pro-regime parties. Although 12 political parties, including 2 electoral blocs (alliances), participated in the elections, all except Ak Zhol, the Democratic Choice of Kazakhstan (DVK), and the Communist Party of Kazakhstan (CPK) were pro-regime parties. Altogether, 623 candidates contested 77 seats, meaning an average of about 8 candidates for each seat. Fifty-nine out of 77 seats went to the major pro-regime parties: Otan, the electoral bloc AIST (the Agrarian and Industrial Union of Workers, composed of the Civil Party and the Agrarian Party), and Asar (All Together). Otan and AIST secured the largest electoral gains, winning 42 and 11 seats, respectively. The moderate opposition Ak Zhol was able to win only a single seat on the party list. “Self-nominated” candidates, who are nominally independent of any party affiliation but are closely connected with the regime, gained 18 parliamentary seats (one of the victors subsequently joined Otan). A typical “independent” candidate was Kulyash Agatayeva—sister-in-law of Almaty’s mayor, Viktor Khrapunov—who defeated the prominent leader of Ak Zhol, Uraz Zhandosov. The OSCE report on the 1999 parliamentary elections noted that almost two thirds of such independent deputies were closely allied with Otan or with the executive branch of the local governments.

Since the elections, Ak Zhol has taken a more radical position and renounced the single seat it won on the party list. The radical opposition bloc of the DVK-CPK, which cooperated informally with Ak Zhol, did not win any seats. Asar, founded in October 2003 by the president’s eldest daughter, Dariga Nazarbaeva, garnered only four seats, contrary to its projections that it would run neck and neck with Otan. Nazarbaeva’s bid to position herself

Table 1. September 2004 Parliamentary Elections

PARTY COMPOSITION OF THE MAJILIS (LOWER HOUSE)					
Party	Single-Mandate Districts			Party List	Total
	1st Round	2nd Round	Total		
Otan	26	9	35	7	42
AIST*	9	1	10	1	11
Asar	2	1	3	1	4
Ak Zhol	0	0	0	1	1
Democratic Party of Kazakhstan	0	1	1	0	1
DVK-CPK	0	0	0	0	0
Self-Nominated	8	10	18	--	18
Total	45	22	67	10	77

*Agrarian and Industrial Union of Workers

as the successor to her father has met with stern resistance from Otan and AIST and also suggests a lack of support from the president himself for the political ambitions harbored by her (and her husband, Rakhat Aliev). Although Nazarbaeva is the public face of Asar, several top figures within the party, drawn from the customs and security services, are associates of her husband, who is the de facto leader of the party. Aliev has previously held key positions in the taxation department and national security services and has been Kazakhstan's ambassador to Austria and the OSCE since 2002, soon after his removal as head of Almaty's National Security Committee in response to criticism from leading members of the regime.

Kazakhstan's laws regulating political parties and elections, combined with restrictive provisions on media and on political assembly, have ensured that no powerful opponents of the regime enter the electoral contest or even get public attention. The Law on Political Parties, which was adopted in June 2002 despite criticism from the opposition and the OSCE, required all existing parties to reregister with the Ministry of Justice by producing a minimum of 50,000 signatures (the previous requirement was 3,000) and proving that they have at least 300 representatives in each of the country's 14 oblasts and its 2 major cities (the capital, Astana, and the former capital, Almaty). A party may be abolished if it fails to register within two months of its formation, does not participate in two consecutive elections, or polls less than 3 percent of the vote. By hailing the law as pivotal in giving rise to a "multiparty system" that combines majoritarian voting with proportional representation, Kazakhstan has expediently co-opted some formal features of multiparty competition (as recommended by the OSCE) while resisting political participation from below and defying any substantive democratization. This law has achieved the intended objectives of disbursing and legalizing power through major pro-regime parties and keeping the opposition out of the fray.

Kazakhstan's Law on Elections, which was amended in 2004 upon sustained recommendations from the OSCE, brought minor improvements such as the introduction of electronic voting and a reduction in the registration fee (from 100 to 50 times the minimum monthly wage for presidential candidates and from 25 to 15 times the minimum monthly wage for parliamentary candidates). However, the most serious limitations pertain to the lack of transparency in the composition and functioning of the Central Election Commission (CEC), which exerts top-down control over regional and local election commissions. The isolated improvements in the Law on Elections are essentially nullified when this law is assessed in conjunction with other restrictive legislation such as the Law on Political Parties and the Law on the Media.

Innumerable legal and informal restrictions prevail on the right to assembly. Prior permission from law-and-order authorities is needed to organ-

ize any public rally. Members of the opposition parties DVK and CPK were detained for holding an “unauthorized” rally when they organized a public protest claiming violations of the campaign spending limit by Asar. On the other hand, pro-regime parties have used administrative resources, political influence, and control over public opinion to secure a large membership on paper, to organize meetings and campaigns, and to induce various strata in the electorate to vote for them.

Otan claims a membership base of over 300,000, which includes numerous state employees pressured to take party membership in order to keep their jobs. Asar, founded only in October 2003, acquired 170,000 members within six months—an incredible feat in a country where political apathy is pervasive and civic participation is extremely low. The Civil Party, formed before the 1999 parliamentary elections, is the political platform of the Eurasia Group of businessmen—Alexander Mashkevich, Ibragim Shodiev, and Azat Peruashev (who was elected as a parliamentary deputy on the Civil Party list in the 2004 elections)—which controls major metallurgical enterprises. Its membership of 160,000 includes almost all employees of affiliated companies, together with their families. These parties serve primarily as vehicles for disbursing patronage and apportioning political gains.

The regime’s inexorable efforts to weaken its opponents and critics through legal and ad hoc restrictions, arrests, sentences for politically motivated “corruption” charges, negative publicity, and surveillance over their personal lives and professional activities make it very difficult for opposition parties to establish credibility before the electorate. Rakhat Aliev, the president’s first son-in-law, headed the Almaty National Security Committee in 2000–2001 and monitored and intimidated opposition as well as independent media. After Mukhtar Ablyazov, then minister of industries, and Ghalymzhan Zhakiyanov, then *akim* (administrative head) of Pavlodar, and a number of other young reformist leaders within the regime succeeded in founding the DVK in November 2001, Nazarbaev was pressured to remove Aliev from the National Security Committee. Allegations of financial fraud and misuse of office against both Ablyazov and Zhakiyanov and their ensuing trials in early 2003 led to long jail sentences. Ablyazov received a presidential pardon in April 2003 following the takeover of his business assets by pro-regime groups and has since left Kazakhstan. Zhakiyanov is unlikely to be released before the next presidential elections.

These reprisals and growing pressure on other DVK members led to the decision of other prominent members—such as Alikhan Baimenov, Uraz Zhandosov, and Altynbek Sarsenbaev, who had held positions within the government and enjoyed reputations as reformers (“Young Turks”)—to split off from the DVK and form a new, more moderate party, Ak Zhol, in 2002. From its inception, Ak Zhol was a constant target for co-optation into the regime by being molded to serve as a “constructive” and “author-

ized” opposition. When the party complied by engaging in a “constructive” partnership with the government all through 2003, it won official approval through the appointment of Sarsenbaev as minister of information in June 2004. (He stepped down temporarily in August to participate in the elections, and the ministry was subsequently abolished in October after he resigned in protest against the election results.) Ak Zhol had projected winning about 40 percent of the seats and was competing directly against Dariga Nazarbaeva’s Asar, which also predicted it would win a similar percentage. However, the deeply entrenched financial interests represented by Otan and the Civil Party competed fiercely to secure a sizable portion of the seats, and as a result, both Asar and Ak Zhol lost out. Claiming that the extent of violations and falsifications exceeded its most negative expectations, Ak Zhol shunned its role of “constructive” opposition and renounced its parliamentary seat.

The strongest and most unexpected assault on the credibility of the elections came from Zharmakhan Tuyakbai, Speaker of the outgoing Parliament and a deputy chairman of Otan. In an interview with the newspaper *Vremya*, he called the entire electoral process a “farce” and expressed his profound sense of “shame as a citizen of Kazakhstan,” resigning his party membership in October 2004. He has joined the Coordination Council of Democratic Forces, formed by Ak Zhol, DVK, and CPK, and is one of the strongest opposition candidates likely to challenge Nazarbaev in the presidential elections scheduled in early 2006.

Earlier in April, Zamanbek Nurkadilov, a former regime strongman who had served as mayor of Almaty and governor of the oblast, quit his governmental post as emergency situations agency chairman and launched a personal attack on Nazarbaev, accusing him of corruption and calling for his resignation. Grigory Marchenko, former chairman of the National Bank of Kazakhstan and main architect of the country’s economic success, tendered his resignation as the president’s economic adviser in October. The leading reformers as well as potential challengers to Nazarbaev in the upcoming presidential elections have now either joined the opposition or clearly disassociated themselves from the regime.

The CEC, whose members are appointed by the president in consultation with the government, is completely loyal to the regime and impervious to any legal, societal, or international pressures. It played a vital role in aiding the regime to “manage” the electoral contest and systematically disadvantage the opposition. The OSCE monitoring team noted that the CEC functioned in an “arbitrary, selective, and nontransparent manner” during the 2004 parliamentary elections. While the CIS election observation team headed by Vladimir Rushailo, chairman of the CIS executive committee, pronounced the elections to be “legitimate, free, and transparent,” a dissenting opinion came from Andrei Mogila, a Ukrainian nominee of an independent nonprofit organization. Mogila called the elections “dishonest and nontransparent.”

The Republican Network of Independent Observers of Kazakhstan, together with other local election-monitoring nongovernmental organizations (NGOs), reported widespread and systemic violations in the work of electoral commissions and in the introduction of e-voting, as well as administrative interference in the electoral process.

Women won only 6 out of 67 single-mandate seats and 3 out of 10 seats from the party list. That is a slight improvement over the 1999 Parliament, which had 8 female deputies. About 17.6 percent of the candidates contesting the elections were women, with DVK fielding the highest percentage (46 percent). Among the candidates for the 2004 elections, ethnic Russians constituted 16 percent, Ukrainians 2 percent, and other minorities 1 percent—even though non-Kazakhs form 43 percent of the total population and their share in the voting age population is even higher. The share of minorities among the winning candidates was even smaller (precise figures are not available), suggesting that minorities, similarly to women, remain grossly under-represented in the electoral process and in the power structures. The OSCE report on the 2004 elections recommends proportional representation and gender quotas but did not suggest any ways to rectify the inadequate representation of minorities in the Parliament. The election results also reveal the imbalance between the percentage of the popular vote and the seats won by political parties. Otan obtained 42 seats (60.61 percent of vote), AIST 11 seats (7.07 percent), Asar 4 seats (11.38 percent), and Ak Zhol 1 seat (12.04 percent). The CPK-DVK alliance failed to win any seat but garnered 3.44 percent of the vote.

As the titular nationality, Kazakhs enjoy the status of “first among equals,” whereas Russians and other non-Kazakh groups have undergone a steady demotion of status. According to the 1999 census, ethnic Kazakhs formed 53.4 percent of the population, up from 39.7 percent in 1989, and their current share is estimated to be 58 percent. The Russian share has continued to decline, down to 29.9 percent from 37.7 percent in 1989. Among other ethnic groups, Uzbeks form 2.5 percent, Ukrainians 3.6 percent, Tatars 1.7 percent, and Germans 2.4 percent. Thus Muslim groups, mainly Kazakhs, form 64 percent of the population, and their share is growing, whereas “Europeans” constitute about 36 percent of the population, with a declining share. Kazakh is the sole state language, enjoying state protection and privileges, though Russian is granted official language status.

The Constitution authorizes ethnic groups to form “national” centers to preserve their cultural heritage but prohibits the formation of public associations or political parties that have ethnic, religious, or nationalist agendas. A law requiring registration for the national centers with the Ministry of Justice serves as an important screening mechanism. These national centers are expected to refrain from any “political” activities and focus on “ethnographic” or “folkloric” issues. They are encouraged, and expected, to solicit

support from their purported “parent” states for the cultural and material advancement of their respective groups. The German and Korean centers have received material support from their kin states, but most other ethnic communities lack rich or willing patrons in their “parent” states and rely on modest state support.

Nazarbaev has used his personal patronage to erect symbolic and nonpolitical institutions of ethnic representation, such as the Assembly of Peoples of Kazakhstan, established in 1995, purportedly in compliance with the recommendations of the OSCE High Commissioner on National Minorities. Its members are nominated by the officially recognized national centers and by the president, who is also the assembly’s chairman. Lacking juridical power or a representative base, the assembly serves as an instrument for co-opting leading minority figures into the existing political system. Minorities as a whole have found themselves steadily disempowered in the Kazakh-dominated state order.

The recent intensification of Kazakhstan’s efforts to combat the “extremist threat” has exacerbated a sense of insecurity among its various Muslim minorities. In October, National Security Committee deputy chairman Vladimir Bozhko maintained that the Islamic Movement of Uzbekistan, Uighur militants in Xinjiang, Kurdish separatist groups operating in Turkey, and Chechens from the Russian Federation posed major terrorist threats to Kazakhstan. Such statements validate the growing tendency to typecast members of these ethnic minorities as “terrorists.” Kazakhstan has also banned groups such as the Kurdish National Congress and East Turkestan Islamic Party by similarly branding them as “terrorists.” Alimzhan Hamraev, who heads the Legal Aid Center for Ethnic Minorities, argues that not only is there no evidence that these are “terrorist” groups, but also that these groups have long been defunct. A ban on a defunct organization, however, allows the government to exaggerate the “terrorist threat” the country faces, enhancing Kazakhstan’s geopolitical salience and attracting further assistance from the West, suggests the Institute for War and Peace Reporting’s *Reporting Central Asia*.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
5.25	5.00	5.00	5.00	5.50	5.50	5.50	5.50

Civil society in Kazakhstan, as elsewhere in Central Asia, is an exogenous concept whose potential for organic development is constrained by the weakness of a rule-of-law-based system, an absence of transparency in the political process, and persistent encroachments by the state. While the regime has pledged support to the development of NGOs and civil society by cooperat-

ing with international actors, such support has become yet another means of attempting to co-opt nonstate organizations into official structures. The state competes, both informally and covertly, with international actors by erecting a structure of government-supported NGOs and pressuring the existing, independent NGOs to "collaborate" more closely with the government.

One recent unabashed attempt to co-opt independent civic and political activists and organizations is Nazarbaev's creation in June 2004 of a permanent National Commission on Democracy and Civil Society. The commission's purported objective is to help develop measures to "reform the political system" and promote "further democratization of civil society." Urging the opposition parties "to cooperate" in its proceedings, the commission invited to its meetings representatives of various pro-regime political parties, NGOs that are closely connected with the government, and other independent activists in order to confer further legitimacy upon them. Ak Zhol has refused to participate, whereas the DVK-CPK and many prominent civil society activists have not been invited to the "consultative body." Not only are the government-appointed members (a total of 15 so far) of the national commission not civil society activists, but they lack a track record or reputation of commitment to civil society. Bulat Utemuratov, the chairman, has previously served as adviser on foreign trade and secretary of the National Security Committee (NSC). The presence of members of the NSC at the meetings has aroused the distrust of legitimate civil society activists.

According to official estimates, there are about 4,000 registered NGOs involving about 350,000 permanent employees, 50,000 temporary employees, and over 40,000 volunteers. However, most of these NGOs are believed to be either dormant or quasi-governmental, with only about 1,000 functioning actively, and only about 200 to 300 NGOs have succeeded in making a positive impact, according to a report by the U.S. Agency for International Development (USAID). Just under one half of all NGOs are concentrated in the Almaty oblast, and a large proportion are in Almaty itself, though their number in the new capital, Astana, continues to grow. The more remote and needy regions, particularly in central and northeastern Kazakhstan, have few NGOs, as these groups must battle the ignorance and apathy of both local administrations and the local citizenry.

By law, NGOs are required to refrain from "political activities." Kazakhstan's Law on NGOs does not yet contain an acceptable definition of an NGO or of what constitutes "political activity." A draft law proposed in early 2003 contained several negative features, such as an ambiguous definition of NGOs, prohibition of their involvement in political matters, division of NGOs into "socially useful and non-useful," and discrimination against international and foreign NGOs. An active campaign against the proposed law by the Confederation of Nongovernmental Organizations, aided by international organizations such as USAID, forced the government to withdraw the draft

law later in the year. Nonetheless, several existing ambiguities and loopholes in the legislation allow the government to interfere in NGO activities, to conflate “advocacy” campaigns with “political activities,” and to pressure NGOs to establish close partnerships with the government.

Sustained lobbying by the International Center for Not-for-Profit Law led the government to adopt a fairly progressive NGO tax regimen in 2001. Though NGOs receiving grant money from international organizations or individual donors are exempted from value-added tax and income tax, tax officials audit them constantly to find loopholes and force them to pay taxes or fines. USAID has been working to establish a cadre of local lawyers to provide legal assistance to NGOs in dealing with arbitrary interpretations of the law by the government and tax officials.

Several international companies doing business in Kazakhstan have become closely involved in providing grants to NGOs, as part of their wish to demonstrate corporate responsibility and social accountability. However, they often find themselves instructed to fund government-favored NGOs to implement social programs and to refrain from aiding any advocacy campaigns. Thriving local businesses and entrepreneurs are similarly expected and pressured to contribute to government-supported NGOs and threatened with reprisals for aiding “political activities” unless they go through government channels.

State-sponsored “independent” organizations receive favorable treatment in obtaining registration, funds, and international aid. Bobek, the children’s health and charity fund headed by the president’s wife, Sara Nazarbaeva, serves as an umbrella organization, sponsoring smaller NGOs and funneling international aid to them. A number of women’s NGOs were co-opted through such grants to support the party Asar before the elections. Advocacy and human rights groups in particular find it hard to receive support from businesses. Although strengthening the legal status of NGOs can significantly improve the climate for civic activism, it is not sufficient to prevent their informal co-optation by the government.

The year 2004 saw some thriving civic activism among independent organizations and groups that monitor elections. The Confederation of Nongovernmental Organizations, the Movement for a Rule-of-Law-Based Kazakhstan, the Youth Congress of Kazakhstan, the Youth Information Service of Kazakhstan (YISK), and other groups have set up a Public Committee for Election Monitoring to educate voters and candidates about election legislation and their rights as citizens in time for the next presidential elections. They are also intensifying the training of monitors. During the parliamentary elections, Kazakhstan’s Republican Network of Independent Observers sent 1,790 observers to 1,700 polling stations in 11 oblasts and 3 cities. YISK, supported by the National Democratic Institute, played an active role in drawing attention to the intimidation of young people by

pro-regime parties during the elections and has lobbied to fight corruption within universities.

A new coalition of NGOs, Oil Revenues—Under Public Oversight, advocating transparency and participation in the distribution of oil revenues, emerged in June 2004. It includes over 10 civic groups, including Kazakhstan Revenue Watch, an NGO supported by Soros Foundation Kazakhstan, and Demos, based in the oil-rich region of Atyrau. The coalition is coordinating efforts to promote the Extractive Industries Transparency Initiative, supported by the European Bank for Reconstruction and Development.

Many NGOs promoting gender awareness, women's rights, and knowledge building about the effects of nuclear testing on the health of women and children have been very effective. The Kazakhstan Women's Information Network, consisting of eight NGOs—among them the Women's Network of Almaty, the Feminist League, Women's Election Initiatives, and the Kazakhstan Businesswomen's Association—are campaigning to enhance women's representation in the Parliament, within government, and at local levels. The Association of Single Mothers, the Feminist League, and local NGOs in Semipalatinsk that help women suffering from the effects of nuclear test radiation have proven especially successful, measured by the overall scale and efficacy of their activities.

Among the most active NGOs are those focused on children's welfare and health (16.6 percent), environmental issues (15 percent), and women's rights (13.3 percent). Only about 8 percent of NGOs are dedicated to civil liberties and ethnic issues; these groups have been subject to the most stringent governmental controls. The more successful NGOs, particularly in the health and education sectors, are slowly altering both official and popular perception of their roles. But local municipal officials complain that the lack of corresponding legal provisions often prevents them from helping or collaborating with NGOs.

The overall decline in civic activism since 2000 has adversely affected the expansion of major NGOs. A survey by two prominent NGO activists, Igor Tupitsyn and Maria Stefurak, shows that if in 2000 some 20.4 percent of respondents participated in some action or community program, the proportion in 2003 was only 11.6 percent and is expected to have lowered further in 2004. The survey estimates that less than 4 percent of the population are members of NGOs. About 92 percent of respondents said that NGO activities had never had any impact on their lives, but those who had been influenced in some way relayed a positive assessment.

Kazakhstan's embryonic civil sector is heavily dependent on funding from the West. USAID, together with the Counterpart Consortium, the Eurasia Foundation, the Soros Foundation, and the Tacis program of the EU, has actively trained NGOs in Kazakhstan to advocate their causes. USAID has focused in particular on public health and electoral reforms, providing training

through NGOs to local election observers. With backing from Counterpart and USAID, a number of leading NGOs—including Civil Society Support Centers, the Coalition of Women’s Organizations, Eco-Forum, and the network of Youth Information Centers—have formed a coalition to lobby for their participation in drafting suitable legislation on NGOs. Of the overall US\$74.2 million allocated by USAID in 2004, democratization programs received \$10.6 million, whereas security and law enforcement programs received US\$39.4 million. While political and financial pressures understandably push NGOs to obtain international aid and protection, the sustainability of these organizations is a particularly serious issue as current international aid declines with a shifting focus on Iraq and other hot spots.

Kazakhstan has developed an influential network of trade unions, particularly since the early 1990s in the industrial northeastern regions, operating independently of government control. The Confederation of Independent Trade Unions has effectively challenged the control of the state-sponsored Association of Trade Unions. It has set up local organizations representing miners and oil workers across the country, with the support of Kazakhstan’s International Bureau of Human Rights and Rule of Law, the Confederation of Nongovernmental Organizations, and numerous other nonprofit organizations. It is the first Soviet-era union to gain membership in the World Labor Confederation.

Though the education system is largely free of political propaganda or control, and an expensive private network of schools and colleges is growing, public funding for education dropped from 6.5 percent of the budget in 1991 to 3.3 percent in 2000 and is estimated to have fallen further in the last four years. Despite Kazakhstan’s impressive economic growth, state expenditure on education as a percentage of GDP has thus remained low. Minister of Education Zhaksybek Kulekeev imposed a retroactive increase in the payments for student loans received between 1999 and 2003, which sparked widespread student protests that culminated in his resignation and the withdrawal of the proposed increase in December 2004.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
5.25	5.50	5.50	6.00	6.00	6.25	6.50	6.50

Though there is intense competition among a multitude of media channels and newspapers, financial interests and parties affiliated with the regime own or control almost all of them. Kazakhstan’s rating in independent media has continued to decline steadily since 1999. Freedom House’s annual *Freedom of the Press* survey rated Kazakhstan “Partly Free” in 1992 and 1993 and has rated the country “Not Free” since 1994. According to the annual Index

of Press Freedom in 167 countries surveyed by Reporters Without Borders, Kazakhstan ranked 131st, behind Kyrgyzstan (107th) and Tajikistan (95th), though above Uzbekistan and Turkmenistan.

The rise of powerful financial and political interests allied with the regime has made media freedom the single largest casualty of privatization. In 1996, as head of the privatized but state-controlled news agency Khabar, Dariga Nazarbaeva (together with her husband, Rakhat Aliev) bought a majority share in the agency, as well as in numerous so-called independent newspapers and television channels through auxiliary companies. The major television channels Khabar, KTK, and Rakhat TV are under direct control of Nazarbaeva and Aliev, who also exert significant influence over the newspapers *Karavan*, *Novoe Pokolenie*, *Argumenty i Fakty*, and *Komsomolskaya Gazeta*, as well as the TV channel 31st Kanal and the radio station Russkoe Radio. Three other major newspapers, *Express K*, *Delovaya Gazeta*, and the Kazakhstani edition of *Moskovskie Novosti*, belong to the Eurasia Group, headed by Alexander Mashkevich.

Two prominent newspapers, *Panorama* and *Vremya*, are owned by business groups affiliated with Nazarbaev's second son-in-law, Timur Kulibaev. *Panorama* is a respected economic weekly that also receives funding from the Kazkommertsbank group, comprising a vibrant banking elite who have been under pressure to maintain a pro-regime stance but are seen as sympathetic to Ak Zhol. The Russian-language *Kazakhstanskaya Pravda* and the Kazakh-language *Egemen Kazakistan* are the main state-supported newspapers and loyal to the regime. Both *Panorama* and *Vremya*, together with the Ak Zhol-funded *Epokha*, have managed to keep a more neutral profile, though they also practice self-censorship and refrain from any criticism of the president and his family in order to survive.

In December 2003, both houses of the Parliament passed the new Law on the Media despite widespread criticism from domestic and international media and civil society activists. They condemned the legislation for giving unrestrained powers to the government to oversee journalists' works, dismiss reporters, suspend media outlets for unspecified violations, and restrict the rights of journalists to obtain information. In what was clearly a staged public relations stunt, Nazarbaev vetoed the bill in April 2004, arguing that it undermined the freedom of the media, thus presenting himself as the guardian of a free press. Timed to coincide with the high-profile annual Eurasian Media Forum (EAMF), the announcement, made before a large gathering of international participants and diplomats, was a well-targeted attempt to score political points at home and abroad. Nazarbaeva has been organizing the EAMF since 2002—essentially an international public relations exercise for raising Kazakhstan's profile and her own while steering clear of any political themes or burning issues that afflict the domestic media.

The 1999 Law on Confidential State Affairs put “disclosure or publication of information about the president and his family and their economic interests or investments into the realm of state secrets punishable by severe sanctions.” Other draconian features are contained in the criminal code under Article 318, which penalizes a person who “insults the honor and dignity of the president.” These laws are a carryover from Soviet rule and have been routinely invoked against regional and national newspapers engaging in any form of investigative journalism.

In a typical illustration of how powerful regime-supported groups use their clout to wage lawsuits on technicalities and demand massive compensation from their opponents, in 2004 Khabar demanded an apology and damages of US\$7.5 million from former information minister Altynbek Sarsenbaev. The politician, from the Ak Zhol opposition party, had described Khabar as part of a media holding company that was monopolizing the Kazakh media market. Khabar’s lawyers argued that while it owns and operates a number of media outlets, Khabar is not part of any larger holding company. Earlier in April, the government turned down the proposal of the state oil and gas firm KazMunaiGaz, controlled by Kulibaev, to set up a media holding company that would include newspapers, a news agency, and a company to rebroadcast programs from Russia’s NTV channel. The main reason for the government’s rejection was that such a company would have competed financially and politically with the media empire of Dariga Nazarbaeva and, most important, act as a rival to government-supportive Khabar.

The OSCE monitoring team noted a heavy media bias in favor of pro-regime parties, particularly Otan and Asar, during the 2004 election campaigns. Asar received the most coverage and widely predicted through the media that it would win about 40 percent of the seats. In the end, the party won only four, a setback to Nazarbaeva’s political ambitions and also representative of the challenges by other pro-regime parties to her hold over the national media. In October, the Eurasia Group (the patron of the Civil Party, which won 11 seats) bought NTK, a major channel owned by Nazarbaeva-Aliev, and the question of Nazarbaeva’s control over Khabar is shrouded in uncertainty.

A few independent and pro-opposition newspapers (*Respublika*, *Soz*) have managed to continue sporadic publication with small circulations. *Respublika* defied a previous government ban by renaming itself *Respublika-Assandi Times*. The opposition newspaper *SolDat*, which ceased publication in August 2003 after numerous legal battles with the authorities, managed to register under a new name, *Data Nedelya*, when Sarsenbaev was the information minister. But the newspaper has not resumed regular publication since the court prohibited its editor in chief, Ermurat Bapi, from working as a publisher for five years, which is why the newspaper appeared sporadically but is practically defunct now. Opposition newspapers have also been guilty

of bias, lack of professionalism, failure to offer facts or evidence for the various accusations against the regime, and a reluctance to publish views that clash with their particular political slant.

The major Internet service providers—Kazaktelecom, Nursat, and Ducat—block access to Web sites sympathetic to the opposition, such as *Navigator*, *Eurasia*, *Kub*, and *Polyton*, and to the Web site of the newspaper *Assandi Times*. These opposition Web sites, which can be accessed only through proxy servers, offer Russian-language translations of articles critical of the regime, compiled from Russian and Western newspapers and magazines, as well as articles by independent local journalists and analysts employing pseudonyms. The government has maintained a near complete silence on the “Kazakhgate” trial, which is to resume hearings in January 2005 in the United States. Independent journalists also contribute periodically (under pseudonyms) to the London-based Institute for War and Peace Reporting and the New York-based *Eurasianet.org* Web site. According to the *CIA World Factbook*, there were 250,000 Internet users (about 1.7 percent) in 2002 (no newer data are available), up from 70,000 in 2000. A Kazakhstani source estimates about 1 million (6.5 percent) as occasional users and 300,000 (2 percent) as regular users.

Sergei Duvanov, the independent and highly reputed journalist, was released after serving 18 months in jail and placed under parole, which allowed him to travel to and from work. International pressure and sustained efforts by Kazakhstan’s International Bureau of Human Rights and Rule of Law played a crucial role in securing his release. He was sentenced to a three-and-a-half-year jail term in January 2003 on a politically motivated charge of raping a minor after he had published numerous articles in 2002 accusing Nazarbaev of involvement in the Kazakhgate scandal.

However, Duvanov’s release is an isolated incident, as conditions for independent journalists have deteriorated further. They have steadily been bought out by regime-affiliated business groups. Those offering resistance have been physically assaulted, jailed, exiled, or ruined financially. Investigative journalists have increasingly become targets of attacks, both personal and on their properties. Askhat Sharipzhanov, a prominent journalist of the Internet newspaper *Navi*, was killed in a road accident in July soon after he had interviewed Zamanbek Nurkadilov, an ex-associate turned critic of Nazarbaev, and (then) Information Minister Sarsenbaev. The tapes and transcripts of the interview were never found, and the government has refused to conduct any further inquiry. Earlier in November 2002, the well-known journalist Nuri Muftakh was killed in a similar accident. He had served as editor of an independent newspaper, *Altyn Ghasyr*, in south Kazakhstan and worked for the opposition paper *Respublika 2000*. In neither of these two cases was an independent inquiry conducted or persons responsible for the accidents apprehended. That has led to the suspicion that law-and-order officials are

either acting in collusion with vested interests or simply unable and unwilling to defend the media.

Edil Soz, supported by USAID, and the Association of Independent Electronic Mass Media in Central Asia, funded by several international agencies, are the major local NGOs advocating the rights of independent media. The government has repeatedly accused Edil Soz of producing unconstructive criticism and failing to invite state officials to the organization's meetings. The regime's frequent insistence that media engage in a "partnership" with the government and offer "constructive criticism" is reminiscent of Soviet-style directives. It has also undermined the efficacy of Edil Soz, which is pressured to tread a very cautious line.

Powerful financial groups who control pro-regime political parties have sought to extend their influence to international media by hiring top Russian and Western political consultants and public relations firms to portray the elections as a further step toward democracy and bolster Kazakhstan's bid for the 2009 OSCE chair. Several advertisements hailing Kazakhstan's "spectacular" economic success and impressive record in promoting democracy appeared in major Western newspapers—notably on the eve of elections in *The New York Times*, *The Washington Post*, and *The Wall Street Journal*. A full-length insert in the *International Herald Tribune (IHT)* praised the "Kazakhstani miracle" and claimed that "a multiparty system and political pluralism have become objective realities" in Kazakhstan. The newspaper *Vremya* reported allegations by independent observers and opposition leaders that the Kazakhstani Senate secretly apportioned at least US\$2 million as payments for these advertisements. Similar inserts had appeared earlier, such as in the *IHT* in April 2002, coinciding with the Nazarbaeva-organized Eurasian Media Forum in Almaty. Copies of the paper were distributed among all participants.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.25						

Kazakhstan has maintained a unitary and centralized administration by restructuring the boundaries of its oblasts. The number of oblasts was reduced from 19 to 14 in 1997–1998, intended mainly to enhance the Kazakh majority in the reconstituted regions in the northeast. In addition to the 14 oblasts, the 2 major cities, Astana (the capital since 1997) and Almaty (the former capital and now the commercial capital), have a separate administrative status. The subdivisions within oblasts are called *raions*, or districts. Nazarbaev has defied domestic and international pressures to introduce direct elections of regional, district, and local *akims*. The president appoints the *akims* of the

14 oblasts and major cities such as Astana and Almaty, and they in turn appoint local district administrators. Oblast *akims* are accountable solely to the president and deterred from developing independent support bases in their regions. A high turnover in regional leadership means that the average tenure of an *akim* is typically less than one and a half years.

The opposition parties DVK and Ak Zhol have advocated that administrators at all levels—from the *akims* of oblasts, Astana, and Almaty down to the heads of districts—be popularly elected for a limited term and held accountable for their actions. The CEC denied Ak Zhol's proposal for a nationwide referendum on issues such as direct elections of *akims* and the right of the people to recall deputies, together with the annulment of the results of the parliamentary elections. The official argument against electing *akims* is that many regions are neither financially prepared to hold elections nor ready for the responsibility. In reality, the regime is fearful that these bodies, especially in the resource-rich oblasts, may then be emboldened to rally popular support and exercise power in defiance of the central government. Together with the CEC, the current *akims*, who serve as clients of the regime, play a vital role in ensuring that candidates loyal to pro-regime parties get elected. In December 2004, Nazarbaev signed a decree stating that direct elections of district *akims* will take place from August 2005 to the end of 2007. Another decree stated that some regions will also hold elections on an experimental basis, but the CEC, which exerts strong, hierarchical control over regional and district election commissions, must still work out the details.

The central government determines taxation rates and budget regulations. Regional heads do not have the formal authority to generate their own revenue from local taxation. Since the *akims* lack control over their budgets or resources, it is unclear how direct elections can empower them. In practice, however, some *akims* have managed to exert a level of influence over these matters. *Akims* in the regions that have attracted the most foreign investment, such as west Kazakhstan, have exercised considerable control over budgetary matters and have even extracted significant contributions from foreign investors to various "social and welfare projects."

Although the regional councils, or *maslihats*, have virtually no political power and are used to rubber-stamp laws introduced by the local heads, each oblast *maslibat* nominates two members to the Senate. In the 2003 *maslibat* elections, 1,696 of the 2,852 victors were party affiliated and the remaining were elected as independents, though many in fact had party affiliations. Otan led the field with 1,477 of its candidates elected, followed by the Agrarian Party (109), Azamat (87), Aul (18), and Ak Zhol (5). Out of 250 Ak Zhol members who ran as independents to minimize interference from local officials, 140 won.

The Republican Network of Independent Observers of Kazakhstan, an independent NGO, brought to light many instances when local electoral

commissions denied access to observers and the executive branch engaged in informal interference in the activities of independent observers. It noted that several members of the election commission in over half of the electoral districts had little knowledge of the country's electoral laws and did not follow a transparent voting procedure.

Under Kazakhstan's Law on Elections, political parties, public associations, and higher-level election commissions nominate candidates to serve on seven-member local election commissions, which are then formalized when local assemblies make their choices from among the nominated candidates. Previously, the local administration had formed election commissions. Such top-down regulation of local election commissions, in the context of an overall lack of transparency, has made them more vulnerable to control by the pro-regime political parties.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
5.00	5.25	5.50	5.75	6.00	6.25	6.25	6.25

With the emergence of a unitary and centralized political system based on strong presidential patronage, the legislative, executive, and judicial branches have been subordinated to presidential authority. Kazakhstan's Constitution mentions the independence of the judiciary but provides no detailed mechanisms for safeguarding it. The judiciary thus serves primarily to protect the interests of the state and its functionaries rather than those of individuals, minorities, and the weaker strata of society.

The prospects of Kazakhstan's judicial system gaining some credibility have eroded further since its complicity in sentencing major opponents and critics of the regime without convincing evidence or proper procedures. These instances include the trial in absentia of ex-premier Akezhan Kazhegeldin in 2000 (he has been living in the West since 1998); the trials of ex-minister of industries Mukhtar Ablyazov and Ghalymzhan Zhakiyanov, the former *akim* of Pavlodar, in March 2002; and the trial of journalist Sergei Duvanov in January 2003. All these individuals were charged and sentenced after they began autonomous political activism or (in the case of Duvanov) wrote critical articles on corruption at the very highest levels of power. Human rights activists in Kazakhstan and abroad have unanimously condemned all these cases as unjust and labeled the charges as politically motivated.

The Constitution spells out an elaborate procedure for the appointment of judges in which the president plays a decisive role. The president proposes nominees for the Supreme Court who are to be approved by the Senate. These nominees are recommended by the Supreme Judicial Council, which comprises the chair of the Constitutional Council, the chair of the Supreme Court, the prosecutor-general, the minister of justice, senators, judges, and other people

appointed by the president. The president may remove judges, except members of the Supreme Court, on the recommendation of the minister of justice.

Kazakhstan stands in notable contrast with its neighbors in allocating significant material resources to improving the work conditions of judges. However, these improvements are yet to have a visible impact on reducing the level of corruption and patronage that hampers judicial independence. The main obstacles remain political pressure, a lack of openness and transparency throughout the system, and the absence of effective legal safeguards.

A judicial institute to train judges was established in 2001 under the Supreme Court with help from the OSCE/ODIHR. Its purpose is to improve the Kazakhstani court system by developing judicial independence and professionalism. Beginning in 2004, all future judges reportedly will be required to attend the Judicial Academy. The American Bar Association (ABA) has estimated that the state employs 80 percent of Kazakhstan's lawyers, though the number of lawyers who are either self-employed or work with foreign companies is growing rapidly. Over the past two years, the ABA's Central European and Eurasian Law Initiative (CEELI), which has been aiding judicial reforms in Kazakhstan since 1993, has shifted its focus to providing training in judicial ethics and human rights. The two main associations of independent lawyers are the Association of Lawyers of Kazakhstan and the Legal Development of Kazakhstan.

The draft state program for reforming the judicial system, approved by the Supreme Judicial Council for 2004–2006, proposes the creation of a jury system, tax courts, improved witness protection, and increased judicial independence. After numerous promises to introduce jury trials, Nazarbaev has promised to do so in mid-2005. However, the national budget has yet to allocate resources to transform regional courts into jury courts.

The criminal code adopted in 1998 retained many of the features of the Soviet-era law on which it was based. As in Soviet times, prosecutors rather than judges retain the right to issue search-and-arrest warrants and to “protest” and suspend judicial decisions. Corruption is also believed to be widespread, among judges and prosecutors as well as advocates. The criminal code is subject to interpretation by the executive branch, particularly by officials in the Ministry of Internal Affairs. While the code prohibits authorities from detaining individuals for more than 72 hours without charge, with the approval of a prosecutor, a person may be held for up to 10 additional days. In practice, police routinely hold detainees for months without bringing charges. A bail system exists, but bail is rarely granted. An arrest means the presumption of guilt. Individuals generally remain in pretrial detention, which may be extended for an indefinite period. The very low acquittal rates in Kazakhstan, less than 1 percent, reflect the inefficacy, powerlessness, and poor work of the defense bar and the judges, relates an ABA/CEELI 2004 overview of judicial reform. Over the last two years, Kazakhstan has

decriminalized many offenses, introducing probation and community service as alternative forms of punishment.

In December 2003, Kazakhstan imposed a moratorium on the death penalty, though it has yet to draft a bill on new regulations for life sentencing. The retention of the death penalty, lack of democratization, and absence of media freedom are the major obstacles to Kazakhstan's acceptance into the Council of Europe and its candidacy for the OSCE chairmanship in 2009.

The Law on Terrorism and Religion passed in 2002 is intended primarily to protect government offices and personnel. It makes any attempt on the life of a state official punishable by up to 20 years in prison and any attempt on the life of the president punishable by death. The involvement of some Kazakhstani citizens in recent bombings in Tashkent and the discovery of alleged cells and propaganda leaflets of Hizb ut-Tahrir in various parts of Kazakhstan have prompted the government to raise the specter of an "Islamic militant threat," leading to a surge in arrests of people identified as members of Hizb ut-Tahrir and other "militant" organizations. National Security Service officials claim to have nabbed dozens of suspected Islamic militants and found confiscated weapons, forged documents, propaganda materials, and evidence of the training of suicide bombers, reported Radio Free Europe/Radio Liberty *Newsline*. The number of leaflets, and even the number of arrests, in the absence of an independent court inquiry are not reliable indicators of the extent to which a "terrorist threat" is present. Confessions from suspects are often extracted under duress. Nazarbaev urged deputies to pass a law to counteract terrorism by mentioning that the Kazakhstani authorities had seized 11,000 Hizb ut-Tahrir leaflets in 2004, compared with 1,000 in 2003. The passage of a stringent Law on Antiterrorism, which perhaps observers believe would elicit acclamation from the U.S. government, appears inevitable.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	6.25	6.25	6.25	6.50	6.50

Rich oil and mineral resources and the lack of democratic oversight have created a fertile environment for top-level corruption and kickbacks. Though it is widespread at all levels of the government, bureaucracy, and legal and educational systems, the highest scale of corruption is found in the rich extractive industry. In 2001, Kazakhstan created a national fund based on growing oil revenues, following the example of Norway; the fund has so far accrued US\$2.3 billion. However, the absence of a mechanism ensuring public accountability and tight media controls make it very difficult to get information on how the funds are being used.

The ongoing Kazakhgate trial in a U.S. federal court has kept the spotlight on the issue of kickbacks at the highest echelons of power. The case refers to the trial of the American businessman James Giffen, who is accused of making at least US\$78 million in illegal payments (in violation of the U.S. Foreign Corrupt Practices Act) to Nazarbaev and former prime minister Nurlan Balgimbaev to secure lucrative oil contracts. The Kazakhstani government has dismissed the allegations, suppressing any discussion of the issue in the national media and treating the case as an “internal matter” of the U.S. government. However, between 2000 and 2003, Kazakhstani authorities made vigorous efforts to suppress the investigation and prevent the Swiss government from providing banking documents to U.S. officials. These actions prompted the U.S. Senate to pass a resolution in May 2003 urging the government of Kazakhstan to cooperate with the U.S. Department of Justice investigation.

The global Corruption Perceptions Index published by Berlin-based Transparency International, a leading NGO combating corruption worldwide, ranked all 5 Central Asian states among the 30 most corrupt. On a scale of 1 to 10 (where 1 equals most corrupt), Kazakhstan together with Kyrgyzstan scored 2.2 and ranked 122nd among the 146 countries surveyed in 2004. In 2003, together with Uzbekistan, Kazakhstan scored 2.4 and ranked 100th (out of 133). It ranked 88th (out of 102) in 2002 and 71st (out of 91) in 2001.

Transparency Kazakhstan, a member of Transparency International, has noted that corruption has led to an enormous gap between the rich and the poor and exacerbated poverty. With the financial support of the European Commission, Transparency Kazakhstan has initiated work on a new project in 2004 called Combating Corruption Through Civic Education; this project seeks to improve youth awareness about corruption and develop a means of identifying and combating graft in state structures, public life, and business.

Corruption and fraud have become integral features of elections and remain beyond any judicial oversight. Although the amended Law on Elections prohibits cancellation of a candidate’s registration two days before an election, 11 serious candidates for parliamentary seats in the September 2004 elections found their registrations annulled at the eleventh hour on grounds of inconsistencies in their financial disclosure statements. Their elimination ensured that a second round of voting would not take place for those seats. The CEC has dismissed persistent appeals by opposition parties to appoint a public commission to conduct inquiries into electoral irregularities.

Kazakhstan’s 1998 Law on Anticorruption Efforts has been amended several times, but the extent of corruption is impossible to measure without independent and impartial agencies investigating corruption-related charges. A corrupt, patronage-based judicial system that is entirely loyal to the execu-

tive compounds the problem. The prosecutor-general, who is appointed by the president and is not accountable to the government, handles inquiries into official corruption, in conjunction with the Ministries of Justice and Internal Affairs.

Under the 2001–2005 State Program on Combating Corruption, the definition of corruption has been broadened to cover gifts, property received “indirectly,” and an extensive list of actions pertaining to personal use of state resources. Though the government has punished some low-level political figures to demonstrate its commitment to check corruption, top regime associates and supporters are completely beyond the reach of inquiry. All investigations into alleged high-level corruption have proven to be politically motivated, as exemplified by the trials and sentencing of influential political figures such as Kazhegeldin, Ablyazov, and Zhakiyanov. These cases prove that individuals challenging or competing with the business and political interests of the Nazarbaev family will invariably find themselves accused of serious financial crimes and penalized heavily.

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Kyrgyzstan

<i>Capital</i>	Bishkek
<i>Population</i>	5,100,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$1,620
<i>Private sector as % of GDP</i>	75%
<i>Ethnic groups</i>	Kyrgyz (65 percent), Uzbek (14 percent), Russian (13 percent), Ukrainian (1 percent), other (7 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	5.00	5.00	5.00	5.75	5.75	6.00	6.00	6.00
Civil Society	4.50	4.50	4.50	4.50	4.50	4.50	4.50	4.50
Independent Media	5.00	5.00	5.00	5.00	5.75	6.00	6.00	5.75
Governance	4.25	4.50	5.00	5.25	5.50	6.00	6.00	n/a
National Democratic Governance	n/a	6.00						
Local Democratic Governance	n/a	5.75						
Judicial Framework and Independence*	4.50	4.50	5.00	5.25	5.25	5.50	5.50	5.50
Corruption	n/a	n/a	6.00	6.00	6.00	6.00	6.00	6.00
Democracy Score	4.65	4.70	5.08	5.29	5.46	5.67	5.67	5.64

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

It is difficult to separate the fate of independent Kyrgyzstan from the leadership of its first and only president, Askar Akaev, who initially assumed office in 1990. In the first years of post-Communist rule, Akaev set the country on an unusually rapid course of democratization and liberalization. The promise of Kyrgyzstan as an oasis of democracy in Central Asia faded, however, by the mid-1990s. In response to the criticism of his more authoritarian neighbors, mounting economic crises, and attacks on his leadership by a vigorous national press, President Akaev began to limit electoral competition and to rule around the legislature by referendum. The result was the consolidation of a superpresidential order, which alienated segments of Kyrgyzstani society that were not part of the presidential team. Despite the constraints that Akaev has imposed on the political opposition, he has allowed some space for civil society and has limited the state's role in the economy. He has also expressed his commitment to stepping down in 2005 when his term expires. Thus, although Akaev has failed to live up to the hopes engendered by his early political career, he has pursued a far softer authoritarianism than leaders in several neighboring states.

Preparations for the Akaev succession dominated political developments in Kyrgyzstan in 2004. The latest electoral cycle began with local elections in October and will continue into 2005 with parliamentary elections on February 27 and presidential elections on October 30. The local elections, which form part of a campaign to decentralize state administration in Kyrgyzstan, represent the first time that new technologies, such as transparent ballot boxes, have been used in Kyrgyzstani elections and the first time that political parties have participated actively in local campaigns, through either the offering of candidates or the placement of representatives on election commissions. The promised retirement of President Akaev in 2005 has prompted a flurry of maneuvers by politicians and political parties to position themselves for the elections. Some observers are optimistic that the fissures in the ruling elite and the new linkages between opposition politicians and renegades from the president's team will bring about the first democratic transfer of power in post-Communist Kyrgyzstan; other observers remain convinced that the president will either remain in office by extending his term or transfer power à la russe to a member of his political "family."

National Democratic Governance. Despite the presidency's domination of state institutions in Kyrgyzstan, the Parliament in 2004 exhibited its willingness to challenge presidential power by seeking to revise the draft law On the Government to allow deputies to confirm ministers individually, which would limit presidential patronage power. The Parliament also showed its independence by holding investigations into the executive's use of the security services to spy on parliamentary deputies. Furthermore, the limits of Akaev's hold on the country were evident in the defection from the presidential team of the head of the Security Council, Misir Ashirkulov. Significant divisions within the ruling elite suggest that Akaev has not succeeded in consolidating a superpresidential order. *Kyrgyzstan's rating for national democratic governance is 6.00, based on the limitations on presidential power that a vocal parliament and an invigorated opposition represent and on the absence of turbulent events in 2004 that challenged the authority of the state.*

Electoral Process. Local elections were held across the country in October 2004 under new legislation that mandated multimember districts, the use of new voting technologies, and an enhanced role for the local assemblies. Although party competition was not as vigorous as anticipated, it represented a considerable improvement on previous local elections, when most seats on local councils were uncontested. Critics of the election point to the low turnout in the capital (36.5 percent) and some irregularities on election day, such as double voting, but overall the elections took place with surprisingly few serious problems. Moreover, in a region of the world where false reporting of electoral results is the norm, the willingness of the authorities to admit low turnout is itself encouraging. Preparations for the following year's parliamentary and presidential elections continued without serious incident through the end of 2004, and President Akaev did not renege on his promise to step down from power. As the year drew to a close, however, President Akaev issued statements about the threat of extremist disruptions of the forthcoming parliamentary and presidential elections. These statements were a thinly veiled attempt to intimidate the opposition and rally the population behind the ruling elite. *The rating on electoral process in Kyrgyzstan remains 6.00, but the relative success of the local elections of 2004 and the formation of what may prove to be viable electoral alliances among opposition parties in anticipation of the forthcoming parliamentary and presidential elections offers potential for improvement next year.*

Civil Society. As indicated by the number and level of engagement of social groups and political parties, Kyrgyzstan continues to sustain a civil society that is vibrant by Central Asian standards. The first notable trend in 2004 was an intensification of the press campaign against foreign-supported nongovernmental organizations (NGOs). Pro-government newspapers

often published venomous anti-American and anti-Western articles that found NGOs guilty by association. The second trend was the hardening of state policy toward Hizb ut-Tahrir, a clandestine Muslim organization that espouses a return to a caliphate. Some Kyrgyzstani Muslims, especially ethnic Uzbeks in the South, have viewed the proscription of Hizb ut-Tahrir as an unjustifiably harsh approach to a component of Muslim civil society. *Kyrgyzstan's rating for civil society remains unchanged at 4.50, reflecting a continuing standoff between a state intent on limiting opposition behavior and a society unwilling to be cowed into submission.*

Independent Media. The independent media in Kyrgyzstan remain in a precarious position owing to the difficult economics of the newspaper industry in a developing society, the dominant position occupied by state-owned or state-supported media outlets, and official efforts designed to impede the development of alternative voices in the media. In 2004, these latter measures included threats to sanction an opposition newspaper for selling its issues at below market prices and a campaign that accused the independent press of being agents of Western governments. Despite these continuing constraints on the press, compared with previous years, conditions for the independent media did improve somewhat in 2004. During 2004, there were no beatings, jailings, or killings of journalists and fewer lawsuits against opposition newspapers. This is not to say that no journalists' rights were violated, merely that fewer extreme measures were employed against journalists. Moreover, a private printing press supported by foreign organizations now offers an alternative to the single state-run printing house, Uchkun. Finally, President Akaev supported changes to the criminal code that would eliminate criminal libel, though as yet the Parliament has refused to adopt this legislation. *Given the gradual movement in the direction of greater freedom for the press, the rating for independent media for 2004 improves from 6.00 to 5.75.*

Local Democratic Governance. Kyrgyzstan is in the midst of a major reshaping of state administration at the local level. Laws addressing the election of local assemblies, the selection of the heads of local executives, the relations between local government and regional and central power, and the budgetary and policy powers of local institutions were being put into practice in 2004. With the assistance of international aid agencies, Kyrgyzstan has begun to transform local government from a poorly funded appendage of regional power to a more efficient and self-sufficient level of government. It is still too early, however, to render a firm judgment about the success of this experiment. *Because decentralization efforts are in progress, and many elements of the traditional system of local government are still in place, the new rating for local democratic governance is set at 5.75.*

Judicial Framework and Independence. The major structural change in the Kyrgyzstani legal system in 2004 was the integration of the commercial courts into the courts of general jurisdiction. One purpose of this reform was to eliminate what had become the most corrupt branch in the Kyrgyzstani judiciary. However, without major changes in personnel and a diminution of clan and financial influences on judicial decision making, it is not clear that the organizational revamping of the court system will alter judicial behavior. The president has also approved several changes in the country's criminal code, including a reduction in the number of crimes for which the death penalty may be applied, but those revisions are unlikely to reduce appreciably the cultural and procedural biases to which accused persons are subjected in the criminal process in Kyrgyzstan. *Given the absence of significant changes realized in 2004 in judicial framework and independence in Kyrgyzstan, the rating remains at 5.50.*

Corruption. President Akaev placed corruption at the center of the national agenda in 2003 by forming a National Council on Good Government and launching a press campaign to condemn corruption. Numerous exposés of official misconduct followed, as did selective prosecutions aimed primarily at low- to middle-level functionaries in areas such as law enforcement. Unfortunately, corruption remains endemic in Kyrgyzstan and there is no firm evidence from 2004 that this latest anticorruption drive has had any effect. One encouraging development is the introduction of the position of state secretary in the ministries, a post designed to limit corruption and cronyism in the hiring of government employees. Because this measure took effect only at the end of 2004, it is too early to assess its impact on corruption in government hiring. *As a result, Kyrgyzstan's rating for corruption remains at 6.00.*

Outlook for 2005. At the end of 2004, Kyrgyzstan was at a tipping point in its political development. The current electoral cycle, which culminates with parliamentary elections on February 27, 2005, and presidential elections on October 30, 2005, could push the country into a deeper authoritarianism or result in a democratic breakthrough. It appears unlikely that the current semiauthoritarian equilibrium, which has been in place for several years, can be maintained. Set against the presidential "family" desperate to maintain its power and perquisites is a growing opposition that is drawn not just from the ranks of the permanently disillusioned, but from leading governmental officials. This contest between two irreconcilable forces sets up the possibility, although not the likelihood, of a "yellow" revolution in Kyrgyzstan. Much will depend on the opposition's tactics and organizational skills and the response of the population to the electoral manipulation that the ruling elite will employ to keep itself in power.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.00						

Unlike most Central Asian countries, Kyrgyzstan had a leadership at independence that embraced the values of an open society and democratic politics. Although its first president, Askar Akaev, had worked for a short time in the republic's conservative Communist Party apparatus, he was by profession a physicist whose support for political and economic reform was unusually passionate for a member of the Kyrgyz ruling class. In his first years in office, Akaev worked closely with Western governments and international financial institutions to pursue policies designed to make Kyrgyzstan an oasis of democracy in Central Asia.

Under Akaev's leadership, Kyrgyzstan introduced its first Constitution in 1993, and its opening provisions espoused broad freedoms for the individual and a commitment to democratic government. However, the detailed articles governing state institutions created the potential for an authoritarian order by elevating the president above the other branches of government. Although the principle of a separation of powers is enshrined in the Constitution of Kyrgyzstan, the formal head of the executive branch is not the president, but the prime minister. Thus, while there is a poorly functioning system of checks and balances among the three branches of government, there is no effective institutional restraint on presidential power. The president is free to act as a republican monarch who towers above legislative, executive, and judicial institutions.

The first clear signs that Akaev would use the formal powers of his office to erode democratic development appeared in 1994, during a period of worsening economic conditions and rising criticism of Akaev's policies by Parliament and the press. During that year, the president closed two opposition newspapers, encouraged the dissolution of Parliament, and called a referendum to amend the Constitution, which should have been done by parliamentary action rather than by plebiscite. In the intervening decade, the president has repeatedly employed the referendum to amass additional powers and undermine legislative authority. Moreover, as detailed below, the president has employed numerous means to limit contestation in presidential elections. Therefore, since the mid-1990s the governmental system of Kyrgyzstan has not been democratic.

Unlike several of its neighbors, however, Kyrgyzstan has a semiauthoritarian rather than an authoritarian order. One important reason for this distinction is the continuing vitality and independence of the legislature. Although

the legislature is not an especially effective lawmaking body, it does serve to challenge the powers and policies of the president and the executive branch. It therefore fulfills one of the key functions of parliaments in democratic regimes: it subjects the activities of the president and the executive branch to public scrutiny and criticism. In recent years, for example, members of Parliament have attacked the president and his government for concessions made to China and Uzbekistan on the delimitation of the country's borders. The legislature also refuses at times to acquiesce to presidential proposals, thus forcing the president to circumvent the Parliament through popular referendums. In discussions in 2004 over a new law, *On the Government (Council of Ministers)*, the Parliament insisted on a provision that would give the legislature the right to confirm ministers individually rather than as an entire cabinet, which would subject presidential appointees to far greater scrutiny. Moreover, at the end of 2004 the Parliament refused to ratify a treaty with Kazakhstan signed by Akaev, and it did not approve the privatization of the energy sector, a measure that had been backed by the president.

To argue that the legislature has not been fully captured by the president, however, is not to say that it is fully accountable to the public. Because elections in many legislative districts are not free and fair, a significant percentage of parliamentary deputies do not have a genuine democratic mandate from their constituents. Instead of being accountable to the public, many deputies are accountable to powerful business interests, to governors and networks of local political power, or to the presidential administration.

In semipresidential regimes such as Kyrgyzstan's, the prime minister and his cabinet should be accountable to the public through a democratically elected parliament. The reality, however, is that they are accountable primarily to the president. Although the Parliament retains the formal right to replace the prime minister through a vote of no confidence, it is the president who hires and fires the leader of the government as well as the ministers. Much like the apparatus of the Communist Party in Soviet-era Kyrgyzstan, the current presidential administration shadows government ministries, and therefore the lines of authority and responsibility between the two are not always clear. Public access to official information has increased somewhat in recent years because of the "electronic government" initiative, which is placing more government information on the Internet. However, much legal material remains available only to paying clients, and a "digital divide" exists between the capital and the regions.

Unlike in some other regions of the world, the military as an institution has not challenged civilian authority in Kyrgyzstan. This is not to say, however, that those in uniform remain detached from politics. Although the "militarization" of personnel policy has not been as pronounced in Kyrgyzstan under Akaev as in Russia under its president, Vladimir Putin, recent years have witnessed the recruitment of a larger share of prominent

officials in the government and presidential administration from security service backgrounds.

In 2004, there was a major scandal that implicated the security services in the surveillance of parliamentary deputies for political purposes. The bugging of the offices of opposition-oriented deputies prompted a parliamentary investigation, which produced a report in May 2004 that was highly critical of the security services. In the wake of this report, the Parliament created a permanent committee to monitor the surveillance activities of the security services, which was another example of the Parliament's willingness to challenge executive authority.

One positive development in the realm of civil service reform was the presidential decree of November 3, 2004, which creates state secretaries in each government ministry. Unlike other deputy ministers, the state secretary is a permanent civil servant who does not change when the minister is replaced. Based on the German model of administration, this institution is designed to combat corruption and cronyism by vesting key responsibilities for personnel policy—and the protection of the neutrality of the civil service—in the hands of the state secretary. As part of a broader reform of the Kyrgyzstani civil service, this decree was followed by the December 17 announcement of the first competitive hiring under new civil service legislation. If implemented faithfully, these measures, taken together with the new Law on the Civil Service, would improve governance in Kyrgyzstan by reducing corruption and developing a civil service that is more accountable, professional, and politically neutral, noted pro-government daily *Slovo Kyrgyzstana*.

For several reasons, Kyrgyzstan is less stable today than in the 1990s. First, there is growing discontent with the Akaev presidency, which has split the educated classes in Kyrgyzstan into two warring factions: pro-presidential and anti-presidential. Attempts by the president to bridge these factional differences through mechanisms such as a national roundtable have not succeeded, and not all opponents can be bought off with sinecures and perquisites. As a result, incidents such as the killing in 2002 of peaceful protesters in Aksy by the district police can quickly escalate into a national governing crisis, in which some opposition leaders use popular protests to demand an end to the Akaev era. In the case of the tragedy in Aksy, a district in the Jalal-Abad region of southern Kyrgyzstan, the president sought to defuse the crisis by reshuffling his government.

A second reason for the unstable atmosphere in Kyrgyzstan is the uncertainty surrounding the presidential election scheduled for October 30, 2005. On numerous occasions, President Akaev has insisted that he will not run for a further term of office, but unlike President Boris Yeltsin of Russia, who groomed Putin for the presidency, Akaev has not signaled his intention to select an heir. With extraordinary power concentrated in the hands of the presidency, the contest to replace the country's first and only leader is

likely to produce a succession crisis. If Akaev does remain true to his word, so much will be at stake in next year's presidential election—including the wealth, jobs, political muscle, and physical protection provided by the reins of state power—that some in the president's entourage may resort to almost any means to retain their hold on power. Suspending or postponing the election could call into question the very governability of the country. One factor that may mitigate the dangers posed by a blatant interference with the electoral process is the lack of a popular consensus on democracy as the basis for the country's political system. In the minds of many ordinary Kyrgyzstanis, democracy has become associated with poverty and uncertainty, so the democratic consensus that is at the center of political culture in the West is fragile at best in Kyrgyzstan.

Intraethnic and interethnic tensions also raise concerns about government stability in Kyrgyzstan. The most potent social divide is that between northern and southern Kyrgyz. The north is not only better off economically, but its native sons and daughters have dominated Kyrgyzstani politics throughout the period of independence, in contrast with the late Soviet era, when southerners were in charge. The resentment of southerners toward the current administration has been evident during presidential elections, in which Akaev fares far less well in the south than in his native north. Southerners continue to insist on a politics of inclusion and a more equal distribution of investment and government spending across the country, including, for example, the transfer of several government ministries to the main southern city of Osh. The country's leadership, however, has not yet gone beyond a rhetorical or symbolic commitment to a redistribution of political and economic power from north to south.

The interethnic tension that continues to pose the most formidable challenge to social and political stability is that between Kyrgyz and ethnic Uzbeks. Although Uzbeks, who live primarily in the south, have held their own in the economic transition, they have fallen further behind the Kyrgyz in the political transition. Uzbeks are now dramatically underrepresented in the halls of power. Even in the most benign environment, the failure to integrate into the political system a minority that represents more than 15 percent of a country's population would be unwise, but in Kyrgyzstan it could be explosive. Through their exposure to relatives, textbooks, and media outlets from neighboring Uzbekistan, ethnic Uzbeks in southern Kyrgyzstan are drawn toward the political community of Uzbekistan as well as that of Kyrgyzstan. Even without an overt politics of irredentism on the part of the government of Uzbekistan, ethnic Uzbeks living in southern Kyrgyzstan have reason to withhold some support for a Kyrgyzstani political community. As a prominent ethnic Uzbek observer recently complained in *Slovo Kyrgyzstana*, "Southern youth only have a chance to work in government at the local level. We want Uzbeks to work in the central organs of power."

Specialists in the region and beyond remain divided over whether radical Islam poses a serious threat to the stability of Kyrgyzstan. Beginning in 1999, the country's southwestern region, Batken, was the site of armed conflict between the armies of Kyrgyzstan and Uzbekistan, on the one hand, and Uzbek rebels from the Islamic Movement of Uzbekistan (IMU, now known as the Islamic Movement of Turkestan) on the other. Although the latter's aim was to overthrow the government of Uzbekistan, the IMU's presence in Batken served to destabilize that region of Kyrgyzstan. In 2001, the American invasion of Afghanistan ended major military operations by the IMU, which had used Afghanistan as a base of operations. Whether Islamist values were a flag of convenience for the IMU or a genuine source of inspiration remains in dispute. In the view of the Kyrgyzstani government, the current threat lies in Hizb ut-Tahrir, an Islamic party whose avowed long-term goal is the introduction of a new caliphate. In trying to crush this largely clandestine movement by using extraordinary policing measures, the government of Kyrgyzstan has produced a backlash from some devout Muslims that may prove more destabilizing than Hizb ut-Tahrir itself. The backlash has been particularly prominent among ethnic Uzbeks.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
5.00	5.00	5.00	5.75	5.75	6.00	6.00	6.00

Most of the formal electoral procedures in Kyrgyzstan differ little from those found in fully democratic states. There is universal and equal suffrage and few legal or administrative barriers to the formation of political parties. Moreover, changes to the electoral rules made in 2004 promise to create additional safeguards for the conduct of free and fair elections. Among these are the introduction of transparent ballot boxes, the use of indelible ink on voters' fingertips (to prevent multiple voting), and the appointment of representatives of political parties and social organizations to two thirds of the seats on the country's electoral commissions, which in the past were poorly monitored extensions of executive power. The most recent figures show that eight political parties have taken advantage of this opportunity.

Despite a normative framework for elections that corresponds to democratic requirements, electoral practice in Kyrgyzstan severely limits political competition. As the country's ruling group has gained experience with the mechanisms of democratic elections, it has learned how to manage the electoral process to stymie the opposition. Although Kyrgyzstan does not have elections of acclamation, barriers are placed in the path of regime opponents who seek elective office. These were clearly evident in the 2000 presidential and parliamentary elections, which did not correspond to "standards

for equal, free, fair, and accountable elections,” according to international observers and the Organization for Security and Cooperation in Europe. In the presidential election, for example, President Akaev’s political allies used criminal prosecution, a language exam, technicalities in the registration process, and the offering of plum executive and ambassadorial appointments to prevent the president’s most serious contenders from running against him. During the campaign against lesser political figures, President Akaev’s team mobilized state officials at all levels behind the reelection effort and imposed a virtual information blockade on the opposition. Where Akaev was the subject of 600 hours of coverage on the main national television channel, almost all of it positive, his main opponent received less than 5 hours of coverage, about half of which had a negative slant. Finally, the voting itself was marred by irregularities, especially in university precincts, where students were often denied the right to a secret ballot.

Although it is too early to assess the fairness of the October 2004 local elections, preliminary reports in *Slovo Kyrgyzstana* indicate that a new form of voting fraud has emerged: having others vote for the significant number of Kyrgyz guest workers now resident in Russia. An additional restraint on transparency in electoral campaigns was added in 2004 to the Law on Elections, which now forbids the publication of “public opinion polls, projections of the electoral outcome, or other studies relating to elections” once candidates for office have registered with election officials. Moreover, changes to the electoral code introduced in January 2004 further restrict competition by increasing the deposit required of presidential candidates to 1,000 times the country’s state-regulated monthly salary and by limiting the parliamentary campaign to 25 days and the presidential campaign to 35 days.

In 2004, Kyrgyzstan had 43 political parties, several of which boasted over 10,000 members, though official figures on party membership are disputed. Despite the presence of multiple parties, however, Kyrgyzstan lacks a well-organized opposition in the Parliament as well as in the country. Parties play only a minor role in the national legislature owing to a lack of internal discipline and the fragmentation of party representation in the Parliament. At several points in the last decade, President Akaev has approved the formation of parties of power that would support his agenda in the Parliament, but no party has a parliamentary majority, and many seats are occupied by independents who are tied to purely local interests. In regional and local assemblies, parties have been virtually nonexistent. However, in 2004 the government openly encouraged parties to compete in the October 10 local elections, in part as a means to mobilize support for the newest party of power, Alga, Kyrgyzstan! (Forward, Kyrgyzstan!). On average, there were 1.6 candidates for each seat in the local elections across the country and 6 per seat in the capital of Bishkek, according to ITAR-TASS, Moscow, and BBC Monitoring International Reports.

To further hinder the formation of an effective bloc of opposition parties, the presidential administration uses tactics designed to co-opt selective members of the opposition and sow dissension among the rest. This policy of divide and rule is facilitated by the unchecked personal ambitions of many opposition politicians, the dearth of organizational skills within opposition parties, and the lack of social capital carried over from the Soviet era.

These impediments to party cooperation notwithstanding, the unpopularity of the Akaev administration served in 2004 as a catalyst for the expansion and at least temporary unification of most of the country's opposition forces. In the summer of 2004, in anticipation of the forthcoming parliamentary and presidential elections, nine opposition parties formed an electoral bloc, the Popular Movement of Kyrgyzstan, which plans to advance a common slate of candidates for parliamentary seats as well as a single candidate for the presidency, former prime minister Kurmanbek Bakiev. Three other opposition blocs also emerged in 2004: the Civic Union for Fair Elections, whose leader, Misir Ashirkulov, had previously been Akaev's Security Council chair; Jany Bagyt (New Course), headed by former foreign minister Muratbek Imanaliev; and Ata-Jurt (Fatherland), led by another former diplomat, Rosa Otunbaeva. This fracturing of the ruling elite presents new dangers for Kyrgyzstani politics, but it also creates the potential for new alliances to emerge, which can break the dominance of the Akaev "family" and usher in a period of greater political pluralism.

Kyrgyzstan's political culture and electoral system have severely limited the representation of women and ethnic minorities in the Parliament. At present, women occupy only 6 of the 105 seats in the national legislature. Single-member districts, where voters are often forced to choose between a man and a woman, pose a formidable barrier to female legislative representation, especially in more traditional societies. Women are more likely to be elected in multimember districts or in proportional representation systems with a closed list, in which party officials can construct the party list so that it includes underrepresented groups. The latter system existed in Kyrgyzstan, but only for 15 of the Parliament's 105 seats. Under new legislation that takes effect with the February 27, 2005, parliamentary elections, Kyrgyzstan's 105-seat bicameral legislature will be replaced by a single chamber of 75 deputies, each elected in single-member districts. Thus, in less than 15 years of independence, the citizens of Kyrgyzstan have seen the size of their national legislature shrink from its original 350 members to 105 and now to 75.

Although there is no optimal size for legislative bodies, multiethnic societies like Kyrgyzstan tend to dilute the minority vote when they have small assemblies that use single-member districts and majoritarian voting. The new rules will do nothing to reverse this trend. In the current Parliament, elected in 2000, Uzbeks claim only 4 percent of the seats, even

though they represent more than 15 percent of the country's population. Given the unfortunate history of violence between ethnic Kyrgyz and Uzbeks in southern Kyrgyzstan, and the tense relations between Kyrgyzstan and Uzbekistan, the continued dilution of the ethnic Uzbek vote could threaten political stability in Kyrgyzstan. Legislation introduced at the end of 2004 makes it more likely that this pattern of minority vote dilution will continue in the 2005 parliamentary elections. In the past, deviations from the principle of one person/one vote in the drawing of constituency boundaries were limited to 5 percent in most regions and 10 percent for distant locales. The new legislation, however, gives those who draw the country's electoral boundaries more leeway for gerrymandering districts for partisan or ethnic purposes by allowing a deviation of 10 percent for most districts and 15 percent for remote districts.

Replacing the 105-seat bicameral legislature with a smaller single chamber will slightly reduce the cost of government. However, it also will further strengthen presidential power. Future legislation sought by the president will pass through one chamber instead of two, presidential aides responsible for assuring a friendly composition in the Parliament will concentrate on 75 rather than 105 races, and the number of deputies to mobilize to the president's side for key parliamentary votes will drop to less than 40, which represents half of the 75-person assembly. Therefore, the reduction in the legislature's size conserves the presidential administration's energy as well as political and other capital that may be exchanged for votes. It also makes it possible for a majority of the Parliament to be composed of an intimate circle of relatives and associates of the president.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
4.50	4.50	4.50	4.50	4.50	4.50	4.50	4.50

In the Western tradition, political autonomy is the essence of civil society. Although it is common in democracies for private associations to deal directly with government—and, in countries where corporatism reigns, for certain privileged interest groups, known as “peak associations,” to enjoy a special standing in the corridors of state power—most institutional components of civil society jealously guard their independence from the state. However, like many other post-Communist societies, Kyrgyzstan has resisted the formation of a dense network of social organizations that might serve as a buffer between the state and its citizenry. Although the Kyrgyzstani government has not insisted on the transformation of all social groups into “transmission belts of state policy,” to use Vladimir Lenin's phrase, it has used policies of co-optation and intimidation to restrain the growth of civil society.

Just as students of authoritarian regimes speak of “pocket parties,” which are institutional extensions of a leader’s personal power, one may describe many social organizations in Kyrgyzstan as “pocket groups,” whose leaders are faithful to the ruling elite rather than their memberships. The most prominent “pocket group” in Kyrgyzstan is the Assembly of the People of Kyrgyzstan, a consultative body comprising several hundred members drawn from all of the country’s ethnic communities. Originally created in 1994 by Akaev as an alternative source of legitimacy to a recalcitrant parliament, the Assembly of the People of Kyrgyzstan has repeatedly exhibited sycophancy toward the president. For example, in 2000 it openly supported the nomination of Akaev as president and called on other groups to do the same. It is at least partly funded by the presidential apparatus.

There are some independent associations and unions, such as the Journalists Association and the Council of Free Trade Union, but the dominant labor organization in the country, the Federation of Trade Unions of Kyrgyzstan, is a pocket group. The political forces surrounding President Akaev have also co-opted solidarity groups (such as clans) and traditional institutions (such as the *aksakaldar*, or village elders) into the ruling elite. For example, the government has mobilized village elders as arbiters of political and even legal matters in portions of the countryside. *Aksakal* courts now serve as something akin to the old comrades courts in villages, hearing minor criminal matters and civil disputes.

With the collapse of Soviet power and the economic crises of the 1990s, clans and other solidarity groups enjoyed a revival. Clans based on lineage remain a key part of an intricate network of political patronage and employment opportunities that the Akaev administration uses to legitimate and solidify its rule. By relying on clan support during electoral campaigns, for example, politicians from the ruling caste are able to turn the debates away from a politics of interest toward a politics of identity. In a report issued by the Institute for War and Peace Reporting, one female candidate lamented that when she sought to challenge a politician from the dominant clan in her district, it was difficult to counter the power of the appeal made by her opponent’s supporters: “He’s our guy; let’s not embarrass him.” The danger of clan politics for the ruling elite is that on some matters politics is a zero-sum game and the victory of one clan means the defeat of another. As noted in the section on governance and stability, the dominance of northern clans associated with President Akaev has alienated many citizens of southern Kyrgyzstan.

At the end of 2004, Kyrgyzstan had over 5,000 registered nongovernmental organizations (NGOs), including 1,825 public foundations and 220 religious groups, according to *Slovo Kyrgyzstana*. Because many of these groups pursue policies that are antithetical to the interests of the ruling elite, President Akaev has recently created the Agency for Relations with

Society, which is designed to monitor and, if possible, co-opt independent social organizations. For those in power, some of the most troublesome social groups are the NGOs that receive direct or indirect financial support from the West. Because these organizations do not depend on government financing or patronage, they are freer to pursue policies that are at odds with the official policies of the state. In addition to their focus on projects addressing poverty alleviation, gender issues, and environmental protection, NGOs take an active role in human rights matters, election monitoring, and political party development. Financial independence does not provide a complete shelter from government intimidation, which has taken forms ranging from inspections by the tax police to direct physical threats against NGO activists. In 2004, many NGOs were also the subject of critical articles in the pro-government press. It is not surprising, then, that a widely reported study done by Russian pollsters found that the majority of Kyrgyzstan's citizens regarded NGO human rights activists and the independent media as a Trojan horse for the West.

Religious groups pose a special challenge for the Kyrgyzstani state. By most indicators, Kyrgyzstan now has several vibrant religious communities, with 1,592 mosques, 21 foreign religious missions, 830 Christian missionaries, and 240 Islamic missionaries from such countries as Turkey, Jordan, and Egypt. In 2004, approximately 300 citizens of Kyrgyzstan were studying in Islamic schools abroad. At times, tensions arise among these communities, and incidents of violence against Christians have been widely reported, especially in southern Kyrgyzstan. *Slovo Kyrgyzstana* reported that from 1999 to 2003, law enforcement organs registered 347 instances of religious persecution of one citizen by another.

The major focus of state policy, however, is not on the protection of individuals from religious discrimination, but on the containment of Islamic groups that the regime regards as dangerous. Since the incursion of troops from the IMU into the country's southwestern province in 1999, Islamic groups that do not exhibit allegiance to religious organizations aligned with the state have been carefully monitored and in some cases suppressed by the authorities. As previously noted, the prime subject of this state crackdown on Islamic groups is Hizb ut-Tahrir, an Islamic party that in 2003 had 1,522 registered members in Kyrgyzstan. Although Hizb ut-Tahrir's adherents claim that its methods are peaceful and lawful, the authorities regard it as an extremist group and have pursued an aggressive policy of arresting anyone in possession of its literature. In 2004, alleged adherents of Hizb ut-Tahrir were tried in criminal cases in Osh and Jalal-Abad regions, and on November 20 in the city of Osh, a young man linked by the authorities to radical Islamist groups used a grenade to kill himself and a security service officer as he was being arrested.

Along with several nationalist parties founded by Uighurs, a Turkic people concentrated in China's Xinjiang province, Hizb ut-Tahrir was

proscribed by a decision of the Supreme Court in October 2003. Whether actions such as these represent a restraint on religious freedom that will drive devout Muslims into the political underground or a necessary campaign against a serious threat to political and social stability remains a topic of fierce debate in Kyrgyzstan and the West. What is clear is that some devout Muslims in southern Kyrgyzstan have reacted angrily to what they regard as unequal treatment of Muslim and Christian proselytizing groups: where Hizb ut-Tahrir is suppressed, Christian evangelists are allowed to convert ethnic Kyrgyz and Uzbeks to Christianity. The passions aroused by Christian conversions among some Muslims could lead the government to adopt a more restrictive policy toward evangelizing Christian churches in the country.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
5.00	5.00	5.00	5.00	5.75	6.00	6.00	5.75

In terms of the laws relating to the mass media and the number of media organizations, Kyrgyzstan appears to enjoy an enviable position among Central Asian countries. In 2004, a total of 628 media organizations were registered with the Ministry of Justice—500 were newspapers or periodicals, and 128 were broadcast outlets. In addition, more than 800 Web sites based in Kyrgyzstan provide information electronically to the population. However, the number of registered media organizations bears little resemblance to the number of functioning newspapers and television and radio stations, which are 45 and 15, respectively.

By themselves, these figures would not be cause for concern. In a relatively poor country of 5 million persons, 45 newspapers and 15 television and radio stations could serve the information needs of the population. The problem is not in numbers, but in the lack of media competition and the difficulty of some citizens, especially those in rural areas, in gaining access to multiple media sources.

Two important factors contribute to the dominance of the media by political and economic forces that are closely allied to the ruling president. The first is financial. Government and government-related press outlets receive mailing and tax privileges that are not in place for the independent media, which must pay regular mail rates as well as a 20 percent value-added tax. In return for this privileged status, the press service of the government or president places articles under pseudonyms in Akaev-friendly newspapers. Second, the government-owned enterprise Uchkun has traditionally been the major printing press in the country, and the government has used the threat of nonpublication to intimidate opposition-oriented publications.

The government and powerful financial interests have subjected independent media personnel to various means of intimidation. These include physical assaults carried out by unknown thugs, pressure on companies that advertise in the independent media to halt their patronage, and lawsuits against the media. In the wake of the “gold scandal” of 1994, in which various officials were accused of wrongdoing by the press, investigative journalists and their editors were subjected to criminal prosecution and civil suits. In the most celebrated case, a journalist and an editor of the independent newspaper *Res Publica* were found guilty of criminal libel and imprisoned. In the decade since the gold scandal, politicians and businessmen have regularly turned to the courts to silence their critics in the press. In 2003, successful civil suits against the newspaper *Moia Stolitsa—Novosti*, widely known as *MSN*, imposed such heavy damages that the paper was forced to close, though it managed to reopen under a new name within months. Although in most instances the civil libel cases are nuisance suits, the necessity to defend the papers in court saps the resources of a financially vulnerable press, and this has a chilling effect on investigative reporting.

Unwelcome pressure on the independent media appears to have decreased somewhat in 2004. During the year, there were no beatings, jailings, or killings of journalists and no lawsuits against the most prominent opposition newspapers, though the government did threaten the independent newspaper *MSN* with violating antimonopoly laws for selling their issues for less than those of their government-backed competitors. Furthermore, Kyrgyzstan’s national communications agency sought to keep the independent television station *Pyramida* permanently off the air after it closed temporarily for technical repairs to its transmitter. Only the intervention of George Soros led to a lifting of the ban on *Pyramida*. In some regions, local authorities continued to harass independent journalists. In July 2004, in Karakol, the regional procurator threatened to close down a local newspaper, *Faktor*, for having published a list of the country’s 100 richest persons, an action that allegedly defamed President Akaev and his family.

At the end of 2003, a new printing house opened with financial support from the international community; and in 2004, this operation began to serve as a reliable alternative to Uchkun for many independent publications. The independent newspaper *MSN* is now printing press runs of 50,000 copies weekly at the new facility. Moreover, under intense pressure from the West to create a more hospitable environment for independent media in Kyrgyzstan, President Akaev submitted a bill to the Parliament in 2004 that would have removed the articles on criminal libel (Articles 127 and 128) from the country’s criminal code. Deputies refused, however, to adopt the legislation, which represented the third attempt in less than a decade to remove criminal libel from the statute books. Justifying his vote against the measure, one member of Parliament was quoted in *Slovo Kyrgyzstana*

as arguing that to remove the criminal sanction for defamation would lead to “dictatorship” of the press.

The one new source of concern for the independent media in 2004 was the intense campaign in the pro-government press to condemn independent media as stooges of the United States and other foreign states or as supporters of extremism. Reviving the language and tactics of Soviet-era antiforeign campaigns, some critics accused the independent media of “ideological diversion,” thereby associating media opposition with treason. President Akaev himself accused certain papers of becoming “destabilization manuals.” The targets of this campaign are not just domestic Kyrgyzstani publications with close ties to the West, but also Radio Liberty’s Azattyk radio service, which broadcasts from Prague, and media from the Russian Federation that are critical of the Akaev government. As a means to restrict press coverage of the forthcoming parliamentary and presidential elections in 2005, the Parliament introduced revisions to the Law on Elections in 2004 that make it illegal for foreign media to engage in “electoral agitation,” a prohibition that the Central Election Commission is likely to use to prevent unfavorable coverage of “official” candidates by the foreign radio and press. Under the new law, a simple interview with a candidate that is published by a foreign newspaper is illegal and could lead to the candidate’s disqualification.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.75						

Until recently, Kyrgyzstan was a unitary government that concentrated virtually all power in what are called “organs of state”—meaning central and regional governments—as distinct from “organs of local self-administration.” Instead of being elected, chief executives in the country’s cities, districts, and villages were appointed by the chief executive at the next higher administrative level. In this system, local councils were largely decorative institutions that lacked real authority and autonomy. Critical decisions affecting local matters were made either by officials in the capital or by regional governors and their staffs. There was also a single national taxation system controlled from the capital, from which local government was funded. Thus, until 2004 direct local taxation was limited to minimally remunerative sources such as a hotel tax, a tax on dog owners, hunting and fishing licenses, and a tax on garbage removal.

Legislation introduced in 2003 promised to give greater political and fiscal autonomy to local government. President Akaev even claimed that under the new national strategy to decentralize the state administration,

local governments will be able to “resolve all key socioeconomic problems of their communities.” This initiative had two primary components. First, it called for directly elected local soviets to select village, district, and city chief executives, thus breaking the dependency on bonds of patronage that had existed between the regional governors and local officials. Second, it provided for greater budget autonomy by allowing cities and villages to form their own budgets and to raise some taxes locally. Whether these attempts to decentralize administrative power enhance popular participation in government should become clear once the new executives assume their duties in 2005.

In part, this devolution of power may be viewed as a response to the inefficiency of local administration. But it is also part of a larger political struggle between the two key levels of power in Kyrgyzstan—central government and regional governments. In championing greater autonomy for local administration, political officials in Bishkek appear to be attempting to weaken the regional governors’ offices, which have been the most potent check on presidential power in the Kyrgyzstani political system. With an invigorated layer of political institutions in the country’s villages, districts, and cities, regional authorities will find themselves sandwiched between presidential and local power.

Competitive elections for local councils were conducted across Kyrgyzstan in October 2004 using new electoral rules designed to enhance competitiveness and transparency. By introducing competitive elections with national parties, the government did raise the profile of local government and enhanced the bonds between voters and local leaders. However, because two pro-presidential parties, Adilet and Alga, Kyrgyzstan!, gained a disproportionate share (88 percent) of the seats won by party candidates in local government races, it is unlikely that local councils will soon emerge as an effective check on the powers of local executive officials.

For the first time, local elections in Kyrgyzstan were held in multimember districts, usually with four seats in each. Such districts tend to benefit underrepresented groups in society, such as women and minorities, by avoiding one-on-one contests between majority and minority groups or men and women. However, in Kyrgyzstan the use of multimember districts in local elections did nothing to undermine the dominance of ethnic Kyrgyz in local government institutions. Although they represent only 70 percent of the country’s population, ethnic Kyrgyz candidates claimed 85 percent of the seats in local council elections. Ethnic Uzbeks were left with 6.2 percent of the seats, far lower than their 15 percent share of the total population, while Russian candidates won 4.3 percent of the contests, again much less than their 12 percent share of the population.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.50	4.50	5.00	5.25	5.25	5.50	5.50	5.50

According to the Constitution, courts in Kyrgyzstan are independent and subject only to the law. The reality, however, is that the president and other executive officials exert considerable influence on judges. The first source of influence is the patronage power of the president, who appoints all Kyrgyzstani judges. Where justices on the country's highest courts, the Supreme Court and the Constitutional Court, must be confirmed by the Parliament, other judges are selected by the president alone. The relatively short terms of office for regional and local-level judges make it difficult for them to assert their independence, as does their vulnerability to recall. Judges in regional and local courts may be removed from office not only for reasons of criminal malfeasance, but also for failing a professional performance review, which may be influenced by the political authorities. Reviews of judges are conducted by an "attestation commission," which is formed by, and subordinate to, the president. The performance review, which consists of an oral exam, may be administered at any time.

The second source of political influence on the Kyrgyzstani judiciary is financial. The relatively low pay for judges makes them dependent for basic goods and services on executive authorities in their district, city, or region. Given the difficulty of surviving on a judicial salary, judges rely on the state to provide subsidized housing and other benefits, which gives mayors and governors levers of influence over the courts. The precarious financial position of judges, and their lack of professionalism, also makes them vulnerable to bribes from the business sector. In part because of high levels of corruption, Kyrgyzstan eliminated its separate system of commercial courts in 2004 and folded it into the courts of general jurisdiction.

In theory, justices serving in the country's two highest courts are more protected from economic and political pressure because of better pay, longer terms of office, and the requirement that two thirds of the Parliament approve their removal from office. However, even higher-court justices are subject to pressures from the country's political leadership; and in 1999, the chairman of the Supreme Court resigned after the authorities launched a campaign to discredit him. An indication of the attitude of judges toward presidential power was provided recently by a justice on the Kyrgyzstani Supreme Court, Kurmanbek Osmonov, who was quoted in *Slovo Kyrgyzstana* as saying that "as an instrument of state policy, he is obligated by his position to introduce reforms announced by the president of the country..." This subordination of the courts to presidential power often discourages an impartial interpretation and enforcement of the Constitution.

It would be wrong, however, to regard the courts as mere puppets of the president. At times, they render decisions that do not accord with the interests of the ruling elite. In the fall of 2004, for example, the Constitutional Court struck down a provision of a new Law on Meetings that would have required demonstrators to receive permission to march. The court ruled that Article 16 of the Constitution required demonstrators only to inform the authorities of their plans to march.

Several structural features of the legal system undermine due process for defendants and impede the availability of reliable remedies for civil litigants. First, in civil cases, the absence of a well-developed institution of court bailiffs, akin to the newly created *pristavy* in Russian law, means that the decisions of courts are often unenforced. Second, in criminal cases, although the criminal procedure code accords all needy defendants a right to legal representation, the state has been unwilling to finance a public defender's office. The result is a defense bar that is obligated to take criminal cases pro bono or for a very modest fee, which frequently denies defendants a vigorous and well-prepared defense.

Third, the criminal process in Kyrgyzstan continues to be dominated by the largely unreconstructed procuracy that was inherited from the Soviet era. This institution is charged with investigating, prosecuting, and then overseeing the legality of judicial decisions in criminal cases, which ensures that prosecutorial misconduct is rarely revealed and that an accusatorial bias infuses the criminal process. Instead of acquitting defendants when criminal charges are not substantiated in court, judges frequently return the case to the procuracy for supplementary investigation. There are no jury trials in Kyrgyzstan that might serve as a check on this accusatorial bias.

Unlike Kyrgyzstan's legal institutions and legal culture, the country's legislation appears to exemplify rule of law principles. The Constitution and subordinate normative acts provide for freedom of expression, religion, and association; property rights; and equality for all under the law. However, the declaratory principles set out in the Constitution and other legal acts are not matched by legislation that would allow citizens to seek timely and adequate remedies through the law. As a result, defendants are denied early habeas corpus hearings that would spare them lengthy periods of incarceration while the procuracy or other law enforcement organs investigate the charges.

Because the future of Kyrgyzstan's legal system is dependent to a great extent on the quality of legal education received by judges, advocates, and procurators, some observers have become alarmed recently by the proliferation of law schools. *Slovo Kyrgyzstana* reported that in 2004, there were more than 50 law faculties across the country, in which 22,000 students are enrolled. This is several times more than the number of lawyers in Finland, a country with a similarly sized population. The inability of most new law faculties to recruit highly qualified instructors, along with

a poorly developed system of professional examinations and continuing legal education, raises the specter of a growing generation of Kyrgyzstani lawyers that is less professionally qualified than the Soviet-era jurists who now dominate the legal system. This possibility would pose a particular threat to the quality of justice and legal practice in provincial areas and in the less attractive and less highly paid fields of law.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	6.00	6.00	6.00	6.00	6.00

Corruption is endemic to Kyrgyzstan and most other post-Soviet states. The privatization of the nation's wealth, the erosion of pay and professionalism in law enforcement organs, the loss of a national belief system, and a lack of political will by the country's leadership: These and related factors encourage self-aggrandizement at the expense of the state and the commonweal. Examples of corruption in Kyrgyzstan range from the mundane, such as the police's regular request for bribes from drivers at checkpoints on the Bishkek–Osh highway, to the involvement of highly placed politicians in intricate kickback schemes. Although comparative levels of corruption are notoriously difficult to assess, it is clear that Kyrgyzstan has one of the most corrupt societies in Eurasia. In 2004, Transparency International ranked Kyrgyzstan seventh from the bottom in its corruption index of 146 countries.

On the surface, at least, the commitment of the government to anti-corruption measures appears impressive. As early as 1995, President Akaev convened a special meeting of his ministers to upbraid them for not rooting out corruption in their ranks, exclaiming, "It's enough, it's enough...stop it!" Referring to the legendary founder of the Kyrgyz nation, he concluded the meeting by reminding the assembled officials that "the spirit of Manas will curse you!" In April 2003, Akaev began the fifth anticorruption campaign of his presidency by forming a National Council on Good Government, which includes representatives from the presidential administration, the ministries, the Parliament, NGOs, and the business community. This was followed by a barrage of articles in the press that exposed the wrongdoing of lower- and middle-level officials in law enforcement organs. Akaev's admonitions to executive officials about the need to eliminate corruption continued in 2004, but there is little indication that these initiatives will reach the higher levels of power or represent a sustained attack on the system of incentives that encourages wrongdoing. One of the most effective ways to resist these anticorruption measures was clearly demonstrated in May 2004, when the top anticorruption official in the Ministry of Internal Affairs was assassinated in Bishkek.

Compared with other countries in Central Asia, Kyrgyzstan has taken significant legislative steps to reduce registration requirements and other controls that increase opportunities for profit-making behavior by government officials. Moreover, Kyrgyzstan was the first country in the region to adhere to the UN Convention Against Corruption, and it has passed numerous laws designed to expose wrongdoing by state personnel and agencies, such as the Law on the Declaration of Income by High-Ranking Government Officials, which takes effect in May 2005. It has also created institutions to fight corruption, such as the ombudsman's office and the Audit Chamber, and, as noted earlier, President Akaev signed a decree in 2004 that promises to create the office of state secretary in each government ministry. This office is designed as a buffer against the intrusion of personal and political influence in hiring and promotion. Yet the government continues to suffer a massive loss of revenue due to the corrupt practices of its officials. In 2003, President Akaev estimated that the state lost US\$18 million out of a total annual state budget of US\$250 million because of contraband that evades state duties. Although some officials are brought to justice for abuse of office or bribe taking, the government has failed to prosecute any cases under Article 303 of the criminal code, which was introduced in 1997 specifically to target corruption.

Accounts of corruption do reach the public through the Kyrgyzstani media, but they are usually "sanctioned" stories that are part of an anti-corruption campaign or a settling of scores among competing elites rather than the product of independent investigative journalism. Such journalism depends on legal and political protections not just for the reporter, but also for the whistle-blowers who serve as sources. The lack of a mature legal system, the dearth of alternative sources of employment for those exposing wrongdoing, and the cultural and psychological costs of betraying the collective make it difficult for individuals to join the fight against corruption. A further impediment to any anticorruption drive in Kyrgyzstan is the public's high tolerance for corruption. In Kyrgyzstan, the incentives for the political leadership to tackle corruption come primarily from the international community rather than from a domestic audience.

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Latvia

<i>Capital</i>	Riga
<i>Population</i>	2,300,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$9,210
<i>Private sector as % of GDP</i>	70%
<i>Ethnic groups</i>	Latvian (57 percent), Russian (30 percent), Byelorussian (4 percent), Ukrainian (3 percent), Polish (3 percent), other (3 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	2.00	2.00	1.75	1.75	1.75	1.75	1.75	1.75
Civil Society	2.25	2.25	2.25	2.00	2.00	2.00	2.00	1.75
Independent Media	1.75	1.75	1.75	1.75	1.75	1.75	1.50	1.50
Governance	2.50	2.50	2.50	2.25	2.25	2.25	2.25	n/a
National Democratic Governance	n/a	2.25						
Local Democratic Governance	n/a	2.50						
Judicial Framework and Independence*	2.25	2.25	2.00	2.00	2.00	2.25	2.00	1.75
Corruption	n/a	n/a	3.50	3.50	3.75	3.50	3.50	3.50
Democracy Score	2.15	2.15	2.29	2.21	2.25	2.25	2.17	2.14

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Latvia, slightly smaller in area than Ireland and situated on the eastern shores of the Baltic Sea, has had a complex and checkered history. After winning independence in 1920, Latvia was able to strengthen its state institutions over two decades of self-rule. Its independence was terminated abruptly during World War II, first by the Soviet occupation from 1940 to 1941, then by the Nazi occupation from 1941 to 1945. From 1945 to 1991, Latvia remained under Soviet control as 1 of 15 republics of the USSR. It was able to declare its independence following the unsuccessful putsch against Soviet president Mikhail Gorbachev on August 21, 1991.

The road to a fuller democracy, a functioning market economy, and an improved civil society has been made much easier by Latvia's historical exposure to two decades of independence, which most former Soviet states (other than Estonia and Lithuania) did not experience. After a decade of improvements, often supported by world organizations and prosperous neighboring countries, Latvia has reached a much more secure level of "normalization" reflected by greater stability and predictability in economics, politics, and civil society.

The pessimism of the immediate post-independence period in Latvia has waned, but a new polarization between the growing middle class and those who have not been able to partake in the economic upturn has resulted in tensions and discontent. Riga and other larger urban areas have appropriated a disproportionate share of this new prosperity, leaving rural areas, particularly in southeast Latvia, stuck in the economic doldrums. The unfamiliar stresses and strains of the market economy and the burden of welfare now resting on individual shoulders have created widespread anxiety and wistful nostalgia for the past, when life was less complicated. Only 55 percent of Latvia's inhabitants indicated in a February 2004 Eurobarometer survey that they were satisfied with life. In June 2004, 63 percent claimed that their family "material situation" had been better 15 years earlier, when Latvia was ruled by the Communist Party. At the same time, only a tiny fraction would want to return to a Communist regime.

Expectations for economic growth and security were raised by Latvia's entry into the European Union (EU) on May 1, 2004, and its membership in NATO in March. Latvia is slowly becoming accustomed to being part of a larger, more prosperous community and to being militarily secure.

The increasing awareness of the value of nongovernmental organizations (NGOs) and liberal Internet access to all types of government information have slowly built a sense of democracy and a more informed electorate. The highly competitive Latvian mass media are proving to be reliable sources of information and watchdogs against governmental abuses of power, and Latvia's political system functions well despite a perpetual series of minority governments. The continuity and regal character of the presidency have made this position one of the pillars of political stability.

The economy continued to develop at a dynamic pace, reaching a growth rate for the gross national product of 8.5 percent in 2004 and thus continuing the growth rate of previous years (6 percent between 1996 and 2003). Latvia's international credit ratings were raised to the "A" level for certain loan categories. By most economic measures, Latvia is a success story; nevertheless, some problems persist—chiefly corruption, poverty, and relations between citizens and noncitizens over language and other issues.

National Democratic Governance. In spite of the fall of two governments in 2004 and the open squabbling among coalition parties, there is a broad consensus on most areas of policy among the main governmental parties that can best be categorized as center-right. As in most parliamentary democracies, the government initiates most legislation—about 70 percent—and sets the agenda for voting. The Parliament, however, can and does modify legislation and at times has taken independent action. Internet access to all meeting agendas and draft documents, from those at cabinet level to meetings of senior civil servants, makes Latvia an example of openness. The general public also has access to the spending details of individual ministries. The Law on Civil Service passed in 2001 has resulted in better service and administration. In May 2004, Latvia became a member of the EU and can participate with other democratic regimes in setting common parameters and standards. The country is receiving substantial aid from the EU, and this is helping to raise the responsiveness and efficiency of state service to the population. *The new rating for national democratic governance is set at 2.25. Stability generally prevailed throughout the changes in government; however, most legislative decisions are closely tied to the executive branch.*

Electoral Process. Latvia is a parliamentary democracy, with elections to the 100-member Parliament held every four years. The most recent parliamentary elections took place in October 2002 and were considered by the Organization for Security and Cooperation in Europe to have achieved a "clear entrenchment of the democratic election process." In 2004, as a new EU member, Latvia voted to elect 9 deputies to the 732-member European Parliament. Turnout was relatively low at 41.2 percent—but significantly better than the average of 26.4 percent for the other new democracies that also joined the

EU in 2004. The elections were considered to be fair, and no irregularities were reported. *Latvia's rating for electoral process remains 1.75.*

Civil Society. There was a noticeable increase in the activity and visibility of NGOs in Latvia in 2004. This is especially true of groups within the Rusophone sector of society, but this rise has affected all interest groups in all areas of the country. In part, this has happened as a result of the growing democratic maturity of society; but as well, certain events and appointments to important positions have acted as precipitating catalysts for NGO resurgence. In 2004, changes in the Russian school curriculum requiring that several more subjects be taught in Latvian precipitated a flurry of new organizational initiatives. Russian students picketed the legislature to stop educational reforms in Russian schools, and many thousands joined the Association for the Support of Russian Language in Schools in Latvia. This organization in turn catalyzed the creation of other organizations, including the United Russian Society of Latvia. Membership in the EU and the possibility of funding from this source also spurred many NGOs to become more organized and cooperative with other groups and specialists. In October 2004, representatives of rural NGOs met to discuss ways of cooperating and coordinating their goals and resources to achieve long-term sustainable development of rural areas. In 2004, an environmental NGO won a victory at the European Court of Human Rights, and NGOs succeeded in blocking the construction of a large pulp mill planned on an island in the Daugava River upstream from Riga. *Latvia's rating for civil society improves from 2.00 to 1.75 because of the palpable new vigor of NGOs and their growing participation in the formation of governmental decisions.*

Independent Media. Latvian mass media remain diverse, competitive, and buoyant. Criminal liability for defaming state officials has now been effectively removed by the Parliament. Broadcast media are balanced, with a mixture of private and state-regulated enterprises. Reporters Without Borders rated Latvia 10th out of 167 countries in its third annual worldwide Index of Press Freedom, just behind Switzerland and New Zealand. *Latvia's rating for independent media remains 1.50.*

Local Democratic Governance. Latvia is in a quandary with respect to local governments. There are over 500 small units, but people are reluctant to merge them into larger, more efficient units and thus lose the personal intimacy of established relationships. Local governments traditionally receive better ratings and higher trust than national structures, but there is a serious and growing gap between the broad array of responsibilities of local governments and their limited financial and human resources. The very wide gulf between the wealthier and less well-endowed municipalities leads to geographic inequity

in providing public services. *The new rating for local democratic governance is set at 2.50 owing to the relatively high esteem and accessibility of most local governments among the population. However, excessive fragmentation results in a dearth of resources and capacity to fulfill all responsibilities adequately.*

Judicial Framework and Independence. In 2004, Latvia took giant steps in creating an administrative court system and administrative code that will enable the participation of public organizations as “friends of the court” in trials. The new administrative courts allow for flexible oral or written adjudication of disputes between the public and tax officials, police, welfare assessors, and, indeed, all government structures. This has diverted a significant number of cases from the main court system, thus shortening pretrial waiting periods and detention time. Other positive changes in 2004 included a growing number of courtrooms, the move toward total computerization and public access to cases, prison reforms, and the respected performance of the Constitutional Court. The status, pay, and number of judges continued to increase, and they are now hired on a competitive basis. However, the high incidence of pretrial detention and lack of access to legal aid for the poor in civil cases are ongoing problems. *Latvia’s judicial framework and independence rating improves from 2.00 to 1.75 owing to the creation of a new court system and new technical services that increased transparency and efficiency.*

Corruption. Transparency International’s 2004 Corruption Perceptions Index ranked Latvia 57th out of 146 countries. Latvia’s Anti Corruption Bureau (KNAB) originally held great promise, but problems of leadership and financing, as well as the scattering of anticorruption responsibilities among half a dozen organizations, have somewhat blunted its credibility and output. While all signs indicate relatively limited corruption in middle and lower levels of administration, there are unproven but constant rumors of Latvian and Russian business “oligarchs” making backroom deals with top state administrators and politicians. The suspicions of business barons who “capture” state institutions by economic might, first formulated by the World Bank, have remained unproven but also have not been proven wrong. Thus, the popular perception of sophisticated, large-scale corruption involving tax evasion, and of collusion between certain businesses and the upper tiers of government, continues unabated and increases the lack of trust felt toward the national governmental structures. *Latvia’s corruption rating remains at 3.50.*

Outlook for 2005. In 2005, Latvia will continue to consolidate its position in the EU and NATO. Most Latvians want to see more governmental continuity and thus are prepared to support the coalition government to avoid holding new parliamentary elections until the scheduled date of October 2006. State institutions will continue to function with increased efficiency

owing to new EU guidelines and funding. Local government elections in March 2005 may lead to more serious initiatives for the amalgamation of tiny municipalities. Russian-Latvian relations within the country will experience some buffeting, but there seems to be a will to lower tensions by both sides. These internal tensions have also become a focal point for criticism by Russia, which believes it has a responsibility with respect to the Russophone diaspora. Rapid economic growth in the heartland, especially in Riga and the larger cities, will create even more discontent in the hinterlands of southeast Latvia (Latgale), where stagnation will likely deepen.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.25						

In contrast with the two other Baltic states, Lithuania and Estonia, which after the Soviet period developed new constitutions on the basis of prewar ones, Latvia chose to maintain its original Constitution, introduced in 1922. This was done to reinforce the perception of continuity from the first independence period (1918–1940) and to accentuate the illegitimacy of the long Soviet occupation. A major addition to this Constitution was made in October 1998 when the Saeima (Parliament) added an extensive body of rules protecting human rights.

The current Latvian Constitution incorporates the basic requirements of democracy, setting out the rules for elections, participation in civic life, and citizenship. The structures and foundations for democratic rule are robust and unchallenged. Not a single political party has called for a return to a Soviet-style system or to a benevolent strong-hand leadership or dictatorship. This does not mean that everybody is satisfied with the way actual democracy functions in Latvia. An opinion poll published in the Latvian Internet portal Delfi in July found that 35 percent of people were satisfied, but 39 percent were somewhat and 18 percent very dissatisfied with democracy in Latvia. Ethnic Latvians tended to be more satisfied than people from minority communities. Most probably people are disillusioned not with democracy itself, but with the existing policies and coalition party politics that have created or reinforced this negative attitude. The same poll suggested that this was the case, finding that the number of those who trusted the government fell from 46 percent the previous autumn to 28 percent in July 2004. Similarly, trust in

Latvia's Parliament declined from 30 to 20 percent over the same period, and trust in political parties declined from 12 to 9 percent. Other institutions did much better: Television was trusted by 69 percent; the press by 52 percent; the armed forces by 47 percent; the UN by 45 percent; churches, charities, and NGOs all by 44 percent; the European Union (EU) by 39 percent; the police by 34 percent; big business by 32 percent; the court system by 29 percent; and unions by 21 percent.

There is a consensus in Latvia that democracy should be retained. However, 45 percent of people polled in December 2003 were willing to tolerate "a small reining in of political freedom" to attain economic improvement for the population, whereas 35 percent opposed such a trade-off.

Latvia's Parliament is not well structured to facilitate dialogue with voters. Individual deputies are not responsible for a specific geographic area, so people do not have a local representative office where they can air their problems and ask for assistance. Indeed, this absence of parliamentary "mini-ombudsmen" is a problem in all countries that rely on proportional electoral systems. Another problem is the relatively underdeveloped lobbying structure in the country. Lobbying on behalf of an interest group is still seen as selfish and unethical and is usually associated with corruption. Parliamentarians, however, are able to gauge the popular will through a very active media and through increasingly vocal professional and ethnic associations. Moreover, new channels for participation in decision making have been created. Since June 2001, nongovernmental organization (NGO) representatives can officially attend meetings of the state secretaries in the chancellery of the cabinet, where new policy ideas, legal initiatives, and information about future proposals are discussed and vetted and sent to the respective ministries for further input.

The Latvian government has made significant strides in providing public access to various state documents. These include Internet access to proposed legislation and to the agendas of the Parliament, the cabinet, state secretaries, cabinet committees, and parliamentary committees. Likewise, anyone can access the financial data of all ministries. Transcripts of parliamentary sessions as well as the protocols of cabinet and cabinet committee meetings are also available online. The Parliament has a vast support system of specialists and research librarians. Deputies can hire assistants and have access to the state-financed offices of their respective political parties. Unfortunately, not all deputies have offices, and very few of them have the ability to contact their electorate within Latvia's five broad electoral districts. Investigations can be carried out by parliamentary committees, which are empowered to call ministers and others to testify.

Latvia uses a modified parliamentary system where executive and legislative powers are closely tied. Deputies have the power to initiate legislation, and their votes determine whether a bill becomes law. The real center of power,

however, lies with the cabinet and the ministers representing the parties in government, as is the case in most parliamentary democracies. Support for legislation is most often orchestrated before a bill reaches the Parliament. However, some surprises do emerge when deputies are allowed the use of a secret ballot.

The judiciary is independent of direct government pressure once the Parliament confirms a judge's candidacy. However, judges are dependent on the Ministry of Justice for their wages, administrative support, offices, and instructions on new laws and procedures. The ministry's department tasked with administering most courts was expected to become much more independent in May 2004, when it was to be guided by a 12-person council rather than the ministry, but this change was postponed.

In the Latvian political system, the president functions as head of state and has the power to appoint the prime minister and veto legislation. Vetoed bills, however, can become law after a repeat majority vote in the Parliament. President Vaira Vike-Freiberga has contributed to political stability by her consistency, political neutrality, and high popular support. Her assessments of political and judicial matters are taken seriously.

The Latvian Constitution is a major check on governmental power. The creation of a separate Constitutional Court in 1996 focused the best legal minds on the defense of constitutional rights. Their judgments have covered a wide range of legal issues and have garnered a high level of trust from officials and from the entire population. According to polls, the Constitutional Court is considered one of the most trustworthy institutions in Latvia and, indeed, has helped diminish popular cynicism about the Latvian system of power. The court's chair is Aivars Endzins, a former parliamentary deputy and seasoned political leader.

In general, Latvia's government does not interfere in the economy except to set broad parameters for monetary and fiscal policies. There is as yet no consensus with respect to the privatization of certain large industries in which the government holds the majority or a large proportion of shares. Such industries as the state energy company Latvenergo, the communications company Lattelekom, the oil refining and transport concern Ventspils Nafta, and others have been pressed for privatization by some parties, but this has been strongly resisted by others.

The Latvian governmental system is stable in spite of the frequent changes in the configuration of coalition parties. About 70 percent of legislation is initiated by the cabinet, about 15 percent by parliamentary committees, and 15 percent by individual deputies or groups of deputies. The president rarely introduces legislation. All bills require majority approval of the Parliament and the signature of the president. When the Parliament is not in session, the cabinet can issue regulations, which then carry the force of law until the Parliament reconvenes and either ratifies or vetoes the interim regulations.

If the political system is stable, the cabinets have not been, with frequent changes of ministers and prime ministers, a pattern that reflects the absence of a dominant party in the Parliament. The current Parliament has eight party factions. This is greater than the number elected in October 2002 because the leftist alliance For Human Rights in a United Latvia later split into three separate factions. Moreover, several deputies abandoned party affiliations and remained in the Parliament as independents.

In Latvia, governments often rupture over matters of policy, budgets, personalities, and appointments or for strategic electoral reasons. The relative instability was highlighted by two major changes in leadership in 2004. The four-party coalition led by Prime Minister Einars Repse that had held power since October 2002 was replaced in March by a minority-supported three-party coalition headed by Indulis Emsis. The new coalition survived almost eight months with support from noncoalition left-oriented deputies who saw Emsis as a lesser challenge than Repse. Nevertheless, this coalition was defeated on a vote of the Parliament in October and was replaced in December by a new four-party majority coalition headed by Aigars Kalvitis.

The executive branch has received much support from world organizations and Western countries in streamlining organizational efficiency and in maintaining popular access. Independent audit and investigative rules have helped keep the executive branch free of any major monetary scandals, although they have not entirely succeeded in eliminating vestiges of waste, inaction, and incompetence.

In 2004, Latvian political leadership experienced several episodes of conflict with the general public and NGOs. Emsis was heavily criticized for the manner in which he appointed the new chair of the Anti Corruption Bureau (KNAB), Aleksei Loskutovs, and the less than transparent way in which he appointed the European Commission's Latvian representative, Ingrida Udre, in August. Opposition to Udre's appointment created a confrontation with President Vike-Freiberga, who bluntly indicated that the NGOs had no business criticizing governmental appointments and that such criticism was actually unconstitutional. These remarks surprised most people and led to a widespread discussion about the role of NGOs, freedom of speech, and civil society. The president ultimately achieved a reconciliation with the NGOs she had criticized, but she lost much prestige and support in the process. Meanwhile, Udre's candidacy was thought to be unacceptable to the European Parliament, and she was replaced by a noncontroversial former politician and diplomat, Andris Piebalgs.

The civil service in Latvia has been subject to many attempts at reform. The most significant and comprehensive of these has been the Law on the Structure of State Administration, passed in 2001. The purpose of this law as stated in its preamble is "to secure a democratic, lawful, effective, open, and publicly accessible state administration." The law has tried to make the civil service more "people-friendly." It requires state administrators to observe hu-

man rights, work in a fair and nonpartisan manner according to existing laws and rights, and observe the principles of “good administration.” This concept includes the guarantee of openness, protection of personal information, fair and timely implementation of procedures, and public disclosure of state activities. Civil servants are expected to have completed higher education or to earn a degree by a given date. The law also includes clauses on dismissal for cause, requirements for contracts, limitations of power, financing of subsidiary agencies, hierarchy of officials, delegation of tasks to private individuals or nonstate organizations, issues of liability, and auditing procedures.

Although this law represented a major upgrade in the role of civil servants and their duties, it does not address the situation of municipal civil servants. Likewise, the mechanisms for addressing complaints are not precisely defined. Because of low salaries, the turnover rate in civil service positions is high, and a number of able individuals have gone to work in more lucrative jobs in the private sector. Many people in public administration are students who work on limited contracts or on a part-time basis and usually do not remain after completing their degrees. The Ministry of Justice, for example, has an annual turnover rate of 30 percent. The Latvian civil service comprises about 10 percent Russophones, reflecting the strict Latvian-language requirements.

The military and security services were reconstituted almost in their entirety after the country declared independence in August 1991. They are subject to civilian control and have been able to gain a large degree of respect from the public. The president is commander in chief of the armed forces, and the Parliament entirely controls their budgets. The security forces have been quite conscious of their role and go to great lengths to publicize their activities, problems, and dependence on civic support.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
2.00	2.00	1.75	1.75	1.75	1.75	1.75	1.75

Latvia is a parliamentary democracy. Elections to the 100-member Parliament are held every four years. Deputies are elected proportionally from party lists in five large electoral districts. The parties determine the ranking of names on the electoral lists, but voters can indicate their own preferences when marking their ballots. The governing cabinet is made up of individual parliamentary deputies whose seats are filled by the next candidate in line on their respective party list. The president is elected by an absolute majority vote in the Parliament rather than by the general population.

The most recent parliamentary elections in October 2002 marked “a clear entrenchment of the democratic election process,” according to the report of the Organization for Security and Cooperation in Europe observer

mission. The election process was seen as well administered and conducted in accordance with international standards. The voter turnout of 72 percent continued a tradition of relatively high turnout seen in previous elections. This was the fourth general parliamentary election following Latvia's renewed independence in 1991.

Only citizens of Latvia can vote at the national and municipal levels. Citizenship is open to all permanent residents (with a few exceptions, such as former KGB agents) who have lived in Latvia for five years, pass a simple language and history test, and swear allegiance to the state. A naturalization program began in 1995, and by 2004 more than 85,000 people had received Latvian citizenship. All ethnic minorities, including Russians, with direct family ties to Latvia prior to the Red Army's invasion of Latvia in June 1940 were automatically considered citizens of Latvia. Some 48 percent of ethnic Russians have Latvian citizenship. All those who came to Latvia during the Soviet period, however, can become citizens only through the naturalization process. About 21 percent of Latvia's inhabitants do not have citizenship.

Since all Latvian political parties have a weak membership base, they rely heavily on expensive media advertising. However, party platforms in general do not differ significantly from one another. All desire to fight corruption, lower taxes, decrease poverty, reduce economic disparities among regions and people, and maximize Latvia's benefits from the EU.

During the 2002 elections, six parties exceeded the 5 percent threshold for representation in the Parliament. However, the leading party, New Era, gained only 26 out of 100 seats. For Human Rights in a United Latvia (HRUL) won 24 seats, the People's Party 21, Latvia's First 10, the Green and Farmers' Union 12, and Fatherland and Freedom 7. Nearly 16 percent of the votes were cast for parties that failed to clear the 5 percent barrier.

Latvian presidents are chosen for a term of four years by the 100-member Parliament and require 51 votes to be elected. In the most recent presidential election, held on June 20, 2003, only one candidate was on the ballot: the incumbent, Vaira Vike-Freiberga. She was reelected with 88 votes, compared with the 53 she received when first elected in June 1999.

By becoming a full member of the EU in May 2004, Latvia earned the right to send 9 deputies to the 732-member European Parliament in the elections held in June. Voter participation was relatively low at 41.2 percent, but not far below the EU average of 45.3 percent. Surprisingly, the nationalist Fatherland and Freedom Party garnered the most votes—29.8 percent—followed by New Era with 19.7 percent and HRUL with 10.7 percent. All three were opposition parties. The parties of the ruling coalition did poorly: the People's Party received 6.7 percent, the Green and Farmers' Union 4.3 percent, and Latvia's First won just 3.3 percent.

Unlike in local and national elections, restrictions on candidates with former KGB affiliation or Communist Party membership after January

1991 were dropped for the European elections. Thus Tatyana Zhdanoka, disqualified from standing in earlier elections because of her Communist Party membership after the cutoff date, became a European Parliament deputy for the HRUL. Campaign spending in these elections was not high. The highest spender, the People's Party, invested 65,178 lats (about US\$120,000), and none of the other 16 parties in the campaign spent more than US\$100,000.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
2.25	2.25	2.25	2.00	2.00	2.00	2.00	1.75

A noticeable increase in the activity and visibility of NGOs in Latvia occurred in 2004. This was especially true within the Russophone sector of society, but the rise extended to all sectors throughout the country. In part, this reflects the growing democratic maturity of society, although certain events and personnel decisions also acted as precipitating catalysts for more intensive activities and for the creation of new organizations. Membership in the EU and the possibility of funding from this source have spurred many in civil society to become more energized and assertive in creating and mobilizing local groups. Indeed, the EU has set aside about 1 billion euro out of its 100-billion euro budget to support NGO activities.

Civil society organizations are regulated and protected by the Latvian Constitution and by legislation on public organizations passed in 1992, 2003, and 2004. The latter two laws require NGOs to reregister between April 1, 2004, and December 31, 2005. Some observers fear that many organizations will not fulfill the requirements of this new process and will lose their official accreditation, pointing out that in 2002, for example, more than a third of all registered public organizations failed to submit annual reports of their activities, which suggests they were inactive. NGO annual reports must include an overview of the group's income and expenditures and are available for perusal by the public.

Official data show that the number of NGOs has grown at a rapid but steady rate since 1991, when the entire country had only 50 registered non-profits. In 1993, there were 978 NGOs; in January 2004, 7,704. In view of this growing presence, it is not surprising that there has been a parallel growth in public awareness of NGOs. In 1998, 44 percent of respondents to a poll indicated that they knew nothing about NGOs, whereas by January 2004, the uninformed segment had decreased to 26 percent, and even they were often familiar with individual organizations when these were named. The concentration of NGOs correlates closely with the average per capita

income of cities and regions. Not surprisingly, the capital city of Riga has the greatest number of such groups, or about two thirds of the total, while poorer areas in southeastern Latvia have the fewest.

A nationwide survey conducted in November 2003 found that 53.6 percent of respondents were neither members of nor participants in the work of any civil society organizations. Faith-based organizations, unions, sports and recreation groups, and cultural groups accounted for the bulk of public activities. Groups more associated with political activism were much less well represented. It is significant that less than 1 percent of respondents belonged to organized ethnic minority groups.

Acknowledged Participation or Membership in Public Organizations in Latvia,
November 2003 Survey

Category	% of Respondents
Religious and church	11.9
Unions	11.5
Sports and recreation	9.2
Artistic (dance, choir, music)	8.8
Youth clubs, student fraternities	3.3
Pensioner	3.1
Professional	3.0
Women's	1.6
Political parties and groups	1.5
Environmental	1.2
Care workers	1.0
Local problem resolution	0.9
Ethnic minority	0.7
Human rights	0.6
Volunteer health care	0.2
Other	1.8
None	53.6
Hard to say	2.1

Lower rates of participation were found among those over 55 years of age, Russophones, noncitizens, those living in Riga (in contrast with the high number of NGOs in the city), and those with less education, no job, or low incomes.

At the fall of Communism, Latvia had no experience maintaining independent, self-sustaining organizations. Since 1996, the Danish government, the UN Development Program, and the Soros Foundation have supported the NGO Center in Riga, which has become an extremely useful resource for legal support, management and leadership training, and networking. Today,

the latter two organizations are considered the “owners” of this center, which publishes numerous handbooks, offers courses, and invites experts to address various aspects of group sustainability. Assistance is offered in Latvian, Russian, and English.

According to the NGO Center (which would not usually service church or sports organizations and unions), about 70 percent of activists in these organizations are women. About 70 percent of NGOs have no permanent staff, and over half have a membership under 30 people. Only 4 percent of groups have more than 500 members, according to the daily *Diena*. The NGO Center says it works with about 1,000 NGOs. New NGO Centers have opened in other cities such as Aluksne, Talsi, and Ventspils, and a center for about 250 minority ethnic organizations was opened in March 2004.

Rural areas have overcome their traditional social lethargy and begun to organize networks of groups with common interests. In October 2004, 98 representatives from 117 rural NGOs met to discuss ways of cooperating and coordinating their goals and resources to achieve long-term sustainable development of rural areas. The prospects of obtaining EU grants aimed at underdeveloped regions probably helped motivate this gathering.

In spite of the evident uneasiness with the direction of the ship of state, about half of Latvians do not believe that any protest actions on their part, including strikes, pickets, or petitions, can change things for the better, according to the SKDS polling organization. However, the survey conducted in July 2004 did find that 44 percent of those polled felt that their participation in such actions could result in favorable changes.

In 2004, Latvia witnessed a considerable increase in interest group activities. Russian students picketed the legislature to stop educational reforms in Russian schools, where grade 10 students were expected to learn 60 percent of their subjects in Latvian beginning in September 2004. Delna (the Latvian branch of Transparency International) and several EU support organizations picketed the Parliament after Ingrida Udre was chosen as Latvia’s candidate for the European Commission. Various medical groups and nurses also went on work-to-rule strikes in search of higher wages. Many NGOs successfully opposed the construction of a proposed Scandinavian-backed pulp mill on an island in the Daugava River upstream from Riga.

Opposition to the government’s decision to reduce the use of the Russian language in schools precipitated several important changes in Russophone society. Over half of all Russian students took part in protests. Several organizations to support the use of Russian in schools and Russian culture more generally sprang up in 2004. The most ambitious new Russophone group, the United Russian Society of Latvia (OKROL), held its founding convention in September 2004 and quickly mobilized many people and established a number of regional branches. OKROL also planned to set up offices in Strasbourg and Moscow. According to its statutes, OKROL’s goals include

“the representation of the interests of the Russophone part of society; the protection of the civil, linguistic, educational, cultural, national, economic, and other interests of the Russian community; the maintenance and development of the culture and traditions of Russians as well as other minority groups and the protection of human rights.” Note the three-tier distinction made with reference to Russophones, Russians, and minority groups.

It appears that Latvian society is emerging from relative apathy in other areas as well. Environmental protection concerns are articulated on a regular basis and find their way into the mass media. Volunteers are patrolling salmon streams together with fish inspectors to prevent poaching, with dramatic results in spawning of new fry. One NGO, the Organization of Environment Protection (VAK) won a victory in the European Court of Human Rights in Strasbourg at the end of May 2004.

In 2004, police officers and other personnel began organizing support for a union. In Riga alone, 700 police officers signed a petition in favor of changing the law to allow them to start a union. NGOs can now also be accepted as an official *amicus curiae* in legal cases and as resources for the new administrative court system. Latvian civil society organizations are also reorienting themselves to the broader EU scene. In February 2004, five NGO leaders spent several weeks observing how larger established Western European NGOs work with the EU. They were expected to educate other Latvian NGO leaders about the new possibilities and styles in this larger forum. As in all post-Soviet societies, philanthropy and volunteerism are not widespread. But newly created community volunteer groups, like those in the city of Talsi, have been held up as models. A resource center for women was recently created.

Traditional Christian religious groups of Lutheran, Catholic, and Orthodox membership are slowly beginning to conduct charitable activities, but the lack of funding and basic infrastructure and the low percentage of actual congregants (5–6 percent of the population) have limited the scope of their initiatives. In Riga, some 15 Jewish organizations and institutions are active, including a school, hospital, museum, veterans’ organization, social aid organization, youth center, and library. All of these are part of the larger Riga Jewish Association. Approximately 85 nontraditional faith-based organizations have been helped by significant external financing and organizational support. Included are the Jehovah’s Witnesses, Mormons, Glad Tidings, New Age, and Hare Krishnas. The activism and Western-supported charity work of these groups have attracted many new members.

In 2004, almost no groups seriously threatened political or social stability, although many Latvians were worried about the potentially negative impact of those trying to mobilize Russian students to boycott classes and attend mass meetings in their quest to abrogate the new educational law for Russian schools.

Since 2002, NGO representatives have been allowed to participate in the preparation of state policies by attending meetings of the state secretaries in the chancellery. Many groups are consulted by various ministries and parliamentary committees. The NGO Center claims that over 80 percent of Riga-based groups have taken part in some form of interaction with national and local governments and that about one third of these have included government representatives in their leadership structures. The Riga city government invited NGOs and various individuals to discuss the city's development plan, including issues of zoning, transportation, building construction, and nature conservation.

The Latvian media have been very cooperative with NGOs and open to their views. Issues of public interest receive fair coverage from state and private broadcast and print media. The Internet news site Delfi, available in Latvian and Russian, provides a forum for discussions and controversial viewpoints.

There are broad differences of opinion between native speakers of Latvian and Russophones. A large majority of Latvians are opposed to Russian as a second state language (77 percent) and support reducing the use of Russian in schools for the Russian minority (76 percent). Among Russophones, 84 percent favor making Russian a state language and 68 percent oppose the educational reform, *Latvijas Avize* reported in September 2004. In spite of such diametrically opposite positions, there appears to be a certain reserve of goodwill within both groups in the almost unanimous support by Latvians (93 percent) and Russophones (97 percent) for the statement "We must respect the national culture, religion, and traditions of all groups in Latvia even if these are very different from ours." Two thirds of Latvians were willing to allow state support for the protection of different ethnic cultures and traditions.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
1.75	1.75	1.75	1.75	1.75	1.75	1.50	1.50

The Latvian Constitution guarantees freedom of speech, information, and thought. Censorship is forbidden. In 2003, the newspaper *Diena* successfully challenged laws adopted in 1999 that imposed prison sentences and heavy fines for spreading false information about members of Parliament or defaming state representatives. In January 2004, criminal liability for the defamation of state officials was effectively ended. In 2003, the Constitutional Court struck down a law that required 75 percent of broadcasting in any 24-hour period to be in the Latvian language. This repeal means that the language of broadcasting will be determined solely by market considerations.

The Latvian media are free to disseminate information and views, limited only by libel considerations and the pressures of the market. Investigative journalists are free to pursue various sensitive topics, including government waste and corruption. The mass media generally enjoy editorial independence, although government sources are not always willing to release information on request. The leading newspapers readily publish a broad range of opinions from specialists and NGOs. Many newspapers are available free of charge on the Internet. About 30 percent of the total population accesses the Internet, and this figure is increasing rapidly.

Latvians can choose between state-subsidized and privately owned television and radio. In television, the private Latvijas Neatkarīga Televīzija (LNT) is the most popular station, with 20.3 percent of viewers as of October 2004, followed by TV3 with 18.6 percent. Public television regained some of its audience share after expanding its viewing hours. The state-owned LTV1 had a 14.2 percent share, and LTV7 attracted 4.7 percent of viewers.

Radio is dominated by state ownership. Latvijas Radio, with its four different services, claimed 48 percent of the total audience in the summer of 2003. Latvijas Radio 2 held a solid 25 percent. It broadcasts mostly Latvian music, with a sprinkling of English-language country and western. Latvijas Radio 4 broadcasts in Russian and claimed 7 percent of the total audience. Software House, with a 17 percent share, was the largest private station. Next in popularity came Star FM and European Hit Radio with 5 percent each.

The most popular daily newspapers as of summer 2003 were *Diena*, *Vesti Segodna* (Russian), *Neatkarīga Rita Avīze*, and *Chas* (Russian), according to the market research firms Baltic Data House and BMF. In 2003, a Russophone businessman, Valeri Belokon, started a relatively upscale and technically innovative Russian-language daily, *Telegraph*, to provide a more “constructive tone in the Russian press,” but the venture has not been lucrative, and in 2004 the paper shrank from 24 pages to 16.

The two major-language communities live in their own media spaces, and few read or view the other’s media. *Diena* did publish in both languages until 1999 but shut down its Russian-language edition for lack of readers. Other newspapers have experienced a similar problem. There are many Latvian- and Russian-language periodicals, among which monthly women’s magazines such as *Santa*, *Cosmopolitan* (Latvian), and *Lilit* (Russian) are the most popular. The state publishes the almost daily newspaper of record, *Latvijas Vestnesis*, which in May 2004 had the distinction of receiving a certificate of quality from the certification agency BVQI.

Local and foreign firms and individuals own shares in the Latvian mass media, but exact ownership patterns are not always transparent. The largest shareholder in *Diena* is the Bonnier family of Sweden. The privately controlled Ventpils Nafta (VN) oil company owns three and possibly four of Latvia’s daily newspapers. The chief representative of this corporation has been Aivars

Lembergs, mayor of the city of Ventspils. Yet who exactly controls VN is not public knowledge. As a whole, however, these newspapers do not appear to be noticeably influenced by their owners.

The distribution of advertising expenditures in August 2004 in the mass media not surprisingly was focused predominantly on television (36.5 percent) and newspapers (31.6 percent). Shares for other media were 12.7 percent for magazines, 11.6 percent for radio, 4.9 percent for outdoor advertising, 1.9 percent on the Internet, and 0.8 percent on film. The 16.8 percent increase in total advertising sales over August 2003 reflects the rapid growth of the economy and of consumerism. The globalizing effects of advertising can also be seen from the five leading advertisers: Procter & Gamble, Coca-Cola, the Swedish media group Modern Times, Colgate-Palmolive, and Aldaris (a Latvian beer maker). Perhaps this is why some of the leading world media corporations are taking note of the Baltic potential. It is widely claimed in Riga that Springer Verlag of Germany wants to dominate the Baltic media market. Rupert Murdoch of News Corporation is also said to be a major owner of LNT, *Diena* reported.

Journalists and media outlets have been able to form their own viable professional associations, notably the Latvian Journalists Union and the Latvian Press Publishers Association. Reporters Without Borders puts Latvia 10th out of 167 countries in its rankings of press freedom. In Freedom House's *2003 Survey of Press Freedom*, Latvia was ranked in the second-highest group of "Free" media. In a survey made in November 2003 by the SKDS polling firm, 24.2 percent of respondents claimed that the Latvian media were entirely free, 47.3 percent thought they were partly free, and 9.5 percent believed they were not free.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.50						

The November 5, 2003, European Commission report on Latvia was blunt in its assessment of Latvian reforms at the subnational level: "The administrative-territorial reform, which started in 1998, is advancing at a slow pace." By the end of 2004, the situation had not improved; indeed, reforms may have been reversed as a result of the new "voluntary" approach enunciated by the minority government of Indulis Emsis and the fact that within a period of 28 months four different people headed the ministry in charge of reform. Latvia, with a population of 2.3 million, has over 450 rural municipalities (*pagasti*), 19 amalgamated municipalities (*novadi*), 59 towns (*pilsetas*), and 7 cities. In addition to these primary territorial divisions, there are 26 secondary regional territories called *rajoni* that encompass all the other units

except the 7 major cities. Nevertheless, over a century of existing patterns of local governments has left a certain reluctance to break with tradition. Indeed, many local governments have had a history of mutual competition and even dislike.

The need for reforms rests on the inability of current structures to provide all the services and carry out all the functions that have been assigned to these bodies, functions that are vital for the further development of Latvia. Western-based institutions such as the EU's PHARE program and the World Bank have pushed for changes and financial pilot projects, information gathering, and regional planning over the past decade. Denmark has also been particularly active in this regard. Local governments are responsible for primary and secondary education, most social assistance (except pensions and family care benefits), health care, water supply and sewage works, district roads, solid waste collection and disposal, and about one fifth of all housing in Latvia to which they have legal title.

Financing so many municipalities of such variable size is also a major problem. For over half of their income, municipalities are dependent on personal income taxes. *Diena* of September 23, 2004, reported that in 2005 municipalities would be allowed to keep 73 percent of personal income tax, although they initially lobbied for 75 percent. Another major source of income is real estate taxes, which contribute about 10 percent of total revenues. Another 10 percent comes from the sale of land and property, fines and penalties, and service payments.

Although poorer districts benefit from an equalization fund that redistributes some of the income of more prosperous districts, and also receive central governmental support, there is an increasing divide between the smaller and poorer municipalities and the more prosperous and larger ones. Poorer jurisdictions have to contend with many problems in their administrative structures. They cannot afford high-wage professionals and are forced to hire locals who combine several skills and functions. Over half of the municipalities cannot afford the services of lawyers, leading to a situation where many municipal regulations are contradictory and even run counter to national law.

Smaller municipalities have problems in recruiting candidates for local councils and executive positions. Patterns of nepotism are apparent in some places, with family ties being the key success factor. Corruption control and transparency are often difficult to maintain, especially in the handing out of contracts and the ordering of supplies.

Municipal elections are free and democratic, with a turnout of 60 percent in the 2001 elections. In the larger cities people run as candidates of political parties, but in most rural areas personality politics dominate. Municipalities have created an association to lobby for their interests, the Union of Local and Regional Governments of Latvia, which receives a fair amount

of publicity in the local and national media. Recently, the association was successful in forcing the government to drop a clause in the proposed Law on Municipalities that would have allowed the minister of municipal affairs to discharge local councils.

New municipal elections were due to be held on March 15, 2005, with a newly expanded electorate, as the voting age has been lowered from 21 to 18. For these elections, each party's campaign spending will be limited to 20 santims (US\$0.36) per voter in each district, based on the previous electoral list. However, parties are allowed to pool funds and focus spending on priority races. There were suggestions for a 5 percent electoral barrier for party representation, as in elections to the national legislature, but it appeared that only Riga would implement such a limitation.

Currently, city mayors and district chairpersons are elected by council deputies. Many would like to change that. An October 2004 poll of Riga's citizens published in *Latvijas Avize* found that 61.8 percent favored direct popular elections of their mayor. The size of district councils varies from 7 members (for districts with under 2,000 residents) to 15 (for those with over 50,000 people). Riga is an exception and is allowed 60 deputies. The Ministry of Justice and Ministry of Regional Development and Local Government set the parameters and monitor subnational government elections and the appropriateness of their legal acts.

In sum, the quality of local government is very variable, as are its capacity and ability to fulfill all required jurisdictional duties. Elections, however, appear to be fair, with a surprisingly large voter turnout. Only citizens of Latvia or the EU are allowed to vote, a practice that is commonly found in many European countries. Voter satisfaction with local governments has varied little between 2002 and 2004, according to polls. An SKDS poll taken in January 2004 showed that 49 percent of respondents were satisfied with their representatives, 26.5 percent were somewhat satisfied, and 12.8 percent were totally dissatisfied.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
2.25	2.25	2.00	2.00	2.00	2.25	2.00	1.75

Latvians are guaranteed equality before the law, but not all have equal access to justice in practice. Over 80 percent of litigants in civil cases act without the help of lawyers. This inevitably skews the results of judgments in favor of wealthier citizens who are able to afford legal counsel. Some legal help is provided by the Latvian Human Rights Bureau. Currently, state legal aid is made available only in criminal cases. According to an EU directive, Latvia was expected to introduce legal aid by the end of 2004. Such aid has been

budgeted for 2005 to cover about 25 percent of all litigants who fall below a given poverty line.

Legal reform is a continuous process that began after independence in 1991, but pressure to reform was hastened by Latvia's desire to join the EU. Various EU organizations offered expertise and funding to help Latvia achieve an effective legal structure. A major step away from Soviet traditions came with the introduction of the new criminal code, adopted by the Parliament in May 1998. Another major step came when the administrative code was introduced in February 2004. This code consolidates earlier variants scattered in many laws and regulations and gives individuals a clarification of their rights and of compensation measures from governmental organizations where their rights and laws have been violated.

Prosecutors are independent but have criticized politicians and ministers for pressuring them to investigate particular issues. The chief prosecutor, Janis Maizitis, is considered to be independent. The idea of jury trials has been debated, but as yet no concrete steps have been taken. In October 2004, new probation offices were opened in Riga and Valmiera.

A 2003 Law on Court Executors is expected to resolve one of the most controversial areas of the justice system. Formerly, about 70 percent of court decisions in civil cases were not implemented, and there was great potential for arbitrary actions and corruption. Now, new cadres of about 100 court executors (bailiffs) have been trained for this purpose and have been subordinated directly to the courts. Minimum educational requirements for new recruits have also been raised.

One of the long-standing criticisms of the Latvian judicial system has been the huge proportion of prison inmates awaiting trial or not yet sentenced. In 2004, almost 40 percent of the country's inmates were being held in pretrial detention, according to *Diena*. This situation is the product of Latvia's seriously overburdened and underfunded court system. An average judge annually disposes of 33 criminal cases but has an accumulated backlog of 66 cases. The worst bottleneck is in Riga courts.

Several steps have been taken to ameliorate this situation. In Riga, a new courthouse with 20 courtrooms was completed in 2003, and two other new courthouses are expected to be in service by the end of 2005 and the end of 2006, respectively. Another new court building is under construction in Jurmala. On February 1, 2004, the new administrative court system began its work. Its major responsibilities include the adjudication of disputes and conflicts between the population and national or local public servants, including police agencies. Formerly, such cases were handled by regular courts. By the end of 2004, this new structure employed 35 judges. Regional administrative courts are planned, but not until 2006, so litigants must now either travel to Riga or open and participate in the case by correspondence, one of the innovative advantages of this type of court system.

Other changes are also affecting caseloads and improving the quality of judgments. Public notaries now have the authority to adjudicate conflicts over inheritance and wills, decreasing the number of court cases by several thousand a year. The Ministry of Justice has also added 15 new judges to the Riga regional courts. In May 2004, there were 451 judges in Latvia. The various changes in the court system have had a positive impact on the disposition rate of criminal cases. The procedure for selecting judges has become more stringent; starting in 2004, a candidate for the bench must first pass an examination before being allowed to work as a two-year apprentice judge.

If in the past there were many vacancies, currently there is competition for judicial appointments. The prestige of judges has risen, and so has their remuneration. The justice minister instituted a new schedule of gradual pay raises that will double salaries by 2006. Courts are also being slowly modernized, and computerization is almost complete. Regional court decisions are now being entered into a centralized computer system that is accessible to the public. All courts are expected to participate. If successful, this should have a tremendous impact on the quality of judgments and legal education for the population.

Latvian prisons are overcrowded and in poor condition, but significant progress has been made in upgrading living conditions. A prison board was created in 2003 to ensure correct legal procedures and human rights for prisoners. According to the Apollo Internet news site, Latvia and Estonia have the highest rate of incarceration among the new states of the EU, at 355 prisoners per 100,000 population. In October 2004, Latvia had a prison population of 7,637.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	3.50	3.50	3.75	3.50	3.50	3.50

The extent of corruption in Latvia has been criticized by many international organizations, foreign investors, and local inhabitants. Transparency International's 2004 Corruption Perceptions Index ranked Latvia 57th out of 146 countries. A 2002 study by the World Bank-affiliated Foreign Investment Advisory Service found that Latvian businessmen acknowledged relatively little corruption in the middle and lower levels of public administration. In effect, the attempts to limit such corruption have been successful, but sophisticated wrongdoing such as massive tax avoidance at the highest levels is still problematic. Lower and mid-level corruption is most prevalent in applications for construction permits, customs, municipal police inspections, and the rezoning of property.

The Latvian media are replete with stories of suspected corruption, but few individuals are actually charged or convicted of this crime. A number of international sources have applied pressure to do more, including a panel of representatives of foreign embassies that acts as a consultative body of the corruption-fighting agency KNAB. This panel allows the international community to acquire firsthand information on anticorruption activities and to offer advice and criticism during regular official meetings.

Former U.S. ambassador to Latvia Brian Carlson said in a 2003 speech that not enough was being done to punish those guilty of corruption, leading to the conclusion that “Latvia tolerates corruption and bribery, money laundering, and organized crime.” Some officials agreed, including Aivars Latkovskis, chair of the Parliamentary Committee on Corruption, Contraband, and Organized Crime. The European Commission has disapproved of Latvia’s slow pace in adapting its anticorruption legislation to EU standards.

Great hope was placed in the KNAB, which began operations in October 2002. By mid-2004, this organization employed 110 people in 16 separate sections. Its greatest accomplishment has been the review of political party financing and ferreting out of illegal donations. Unfortunately, many of its requests to repay the donations to the state have been stopped by the courts, to which the parties can appeal. Therefore the loopholes in existing legislation allowing for such decisions remain unfilled.

Two major problems have hampered the work of the KNAB: leadership—finding a suitable head of the agency has proved difficult—and inadequate financing. Moreover, it has been locked in bureaucratic fights with other agencies involved in the same area.

The chairman of the Supreme Court, Andris Gulans, was asked in 2004 to discuss the status of the KNAB before a parliamentary commission. He suggested that its leader be chosen by the National Security Council and then ratified by the Parliament. The appointment should last for three rather than five years. Salary levels should not be determined by the cabinet because of potential political pressure. In his view, the KNAB had too many responsibilities and ideally should focus on the elimination of corruption at the highest levels and on setting a broad national strategy for limiting corruption. Other organizations, including the police, can cope with lesser corruption, he suggested. Some parliamentarians added that the KNAB and its duties should be specified in the Constitution.

A half dozen other agencies tasked with fighting corruption continue to operate in spite of the original plan to concentrate these forces into the KNAB. Institutional rivalry and low levels of cooperation have marked the relations among these agencies, and as a result their efforts have been neither inspiring nor tremendously successful, according to some critics.

In spite of the apparently mediocre progress, some changes have been made to anticorruption policies and legislation. Police officers can no longer

require traffic violators to sit in the police car, where it is easier to solicit bribes. Police wages have been significantly increased as well. Many safeguards, including cameras, have been installed at customs points. Greater transparency has been achieved in the courts, and judges too are receiving significantly higher pay. The new stricter border controls required by the EU should practically eliminate the trade in contraband oil.

In conclusion, it appears that there is some determination to tackle corruption, but the accumulated bad habits from the Soviet period (where the exchange of favors, or *blat*, was pervasive) and the semilawless period following independence have presented formidable challenges. In effect, individuals who want to advance their own projects, welfare, and goals are willing to indulge in corruption to save time, energy, and resources. Nevertheless, pressure is coming from different directions, including the EU, for Latvia to grapple seriously with existing corruption problems.

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Lithuania

<i>Capital</i>	Vilnius
<i>Population</i>	3,400,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$10,320
<i>Private sector as % of GDP</i>	75%
<i>Ethnic groups</i>	Lithuanian (80 percent), Russian (9 percent), Polish (7 percent), Byelorussian (2 percent), other (2 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	2.00	1.75	1.75	1.75	1.75	1.75	1.75	1.75
Civil Society	2.25	2.00	2.00	1.75	1.50	1.50	1.50	1.50
Independent Media	1.75	1.50	1.75	1.75	1.75	1.75	1.75	1.75
Governance	2.50	2.50	2.50	2.50	2.50	2.50	2.50	n/a
National Democratic Governance	n/a	2.50						
Local Democratic Governance	n/a	2.50						
Judicial Framework and Independence*	2.25	2.00	2.00	1.75	2.00	1.75	1.75	1.75
Corruption	n/a	n/a	3.75	3.75	3.75	3.50	3.50	3.75
Democracy Score	2.15	1.95	2.29	2.21	2.21	2.13	2.13	2.21

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Lithuania continues to build on the political and economic accomplishments achieved since the restoration of independence in 1990 and to strengthen the democratic system and rule of law. With political rights and civil liberties well established and protected, the country has achieved a remarkable political stability. Transfers of power have been smooth, and viable political parties function at all levels of governance. Major political forces have forged a high degree of unity on the need to build ties with Western democracies. Despite 12 administrations since 1990, this unity has largely allowed the country to consistently pursue and, in 2004, achieve accession to NATO and the European Union (EU). Public support for these integration processes has been strong.

The country owes much of its post-Communist success to a vibrant civil sector, which has been spurred by significant improvements in the legal and regulatory framework in recent years. Lithuania's judicial framework has been overhauled, but corruption remains a serious challenge. Since 1990, Lithuania has established a functioning market economy thanks to large-scale privatization, business deregulation, and liberalization of foreign trade. The country has achieved strong macro positions and remains the fastest-growing economy in the region, with fairly low debt and inflation levels, a sound currency, and low interest rates. Admittedly, many of the reforms have been driven by the aspirations to integrate into the Western community and the obligations such integration carries, thus raising questions in the minds of both Lithuanians and outside observers on what the future holds now that the country has joined both the EU and NATO.

The year 2004 brought a series of significant developments in the country's political life. In April 2004, Lithuania joined NATO, and on May 1, 2004, the country became a member of the EU. In April 2004, the Parliament removed President Rolandas Paksas from office on charges of violating the Constitution and his presidential oath. The presidential scandal confirmed concerns about rampant political corruption. It also alerted the public and media and contributed to increased transparency of the political process. Former president Valdas Adamkus was reelected to replace Paksas. The newly founded populist Labor Party won the most votes in the October 2004 parliamentary elections, beating the ruling Lithuanian Social Democratic Party (LSDP) and other established parties. No party secured a majority,

and following long negotiations, a coalition government was formed with the LSDP, the Labor Party, the Social Liberals, and the Union of Peasants and New Democracy Party (UPNDP) as members. Lithuania's 13 seats in the European Parliament were shared among five major political parties in elections held in June 2004.

In 2004, the Constitutional Court delivered several pivotal rulings on the presidential impeachment crisis and the duties of elected politicians. Also in 2004, legislation on nongovernmental organizations (NGOs) was overhauled, eliminating a number of restrictions that formerly had a chilling effect on the growth of civil society.

National Democratic Governance. In 2004, national governance issues revolved around the presidential impeachment and the rulings of the Constitutional Court regarding the status and duties of members of Parliament (MPs). Public confidence in democratic processes had been on the rise in recent years, but the presidential scandal shook public and political opinion on the functioning of the Lithuanian system of governance. In July 2004, the Constitutional Court ruled that parliamentary mandates were incompatible with stock holding, business ownership, or paid teaching activities, widely practiced by MPs. The State Control Office made numerous reports of routine misuse of funds and recently concluded that almost a third of audited state institutions lacked administrative capacities and that the internal auditing system was flawed. In the military sphere, full accession to NATO in April 2004 improved the administration and transparency of the armed forces, which are fully under civilian authority. However, oversight of the main security services was affected by the political battles in 2004. A special parliamentary commission concluded that parliamentary control over security was improper and that the conduct of intelligence activities was not effective. *Lithuania's stable democratic system, characterized by well-established political rights and an unfettered legislature but a lack of transparency in the executive branch, merits a rating of 2.50 as the benchmark for the new national democratic governance rating.*

Electoral Process. In April 2004, President Rolandas Paksas was impeached and removed from office on charges of giving favors in return for campaign funding, divulging state secrets, and unduly influencing the privatization process. In June, former president Valdas Adamkus was reelected to replace Paksas, defeating Kazimiera Prunskiene, Lithuania's first postindependence prime minister, in the second round of voting. The election had little effect on government personnel. Adamkus reappointed Algirdas Brazauskas, the leader of the ruling LSDP and former president, as prime minister, and the cabinet was unchanged. No party won a majority in the October 2004 national elections. The newly founded populist Labor Party came in first, while the coalition of the ruling LSDP and the Social Liberals, which had enjoyed a

parliamentary majority since 2001, ranked second. In mid-December, a new coalition government of the LSDP, the Social Liberals, the Labor Party, and the UPNDP took office. Five major political parties secured seats in the European Parliament in the elections held in June 2004. *Lithuania's rating for electoral process remains 1.75 owing to a smooth democratic resolution of the political crisis of 2004.*

Civil Society. New legislation on associations and charitable funds that came into force in early 2004 simplified the earlier artificial regulatory segmentation of the nonprofit sector. It will apply to some 10,000 to 11,000 NGOs. The new legislation further improved managerial and operational conditions for civil society groups. Associations are allowed to earn profit from commercial activities, and management requirements have been simplified. Charitable and sponsorship funds no longer must employ paid administrators, but the use of property and funds is subject to more rigid regulation. The reformed legislation helped create fairer, simpler, and more transparent legal conditions for civil society organizations. However, certain excessive constraints and bureaucracy remain, and experts insist that a single law on nonprofit organizations is the best solution. In 2004, Lithuanian taxpayers used a new provision allowing them to allocate up to 2 percent of their income tax to public and private nonprofit entities. Opinion polls show that more than half of Lithuanians are unaware of this option and that the society is largely skeptical of its effectiveness. Experts worry that the 2 percent option leaves room for abuse and threatens to discourage voluntary giving, as philanthropy may come to be associated with compulsory tax collection. *Lithuania's rating for civil society remains 1.50.*

Independent Media. The intensely competitive private media sector includes a diverse range of print and electronic outlets at both national and local levels. The government-owned and -funded Lithuanian Radio and Television (LRT) is increasingly criticized by private operators, who say it interferes with free competition by accepting commercial advertising. The state-owned minority share in the Lithuanian news agency ELTA has been slated for privatization. Private media outlets continue to be held by numerous domestic and foreign interests, although the year saw some consolidation of media ownership among influential local business groups as they took over control of several leading media outlets from foreign owners. Two national television stations with a third of the audience, three major radio groups reaching an overwhelming majority of listeners, and four of five national dailies belong to domestic owners. Observers note that the ongoing penetration of local industrial capital into the media market and the trend to concentration may explain falling public confidence in the media. *The rating for independent media remains at 1.75.*

Local Democratic Governance. In February 2004, a Constitutional Court decision prohibited members of elected municipal councils from holding executive positions in municipally owned entities. This means that in some municipalities, up to a third of council members have to be replaced. In addition, recent legislative changes prohibited MPs from parallel work in local governments and separated the representative and executive powers of municipal authorities. Mayors remain the heads of municipal councils, but their executive functions have been delegated to the municipal council and administration. These changes accommodate a proper separation of powers and allow for better representation by elected bodies. Direct elections of mayors—supported by all sides of the political spectrum—became the main local governance issue during the 2004 legislative election campaign. *The new rating for local democratic governance is set at 2.50 given that the substantial decentralization of power remains impaired by ambiguities in the division of competence between central and local authorities and by insufficient financial independence.*

Judicial Framework and Independence. Several groundbreaking decisions put the Constitutional Court at the center of attention in 2004. In addition to several rulings on the constitutionality of presidential decrees, the court outlawed reelection of impeached officials and stipulated that parliamentary mandates are incompatible with other professional commitments or business ownership and that municipal council mandates are incompatible with executive positions in municipally owned entities. Accession to the EU in May 2004 was a major turning point for the Lithuanian legal system and the judiciary. Lack of expertise and technical barriers will likely raise difficulties for the courts in applying complex EU law, while at the same time the judiciary continues to face challenges as it tries to come to grips with a set of new legal codes enforced from 2003. *Lithuania's judicial framework and independence rating remains 1.75.*

Corruption. In 2004, Lithuania was shaken by grave political corruption scandals involving the president and other influential politicians. President Paksas was impeached and removed from office on charges relating to electoral campaign financing and undue interference with privatization. The presidential scandal brought out evidence of entrenched corruption at the highest levels of governance and highlighted the need for better exposure. Three MPs representing major political parties resigned following corruption charges brought by the Special Investigation Bureau (SIB). However, the investigation was closed for lack of evidence, and the SIB chief finally resigned after facing accusations that the investigation was politically motivated. Recent corruption scandals prompted discussion on expanding the application of lobbying legislation to explicitly embrace all actions aimed at

exerting influence on legislators. The level of corruption has decreased in recent years and exposure has improved, but the society continues to consider corruption an effective tool in its dealings with public authorities. In 2004, Lithuania scored 4.6 in Transparency International's Corruption Perceptions Index, a slight improvement from 4.7 in 2003. Lithuania remained below the threshold designating countries with low levels of corruption. *Lithuania's rating for corruption drops from 3.50 to 3.75 owing to the number and gravity of political scandals and negligible progress in rooting out corruption.*

Outlook for 2005. Public and political attention in 2005 will focus on the functioning of the coalition government and the new Parliament. Some observers anticipate serious splits among the coalition partners, particularly between the LSDP and the Labor Party, given signs of dissension from the very beginning of the partnership. The key issues on the 2004 political agenda include a likely renationalization of the Mazeikiai oil refinery, gas and energy price regulation, the utilization of EU funds, and tax reform. The government will also face challenges in adapting to EU membership as it formulates and articulates national interests at the community level.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.50						

Lithuania has a democratic system of government. Elections are conducted in a free and fair manner in accordance with the Constitution. Changes in government are regular and smooth, aided by a well-functioning system of checks and balances. Lithuania is a parliamentary republic with certain features of presidential governance due to the role the popularly elected president plays in forming the government. According to the Constitution, the president nominates and on the Parliament's approval appoints the prime minister, charges the prime minister to form a government, and approves its composition. Pursuant to public information laws, state and municipal institutions are obligated to make official documents public, and the laws entrench a citizen's right to receive all personal information from state and municipal authorities.

In 2004, the Parliament impeached President Rolandas Paksas and removed him from office after the Constitutional Court found grave violations

of the Constitution by the president. The stability of the existing system of governance was not affected, but public and political opinion on the functioning of the system of governance was shaken. The impeachment provoked discussions about the model of governance and separation of powers in Lithuania, but after the presidential and parliamentary elections, these discussions subsided. Since the Paksas scandal, the institution of the presidency has been rehabilitated and public confidence generally restored, although the public seems to be more attentive to the way the presidency functions.

The Parliament operates in an open manner. All bills are posted on the Internet from introduction through adoption. Legislative and executive processes are also becoming more open. Despite this, draft legislation is not always readily available to the public. Executive authorities often propose bills or adopt new regulations without prior notice or public scrutiny, although they are required by law to announce policy proposals on the Internet. One reason for this is a quick and prolific legislature and frequent amendments to adopted laws. During the legislative year from September 2003 until September 2004, for example, the Parliament enacted 692 laws and legislative amendments. The legislature does not have a legislative plan to guide its work and depends upon the government's program, which it approves together with the cabinet. In practice, most bills, especially systemic and regulatory documents whose drafting requires administrative capacities, originate in the government.

The executive branch operates with a particular lack of transparency. The government often provides only limited public access to information on regulatory proposals, arguing that the position of the government is not finalized in the drafting process. Cabinet sessions take place behind closed doors, and since July 2002 the government has ceased the once regular public release of draft decrees and other documents.

The Parliament is regularly troubled by absenteeism, which not only contributes to voter discontent, but also raises doubts about the legitimacy of adopted laws. This is more of a symbolic problem than a statutory one. Members of Parliament (MPs) often fail to pay proper attention to debated issues and so deepen public mistrust of the legislature. Several attempts have been made to require a quorum rather than a simple majority for the enactment of laws, and in July 2004 the Constitutional Court ruled that attendance of parliamentary sittings was a primary obligation of legislators and that sanctions up to impeachment might be imposed for noncompliance. The court also ruled that parliamentary mandates are incompatible with stock holding, business ownership, and paid teaching activities. At the time, some 20 MPs were teaching at Lithuanian universities.

The State Control Office audits the administration of funds from the state budget. The office has improved its performance and now reports regularly on misuse of funds. It concluded recently that almost a third of audited state institutions lacked administrative capacities and found flaws in the internal

auditing process. The State Control Office conducts audits on a regular basis; its findings are public and well accepted by audited institutions. A new parliamentary audit committee was set up after the 2004 elections. The committee was charged with examining state audit reports and legislative proposals on financial matters and with overseeing state control and privatization and public procurement agencies.

The military and its functions are entirely under civilian control. The run-up and accession to NATO improved the administration and transparency of the military. However, the conduct and oversight of the main security services were affected by the political battles in 2004. The State Security Department was the main supplier of the information that led to the impeachment of President Paksas and did not evade criticism from political opponents. A special parliamentary commission concluded that the conduct of the agency in charge of investigating corruption, the Special Investigation Bureau (SIB), was politicized because the SIB inadmissibly aired corruption accusations to politicians in the process of the Paksas investigation. A commission report stated that parliamentary control over security agencies and their conduct of intelligence activities was ineffective and that improper intelligence activities had been undertaken.

The civil service comprises four categories: career civil servants, political appointees, heads of institutions, and acting or temporary civil servants. Ongoing reforms of the public service system notwithstanding, civil servants are criticized for lacking competence. The professional skills and managerial abilities of local officials vary significantly. Civil servants are frequently inclined toward excessive interventionism and are affected by political connections and cronyism. This, coupled with slow reforms and entrenched bureaucracy and corruption, contributes to the high degree of public mistrust of government.

A code of conduct for civil servants, adopted in August 2003, establishes the principles of state service, responsibility for ethics violations, and a legal mechanism for punishment of unethical behavior. Yet critics charge that the code is too vague and abstract and the enforcement mechanism is inadequate.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
2.00	1.75	1.75	1.75	1.75	1.75	1.75	1.75

Lithuania underwent several political tests in 2004. The head of state was removed from office, the political system was shaken by corruption scandals, and three elections took place: presidential, national legislative, and European Parliament.

The presidential scandal began in late 2003, when allegations emerged that tied President Paksas and his top aides to a controversial Russian-born

businessman, Yuri Borisov—the biggest contributor to Paksas’s presidential campaign—and to Russia’s foreign intelligence service. A special parliamentary commission concluded that Paksas had violated the Constitution and presidential oath on six counts. Paksas dismissed the numerous calls to resign from political leaders and civic groups and blamed the scandal on political opponents. The situation soon grew into open confrontation between Paksas and the Parliament and government, and Paksas loyalists became involved in legal disputes over the president’s actions. Several presidential advisers were later successfully sued for political slander; Borisov was found guilty of threatening behavior toward the president.

With the support of 86 MPs, the legislature initiated impeachment proceedings against Paksas on charges of divulging state secrets, illegally influencing privatization, and threatening national security. Paksas’s position grew still worse when the Constitutional Court ruled on December 30, 2003, that he had violated the Constitution and presidential oath by granting Borisov Lithuanian citizenship in return for substantial financial and other support; by leaking classified information about the intelligence investigation on Borisov; and by exerting undue influence on stakeholders in a private company connected to him.

In April 2004, the Parliament voted to impeach Paksas on all three counts by a narrow margin (respectively, 86, 86, and 89 votes; 85 votes were required) and removed him from office. The entire scandal and impeachment process reflected a deep political confrontation, as shown by the widening gap between the president and the country’s political leadership and the defiance that major political forces displayed toward the president. But this also determined that the exposure of the facts of corruption led to an effective outcome. While during the scandal both foreign and domestic observers saw it as tarnishing Lithuania’s image in the international arena, the democratic resolution of the political crisis was hailed as a victory of democracy and proof of functioning democratic governance.

In May 2004, the Parliament, with votes from both the ruling majority and the opposition, passed legislative amendments to prohibit an impeached president or MP from running for office for five years. The Constitutional Court, asked to assess the constitutionality of this restriction, ruled that an impeached person “may not evade the constitutional liability either by new elections, or referendum, or in any other way” and may never be reelected.

Snap presidential elections were held on June 13, 2004, along with elections to the European Parliament. Five candidates competed in the first round: ex-president Valdas Adamkus, defeated by Paksas in the second round of the 2002 presidential elections, who was supported by the Liberal and Centre Union (LCU); Lithuania’s chief European Union (EU) membership negotiator, Petras Austrevicius, supported by the Homeland Union (Conservatives) and the Labor Party; social security and labor minister Vilija Blinkėvičiūtė,

nominated by the Social Liberals; Ceslovas Juršenas, nominated by the Lithuanian Social Democratic Party (LSDP); and Lithuania's first prime minister and leader of the Union of Peasants and New Democracy Parties (UPNDP), Kazimiera Prunskienė. Adamkus and Prunskienė were the top vote winners in the first round and faced each other in the second round on June 27, when Adamkus was elected with 51.9 percent of the vote to Prunskienė's 46.7 percent on a turnout of 52.5 percent. Given the contrasting moods and rhetoric around the two candidates, the result was hailed by local and foreign observers as proof of Lithuania's Western orientation. Algirdas Brazauskas, leader of the ruling LSDP and former president, was reappointed prime minister and retained his cabinet. The LSDP and the Social Liberals had formed a ruling coalition and parliamentary majority since June 2001, becoming the longest lived of the 12 administrations since 1990.

Viable political parties, including members of the opposition, function at all levels of government. In 2004, there were 37 registered political parties. The established, so-called traditional parties represent a range of competing ideologies, but they are largely unanimous on most issues regarding the country's democratization process, market reforms, and generally supported membership of NATO and the EU. In 2004, the main political debates and splits revolved around such issues as privatization of energy suppliers; regulation of gas and electricity prices (especially following the privatization of an electricity distribution network); possible renationalization of the Mazeikių oil refinery after the troubles of its major stakeholder, the Russian-based Yukos; the future of the Ignalina nuclear power plant, Lithuania's biggest energy producer; and tax reform. The LSDP, a highly experienced and disciplined political force, is the foundation of the left-wing bloc. The Social Liberals, led by parliamentary speaker Artūras Paulauskas, are generally regarded as lacking a clear ideological identity and being dominated by their senior coalition partner. The LCU and the formerly ruling Conservatives remained influential opposition forces. Unlike the traditional parties, most of the smaller and less influential parties lack clear ideologies or platforms.

After the presidential scandal in early 2004, the political elite began to escalate a division between the established parties and newly founded "populist" Lithuanian Liberal Democratic Party (LLDP), led by ex-president Paksas, and the fledgling Labor Party, led by the country's wealthiest lawmaker, Viktor Uspaskich. The populist parties, rallying around their strong leaders, frequently made promises during election campaigns about a variety of issues that their opponents charged they could not possibly fulfill. But the established parties did much the same thing, leading to a bidding war that appears to have undercut the authority of both kinds of parties. The key difference between the two groups was that the established parties sought to function within the existing constitutional framework, while the LLDP and the Labor Party wanted to make fundamental changes in the country's basic law.

In 2004, the traditional parties, both right and left, sought to mobilize and consolidate their voters. The second-largest right-wing party, the Lithuanian Political Prisoners and Exile Union, merged with the Conservatives, while the Social Liberals signed a coalition agreement with their partner in the ruling coalition, the LSDP. Uspaskich's Labor Party topped opinion polls during 2004, although most of its members remained relatively unknown to the public. Observers attributed the party's popularity to its charismatic leader, popular promises, and people's routine disappointment with traditional and ruling forces. Uspaskich managed to attract publicly known figures to join the Labor Party as candidates for the parliamentary elections.

The Parliament passed critical amendments to election and campaign laws during the months leading up to the 2004 parliamentary elections. Most notably, in May 2004 lawmakers reintroduced a second round in single-mandate constituencies, restoring the system that had been revoked just before the 2000 parliamentary elections. Lithuania uses a mixed electoral system in which half of the Parliament is chosen through multimandate proportional balloting and half in single-mandate constituencies. Observers claimed this was aimed at adversely affecting the chances of the poll-leading Labor Party.

Yet Labor went on to gain the most votes in the national legislative elections held on October 10, 2004, winning 35 seats in the 141-seat Parliament. The LSDP–Social Liberal coalition ranked second with 31 seats; the Conservatives secured 25; the LCU won 19; and the UPNDP garnered 9. Paksas's new LLDP won 11 seats but was excluded from any coalition negotiations. Even so, Paksas was reelected as party chairman in December 2004.

After long negotiations with both left-of-center and opposition parties, the LSDP and the Social Liberals formed a ruling majority government in coalition with the Labor Party and the UPNDP. The Labor Party was invited to join the administration despite the antipathy of most political leaders toward both the party and Uspaskich, its leader. This arrangement allowed the LSDP to retain their influence in government. Parliamentary Speaker Arturas Paulauskas and Prime Minister Algirdas Brazauskas retained their positions. Viktor Uspaskich was appointed economy minister. Negotiations over the division of posts in the cabinet among the coalition leaders focused on four key ministries administering the bulk of EU funds: transport, environment, finance, and economy.

In the country's first ever European Parliament election in June, five parties divided Lithuania's 13 seats in the EU legislature: Labor (5 seats); the LSDP, the Conservatives, and the LCU (2 seats each); and the UPNDP (1 seat). Voter turnout was 46 percent. Such a relatively high turnout in comparison with other EU member states was probably due to the concurrent presidential elections, which traditionally attract more public attention.

In addition to the revised voting system, the Parliament made several other amendments to laws governing elections and political campaigns. In

August 2004, the cap on political donations from a single private individual was lowered to LTL 37,500 (US\$13,000). The Parliament also allocated US\$1.7 million of state campaign funds to parliamentary parties. The parties said this was sufficient to take them through the 2004 legislative elections. At the same time, lawmakers put significant new restrictions on political advertising: outdoor advertising was prohibited except on small, inconspicuous municipally owned posts, and television advertising, typically the biggest drain on party budgets, was limited. The changes were meant to increase the transparency of political campaign financing by reducing demands for private funds and curbing the influence that campaign contributors might exert. The law requires that candidates make public all donations and media and other advertising contracts and that political advertising is clearly indicated as such. The Parliament also imposed new legal restrictions on the operation of political parties in 2004, voting to raise the membership requirement to qualify as a political party from 400 to 1,000 people. This means that political parties with fewer than 1,000 members will have no right to participate in elections. In spite of arguments from one side that the restriction was a step backward in terms of democratic freedoms, and from the other that it will discourage “frivolous” parties from splitting up the vote, the issue failed to trigger any strong political or public reaction.

Public engagement in political life remains passive, as reflected by low party membership and voter turnouts. About 2 percent of Lithuania’s 3.5 million citizens belong to political parties, a reflection of the reluctance of many people living in post-Soviet countries to identify with any party. Voter turnout has been fairly steady, around 50 percent, with higher turnout for presidential elections. (Elections are considered valid if voter turnout is no less than 40 percent.) Ethnic and other minority groups participate freely in the political process. Public confidence in political parties and state institutions remains low, and according to opinion surveys, the Parliament and political parties remain the most unpopular public institutions.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
2.25	2.00	2.00	1.75	1.50	1.50	1.50	1.50

The nongovernmental organization (NGO) sector has developed steadily over the past decade, and observers note that NGOs have lately shown a more proactive stance on issues of public concern. In recent years, Lithuanian NGOs have significantly enhanced their organizational and managerial capacity, especially in the areas of administration and constituency building. Civil society groups more commonly have permanent staffs and recruit volunteers and are increasingly using local media and fund-raising events to establish

contacts with their local constituencies. There are still weaknesses such as inadequate public relations skills and the absence of properly functioning boards of directors. Likewise, advocacy remains an abstract concept for many groups at both national and local levels.

The Constitution guarantees the right to freely form societies and associations, and the rights of the independent civil society sector are well established and protected. There are no serious obstacles to registering NGOs. They may raise funds both domestically and overseas, but most groups lack permanent sources of income and sufficient fund-raising capabilities. NGOs also may bid for government contracts, but this practice remains rather uncommon owing to a complex administrative process. Since 2002, NGOs have been exempt from profit tax.

In early 2004, the legislation on nonprofits was overhauled. The previous distinction between “associations” and “societal organizations” was dropped, thus simplifying the regulatory segmentation of civil society groups. The change, which affected 10,000 to 11,000 of Lithuania’s 15,000 nonprofits, helped establish equal legal conditions and a simpler and clearer regulatory environment for NGOs. In addition, new legislation on charitable and sponsorship funds that regulates donations to nonprofits took effect in January 2004. Following several significant simplifications of grant-giving procedures adopted in recent years, the new laws further eased managerial and operational conditions for NGOs. The biggest improvements are that nonprofit associations are now allowed to generate profit and that management requirements have been eased significantly. Charitable and sponsorship funds no longer have to hire paid administrators, but the use of their property and funds is now regulated more strictly. Many experts continue to insist that a single law on civil society groups would be the ideal solution.

Most NGOs are registered in the largest cities, but regional groups constitute the bulk of functioning organizations. Sports and cultural groups dominate. Most foundations are devoted to youth or cultural activities. Women’s organizations are numerous. According to the Women’s Information Center, there are about 100 women’s organizations, of which 56 are established in the five largest cities. Ethnic groups are quite active in the country’s civic and cultural life. There are no prominent extremist groups active in Lithuania today. Most of the charitable activities of religious communities include care for the elderly, orphans, and disabled.

Public awareness about civil society groups remains rather low, although attitudes to private giving are favorable. According to a survey commissioned in May 2003 by the Open Society Fund–Lithuania, 80 percent of the population would contribute to charities or other philanthropic causes if they could afford it, but more than half could not name a single donor organization. As much as 72 percent of the population, 88 percent of businesspeople, and 93 percent of NGO staff mistrust the way donations are allocated and think that

donations are frequently misused or targeted improperly. Excessive bureaucracy and paperwork, a lack of community and philanthropic traditions, the ambiguous position of the state, and inadequate economic conditions are seen as the main obstacles to philanthropic activity, according to the survey.

Volunteerism is becoming more widespread, although it remains a rare form of NGO support, mainly because Lithuania lacks a strong tradition of independently donating one's time to a cause. Indeed, regulations even discouraged the practice until recently, as volunteers could be treated as illegal employees. Regulations were eased in 2001 and 2002 but still place excessive bureaucratic constraints on some areas of volunteer work.

Private giving benefits from income tax deductions. Starting in 2003, Lithuanian taxpayers may also allocate up to 2 percent of their income tax to private or public nonprofit entities. The "2 percent option" caused some controversy. It has helped reduce budget redistribution and allowed taxpayers to support civic initiatives of their own choice. Yet some worry that voluntary giving may be discouraged if philanthropy comes to be associated with compulsory tax collection. Also, there is room for narrow individual and group interests to abuse the provision by establishing fictitious organizations to absorb the funds. This in turn may prompt tighter regulation of the nonprofit sector.

Opinion polls reveal that people are skeptical of the 2 percent option and think it reflects the government's inability to solve social problems. More than half were unaware of the tax option, and only 15 percent of taxpayers planned to use it to support nonprofits, reported the market research firm RAIT. Companies can donate up to 40 percent of their annual taxable profits to NGOs.

Citizens are free to form and join trade unions. Although unions claim a relatively small share of the workforce, about 15 percent, they are quite strong and influential. Together with employers and the government, unions make recommendations on national labor policy. Trade unions exercise broad powers. By law, unions sign collective agreements with employers on behalf of all employees, and the 2003 labor code requires all employers to comply. Trade unions have a right to seek and obtain all sorts of information from businesses. Members of a union's elected governing body may not be dismissed or penalized by their employers without the union's approval. The Lithuanian Confederation of Trade Unions, the Lithuanian Labor Federation, and the Employees Union are coalitions of labor groups. The largest trade unions are in construction, the food and chemical industries, and the energy sector.

Interest groups, public policy groups, and other nonprofits may take part in the political process through policy advocacy, advising, and lobbying. Civil society groups are increasingly engaged in public hearings and joint task forces on pending policies and legislation. Business associations and trade unions are the most active and influential players. However, government cooperation and

consultation with NGOs are not yet fully established. The media are receptive to independent public policy groups as reliable sources of information, but media coverage of other civil society organizations is not wide.

Official lobbying activity, legalized in 2000, is relatively rare. In 2004, there were only seven registered lobbyists. Observers note that this may be related to extensive informal representation of interest groups and to legislative corruption. In current law, the concept of lobbying is applied quite broadly and embraces any paid or unpaid actions of individuals or legal entities that are aimed at influencing legislative processes. Thus, lobbying regulations can be applied to any publicly aired opinions on legislation or policy research. Since Lithuanian law does not regulate policy advocacy per se, the boundaries between paid lobbying and advocacy are quite vague, so the law's broad interpretation of lobbying threatens to discredit and disrupt independent public policy groups that actively express their opinions. In 2004, proposals were made to expand the application of lobbying legislation to explicitly embrace all actions designed to exert influence on the legislature. These proposals are under consideration.

The education system in Lithuania is free of political control or influence. In 2004, 2 percent of all educational establishments were private, up from 1.4 percent in 1999, owing mainly to a decrease in the number of public schools. From 1999 to 2004, the number of private secondary schools (19) remained stable, while the number of non-university establishments of higher education decreased. Six out of the country's 21 universities were private in 2004.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
1.75	1.50	1.75	1.75	1.75	1.75	1.75	1.75

Press freedom is well established and protected in Lithuania. Freedom House's annual *Survey of Press Freedom* has rated Lithuania "Free" since 1994. Most media outlets are privately owned, with the exception of the state-owned Lithuanian Radio and Television (LRT) and a state-owned minority share in the Lithuanian news agency ELTA, which is already scheduled for privatization. The intensely competitive private media sector includes a diverse range of print and electronic outlets at both national and local levels. In recent years, the media have consistently topped opinion polls, reflecting the degree of public confidence in various institutions. Lately, however, public trust in the media has diminished dramatically. Some observers link this to increased penetration of industrial capital into the media market and a trend to increased consolidation in the market, although there is no obvious evidence yet as to the effects of these processes on media coverage, quality, or independence. Reduced public trust in the media has also been attributed

to the clearly partial attitudes of major national media outlets during the 2003–2004 presidential scandal.

Recent acquisitions of leading media outlets by large domestic companies have heightened consolidation of media ownership among a few influential business groups. In late 2003, a Lithuanian concern, MG Baltic, which also holds a majority share in ELTA, bought one of the leading television channels, LNK, from the Swedish Bonnier group. Achema Group is another Lithuanian business giant that is actively penetrating the Lithuanian media market. In 2004, Achema, which owns the national daily *Lietuvos Zinios*, popular radio stations RC2 and Radiocentras, and two publishing houses, acquired the fourth-largest national commercial television station, Baltijos TV, from the Dutch-based Polaris Finance and the Polish Polsat. MG Baltic and Achema are each planning to participate in the final privatization of ELTA, which the Parliament authorized in March 2004. In January 2004, a group active in the energy sector, Rubikon, bought a second regional television channel. These acquisitions have minimized foreign ownership in the Lithuanian television market. So far, given Lithuania's small market, the radio and the press have been dominated by small local shareholders, but they too are increasingly attracting large industrial and other capital. Lithuania has no sector-specific regulation of media ownership concentration. Applicable competition law sets a general limit of 40 percent of market share.

The media are editorially independent and free of government interference. There are five national daily newspapers: *Lietuvos Rytas*, *Kauno Diena*, *Respublika*, *Vakaro Zinios*, and *Lietuvos Zinios*. The most popular are *Lietuvos Rytas* (with a reported circulation of 55,000), *Vakaro Zinios* (65,000), and *Respublika* (30,000). *Lietuvos Rytas* and *Respublika*, each of which owns significant interests in the print media market, are the most prominent players and are old rivals, including in their political viewpoints. The newspaper distribution system is almost entirely privately owned, except for the Lithuanian Post, the national postal service, which holds a negligible share of the market.

The television market comprises 4 nationwide and 27 regional operators. The only public service television, Lithuanian Television (LTV), broadcasts two national programs, LTV1 and LTV2. (LRT stands jointly for the Lithuanian Radio and Television, whereas LTV is an acronym just for the state-owned TV channel Lithuanian Television.) The leading national broadcasters are TV3, owned by the Scandinavian Modern Times media group, and LNK, capturing about 27 percent of viewers each, according to September 2004 data. LTV (13 percent) and Baltijos (7 percent) follow. Regional stations emerged as private initiatives supported with public funding in 1994. There are 55 cable television operators and 4 wireless multichannel, multipoint distribution system (MMDS) operators. Cable television systems are different from MMDS operators; the latter comprise national and regional channels,

while “cable television” refers to a different mode of transmission.

Of the 47 radio stations in Lithuania, 10 commercial stations and 1 public broadcaster (with 2 stations, LRI and LR2) operate nationwide. The state-run Lithuanian Radio enjoys the largest audience, with about a 24 percent share in spring 2004. Other popular radio stations are Radiocentras, M-1, Russkoje Radio Baltija, and Pukas, each with about 10 percent of the listening time. The largest commercial radio stations are owned by four major groups, of which three belong to local owners and reach the vast majority of listeners.

The media market is subject to self-regulation based on a system of multiple regulators prescribed by law. The Commission on the Ethics of Journalists and Publishers, the Office of the Inspector of Journalists’ Ethics, and the Radio and Television Commission function as independent supervisory bodies. Attempts to establish a media ombudsman’s office failed a few years ago. The Radio and Television Commission, an independent body accountable to the Parliament, regulates and supervises the activities of commercial radio and television broadcasters and participates in forming national broadcast media policy. It consists of 12 members, 1 designated by the president, 3 by the Parliament, and the rest by civic organizations. The commission is financed by a percentage of broadcasters’ advertising proceeds in order to secure independence from government and political groups. The government exerts some pressure on the national broadcaster, LRT, through budgetary controls. And politicians occasionally criticize public television’s political commentary. Some lawmakers have suggested increasing the number of LRT council members appointed by civic organizations to prevent the influence of “political conjuncture” on the national broadcaster, according to the Baltic News Service. Private television operators increasingly complain that LRT, with 75 percent of its budget provided by the state, is allowed to sell advertising. This is seen as a violation of free competition. In December 2004, the Parliament postponed until 2006 the introduction of a subscription fee for LRT. Intended to help reduce state support for the national broadcaster, this unpopular decision has been postponed every year since 2000.

Journalists and media outlets are free to form their own professional associations, among which the Journalists Union is the most prominent. Most influential media representatives act in accordance with the ethics code for journalists and publishers.

According to the Lithuanian criminal code, libel or the dissemination in print of false information defaming a person can result in a fine, two years in prison, or two years of penitentiary labor, which is not as rigid as prison. However, in recent years few journalists have been convicted of such crimes. Publications can be closed and journalists penalized only by court order.

The public enjoys unhindered Internet access, and it is growing rapidly. In 2004, about 15 percent of Lithuanian households were connected to the

Internet, up from 2 percent at the end of 2000. In summer 2004, 28 percent of the population used the Internet, up from 23 percent a year before, reported market research company TNS Gallup. The Internet is being used more often in political and cultural debates. Some of the most popular information portals are www.google.lt, www.delfi.lt (targeting the Baltic states), www.one.lt, www.lrytas.lt (the Web site of *Lietuvos Rytas*), and www.takas.lt (Lithuanian Telecom). According to 2003 legal regulations, the electronic dissemination of information is subject to self-regulating mechanisms derived from other Lithuanian regulations, such as those that apply to the press, radio, and television. In November 2004, lawmakers postponed a proposal to write specific statutory regulation for online media. The proposed regulations were criticized for placing disproportionate responsibility on Internet service providers concerning the content of Web sites. The proposal was also criticized for setting double legal standards, discriminating against online media, and curbing free media and freedom of expression.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.50						

Substantial power is situated at subnational levels of government. Lithuania has one level of local government, which encompasses 60 municipalities led by elected councils and 10 regional administrations governed by central appointees. The responsibilities of local government include municipal development, primary and secondary education, primary health care, environmental protection, social assistance, and public utilities. In certain areas, such as land planning, health care, and education, both central and local authorities are involved. Ambiguities in the division of power have impeded decentralization, the distribution of fiscal allocations for municipalities, and transparent and accountable governance on the municipal level. Proposals to abolish regional administrations were aired by political parties during the October 2004 parliamentary elections. However, regional governors remain influential political officials, and a political decision on the removal of the regional tier of governance is unlikely.

A new model of local government was introduced through 2003 amendments to the Law on Local Government, adopted to comply with a 2002 Constitutional Court ruling that MPs could hold only one post and could not serve concurrently on municipal councils, nor could mayors serve simultaneously as heads of municipal executive authorities and lead elected municipal councils. MPs were thus banned from parallel work in local governments, and representative and executive powers of municipal authorities were separated. Mayors remain the heads of municipal councils, but their executive duties have

been delegated to the municipal council and administration, led by a director who is appointed by the municipal council at the suggestion of the mayor. The director of administration is now responsible, among other things, for administering municipal funds and implementing decisions of the municipal council. The press labeled the new model a “municipal revolution.”

In June 2004, lawmakers reduced the shock by amending the law to allow those MPs who lost their seats in the October 2004 legislative elections to retain their municipal mandates. The parliamentary legal department heavily criticized these amendments as violating the principle of mandate continuity, but the new provisions went basically unnoticed by the public. The shock had already come to many municipal officeholders, however, when in February 2004 the Constitutional Court ruled that municipal council mandates were incompatible with executive posts in municipally owned entities, such as schools, hospitals, or businesses. This means that in some municipalities as many as a third of the council members have to be replaced without waiting for another election.

Municipal councils are elected in general elections. Candidates can run for local council seats through party lists only. The tenure of municipal councils has changed several times and is now four years. Mayors are elected by municipal councils. Direct election of mayors was a topical issue during the recent legislative election campaign. This idea is supported on all sides of the political spectrum, and the Parliament is likely to approve it. Municipal elections are universal and free and are conducted in accordance with established democratic rules. The current municipal councils were elected in December 2002, when 22 parties shared 1,560 council seats. Among the major parties, the ruling LSDP won 332 seats; the opposition Conservatives, 193; the UPNDP, 190; the Liberal Union, 160; and the Center Union 156 seats. (The Liberal Union and the Center Union were two different parties before the municipal elections, but later they merged into the LCU.) Exploiting the often criticized party list election system, a popular practice among election candidates, especially prominent party leaders, is to occupy top positions on the municipal election lists but to reject municipal mandates after the elections in favor of parliamentary seats or posts in the government. Observers note that this disappoints and misleads the voters.

The operation of municipal councils and municipal administrations lacks transparency. Legal acts enacted by municipal councils are not available on the Internet; in practice, decisions are not communicated to the public until their enactment. Polling data cited by the Lithuanian branch of Transparency International suggest that municipal officials dealing with routine applications are the recipients of the largest bribes from businesspeople. Since the general public has difficulty deciphering the division of competences between national and local governments, voters are more demanding with respect to the ethics of national officials.

Municipal governments generally lack funds to meet their expenditure obligations, owing mainly to mismanagement and to their expanding sphere of authority. The bulk of municipal revenues comes from the central government. Changes are negotiated between municipalities and the central government and approved by the Parliament. In 2004, central budget subsidies accounted for 58 percent of municipal revenues; 32 percent was generated from personal income tax; and the rest came from local charges and dues. Given that revenue volumes differ markedly across municipalities, they are equalized according to the projected expenditure needs of specific municipalities.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
2.25	2.00	2.00	1.75	2.00	1.75	1.75	1.75

Accession to the EU in May 2004 was a major turning point for the Lithuanian legal system and judiciary. The judiciary is likely to face difficulties in implementing EU law, however, even though EU law is binding upon member states in the areas of exclusive competence of the communities. Lithuanian judges are generally reluctant to apply international legal instruments in their decisions; moreover, the system of EU law is rather complex and requires thorough knowledge of the concepts and of specific legal acts. Furthermore, not all legal acts and decisions of the European Court of Justice are accessible in Lithuanian.

Fundamental political, civil, and human rights are enshrined in the Constitution. Freedom of expression, religious freedom, freedom of association, the right to a fair trial, and the right to own property and businesses are guaranteed and well established in national legislation and Lithuania's international obligations. Accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms has provided an extra tier for Lithuanian nationals to appeal cases of human rights violations. Equality before the law is generally well respected. According to an opinion poll released by the UN Development Program in December 2004, Lithuanians felt that the human rights situation had improved over the past three years. Respondents felt that religious freedom, the rights of ethnic minorities, and freedom of expression were given the highest level of protection, while socioeconomic rights were most vulnerable.

The concept of a right to privacy, which was not very widely known by the general public until recently, received extraordinary public attention in 2004 as recordings of tapped telephone conversations played major roles in the presidential scandal and the corruption scandals involving MPs. The recordings were classified information for the use of pretrial investigations but were leaked to the media. Some politicians and civil society organizations

raised concerns about violations of privacy by law enforcement. However, law enforcement agencies and the society at large tend to treat such measures as acceptable when applied to influential businesspeople and politicians. Civic organizations are participating in the drafting of new legislation on intelligence activities. The process began in 2004 and will have significant implications for citizens' rights.

In 2004, the Constitutional Court continued to serve as a powerful, independent, and reliable guardian of the country's basic law and the rights it guarantees. In 2004, the court was confronted with a number of high-profile cases and made critical decisions on the constitutionality of presidential decrees, a ban on reelection of impeached officials, the incompatibility of parliamentary mandates with other professional activities, and the incompatibility of municipal council seats with executive functions in municipally owned entities. The Parliament evidently tried to transfer controversial political decisions to the Constitutional Court by framing those questions within constitutional disputes.

The process of reforming the country's legislative and judicial framework is now essentially complete. A new civil code in line with EU law and international legal acts came into effect in 2001. A code on civil procedure took effect in 2003 and significantly eased civil legal proceedings. A penal code came into effect in May 2003, along with a penal procedure code and the penalty execution code approved in 2000. The 2003 penal code, which replaced the old Soviet penal code, divided unlawful activity into crimes and criminal offenses and prohibited the imposition of prison sentences for the latter. These provisions are designed to prevent unjustified imprisonment and to increase the penalties for repeat offenders. Notably, criminal penalties in Lithuania have been among the strictest and the number of prisoners per capita among the highest in Europe. The 2003 penal procedure code is tailored to speed up law enforcement procedures, investigations, and trials. Judges are now more involved in the pretrial stage of investigation. The 2003 penalty execution code removed some excessive restrictions on the rights and liberties of convicts and improved the mechanism for filing and investigating their complaints.

There are no research data on the impact of these reforms, and the results will take some time to become apparent given the complexity and scope of the changes. However, experts and the judiciary alike complain that the new codes contain serious flaws that are already impeding their proper implementation. Reportedly, redefined crimes and changes in applicable penalties are causing the most difficulty. In particular, the delegation of pretrial investigation to police forces has brought confusion and uncertainty because many police officers, especially interrogators, lack adequate legal qualifications for performing this function. A total of 55 percent of interrogators had no legal education, the *Kauno Diena* newspaper reported in 2003.

The president nominates, and the Parliament approves, the chair and judges of the Supreme Court and the court of appeals. In the case of the Supreme Court, however, its chairman, rather than the Court Council, recommends appointments and dismissals of judges and department chairs. The Court Council makes such recommendations for judges and chairs of other courts. Critics charge that this increases Supreme Court judges' dependence on the chair. The Supreme Court reviews judgments and orders of the courts of general jurisdiction.

The president appoints district court judges and, upon approval of the Parliament, the prosecutor-general. Court chairs, court department chairs, and deputy court chairs are appointed for one term. The number of terms is not limited. Circuit court judges are first appointed for five years and then until 65 years of age. The first term is considered to be too lengthy by some analysts, who argue that judges may feel forced to accommodate the interests of both the government and the judiciary.

Most judges appear to rule fairly and impartially, but public mistrust of judges is high. Courts continue to appear at the bottom of the popularity list in public opinion polls. Lower-tier courts are trusted the least, national daily *Kauno Diena* reported. Corruption, protracted trials, and disrespect of the court toward trial participants are the main factors that undermine public confidence. Politicians and the media also distrust the judicial branch. As a result, judges work in a hostile atmosphere. Yet appeal statistics show that a very small percentage of verdicts is appealed.

The government has no formal control over court decisions. However, a lack of funding stimulated the national court administration to ask the Parliament on several occasions in 2004 to provide the means necessary for proper functioning. In the lowest tier, where most cases are tried, three judges now share one assistant, which is obviously insufficient for effective adjudication. Lower-level courts are reportedly suffering loss of staff owing to the high workload, heavy responsibility, and relatively low pay. Judges, especially court chairs, also perform administrative functions, which not only impairs judges' work capacities, but also raises doubts about transparency in assigning cases and the independence of judges.

Criminal investigations and trials are frequently protracted, and court hearings are lengthy. However, tighter control of court proceedings has helped to markedly reduce the number of overlong cases in the past few years. The presumption of innocence and the right to a fair and public hearing are guaranteed by law and normally secured in practice. But defendants' right to a fair trial is often undermined by poor legal representation. As the Law Institute, a governmental research group, reports, 94 percent of cases are represented by poorly paid and poorly motivated public attorneys. The 2003 penal procedure code is expected to finally bridge these gaps. Concerns linger over detention without trial and arbitrary arrests. The Human Rights Moni-

toring Institute reports that the main problems are with illegally prolonged temporary detention, failure to bring persons promptly before the court, and inadequate lockup conditions for police detainees.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	3.75	3.75	3.75	3.50	3.50	3.75

Corruption remains a systemic problem in Lithuania, present in all layers of state governance and public administration. Most of the problem areas are associated with loopholes that grant excessive authority to public officials and create conditions ripe for the abuse of official power. A chain of scandals that broke in 2003 and continued through 2004 led analysts to reiterate concerns over recurrent corruption and to question the government's ability to fight it.

In 2004, Lithuania was shaken by grave political corruption scandals involving top officials and politicians. The scandal that resulted in the ouster of President Paksas was primarily about corruption. All three counts against Paksas involved connections between the president (and his top aides) and business interests. The presidential scandal confirmed concerns about entrenched political corruption and highlighted the need for better exposure and oversight of the political process.

Another scandal surfaced later in 2004 as three MPs representing established political parties were accused of taking bribes to ensure passage of amendments to energy legislation in favor of one influential business group. The authorities seized documents from the headquarters of the implicated parties on the eve of presidential and European Parliament elections. Politicians and opinion leaders severely criticized what they called the politicized timing of the raids. The accused lawmakers stepped down voluntarily to allow the investigation to continue, but it was later terminated for lack of evidence. This case received huge media coverage and provoked discussion not so much about legislative corruption, but about the involvement of law enforcement in political battles. The head of the anticorruption bureau, the SIB, was accused of acting in a politically motivated and partial manner and resigned from office in response to severe criticism from President Adamkus.

The SIB, an independent institution established in 1997, is in charge of official anticorruption activities. Lithuania has a comprehensive legislative and institutional framework for combating corruption, including a 2002 National Anticorruption Program, tailored to streamline interagency structures and reduce bureaucracy as key mechanisms in fighting administrative corruption. The program also seeks to make public officials personally responsible for inadequate regulations or administrative decisions. The state institutions tasked with overseeing the program have been blamed for lackluster imple-

mentation and for paying it at best nominal attention, and the SIB has been criticized for occupying itself with petty investigations and avoiding high-level corruption cases.

Executive and legislative bodies operate under audit and investigation rules. There are strict limitations on the participation of government officials and civil servants in economic life. They may not sit on enterprise boards, represent enterprises, or make contracts with related entities. Civil servants may not represent any interests related to their former place of employment for one year after entering state service. The law prohibits conflicts of interest and requires financial disclosure by politicians, heads of businesses, and their spouses. Elected politicians and political civil service appointees must make annual declarations of their income and property, but such declarations are often a sheer formality. Government authorities are obligated by law to publicize vacancies and call for contracts in the official gazette. However, these requirements have been systematically circumvented by various means.

The crime of accepting or demanding a bribe is punishable by denying offenders the right to hold certain professional positions and by imprisonment for three to eight years. Punishments for the abuse of official power include fines, denial of the right to hold certain positions, and imprisonment for four to six years. In July 2003, the law was amended to allow the dismissal of state servants for the abuse of official power and violations of ethics, punishable by a three-year prohibition from state service.

All persons reporting cases of corruption receive general legal protections. Allegations of corruption and violations of ethical norms are given extensive coverage in the media. The media played no small role in heating the atmosphere during the numerous political corruption scandals in 2004.

Public perception of corruption is high in Lithuania. Most Lithuanians censure those who profit from graft at the same time that they tolerate corruption. Half of the society thinks that Lithuania is a corrupt state, but only a sixth would report corruption to the authorities, according to polling data cited by the Delfi.lt portal. According to a survey released by Transparency International's Lithuanian branch in November 2004, the scope of corruption has shrunk in recent years, but bribes are still seen as effective tools by most Lithuanians. Transparency International's 2004 Corruption Perceptions Index shows Lithuania in much the same position as in 2003. Transparency International continues to rank Lithuania among the countries with serious corruption problems.

Corruption and bribery are entrenched in many areas. The traffic police, health care institutions, and institutions of higher education are the most vulnerable areas, according to a public opinion poll released by Transparency International and the SIB in June 2004. The results show that in the preceding year, half of all contacts with the traffic police involved bribes, almost a third of the population gave unofficial payments to doctors, and nearly every third student made unofficial payments to schools or teachers.

Transparency International's *Global Corruption Barometer 2004*, a survey of the general public released in December 2004, reports that Lithuanians consider customs, political parties, the Parliament, and the courts to be the four most corrupt institutions.

Corruption also continues to plague land restitution and relocation procedures and public procurement. Misuse of information, favoritism, and concealment of conflicts of interest are the most frequent procedural and ethical violations seen in restitution of private property. New legislation on public procurement adopted in May 2003 made officials responsible not only for procedural infringements, but also for violations of equality, nondiscrimination, transparency, and efficiency, principles enshrined in law for the first time. Public purchase announcements must now be published on the Internet. The law thus increased procedural transparency, but officials retain discretionary powers in applying public procurement criteria and assessing bids.

Corruption is pervasive within Lithuania's extensive regulatory system. The state intervenes into the economy mainly by this avenue, such as by regulating energy prices, prescribing a mandatory minimum wage, setting quality standards, requiring numerous permits and inspections, and other regulatory steps. Many feel this amounts to excessive regulation. Direct participation of the state in the economy has been minimized through large-scale privatization, including infrastructure privatization. In 2004, privatization of the alcohol manufacturing industry was completed, and the transportation and energy sectors are also being released from state ownership.

Recent corruption scandals have prompted discussion about lobbying. The national Lobbyist Association and the Supreme Commission on Official Ethics have proposed expanding the application of lobbying legislation to explicitly embrace all actions designed to exert influence on the legislature, but the proposed definition of lobbying lacks cohesion. The amendments would also impose heavy registration, reporting, and disclosure requirements on civil organizations and business associations.

In 2004, Lithuania scored 4.6 in Transparency International's Corruption Perceptions Index, a slight improvement from 4.7 in 2003. Lithuania remained below the threshold designating countries with low levels of corruption. Although Lithuania has created a comprehensive legislative and institutional framework for fighting corruption and the level of corruption has dropped recently in the view of the public, domestic authorities and international organizations alike continue to recognize corruption as one of the country's biggest concerns. Recent scandals have raised public awareness of the problem and emphasized the need for better exposure.

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Macedonia

<i>Capital</i>	Skopje
<i>Population</i>	2,000,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$6,470
<i>Private sector as % of GDP</i>	65%
<i>Ethnic groups</i>	Macedonian (64 percent), Albanian (25 percent), Turkish (4 percent), Roma (3 percent), Serb (2 percent), other (2 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	3.50	3.50	3.50	3.75	4.50	3.50	3.50	3.00
Civil Society	3.75	3.75	3.50	3.75	4.00	3.75	3.25	3.25
Independent Media	4.00	4.00	3.75	3.75	3.75	4.00	4.25	4.25
Governance	4.00	4.00	3.00	3.75	4.25	4.50	4.00	n/a
National Democratic Governance	n/a	4.00						
Local Democratic Governance	n/a	4.00						
Judicial Framework and Independence*	4.25	4.50	4.25	4.25	4.75	4.50	4.00	3.75
Corruption	n/a	n/a	5.00	5.00	5.50	5.50	5.00	5.00
Democracy Score	3.90	3.95	3.83	4.04	4.46	4.29	4.00	3.89

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Macedonia is a former republic of Yugoslavia that gained independence in 2001. Unlike other areas of the former Yugoslavia, the country did not become engulfed in large-scale ethnic wars in the 1990s. However, open hostilities between the majority ethnic Slav population and ethnic Albanians (roughly a third of the country's population) broke out in 2000–2001. Peace was restored with the Ohrid Framework Agreement of August 2001, which was brokered with active international involvement. The agreement called for greater integration of the Albanian minority into Macedonian society by means of a series of political and institutional reforms in the areas of local and national governance, education, and health care. The settlement also stipulated a general framework in which to accomplish these goals to preserve the territorial integrity and sovereignty of the Macedonian state.

The most important event of 2004 was the passing of local government reform, which redrew municipal borders and sought to provide for more equitable political representation of minorities at the local level. The World Macedonian Congress, a diaspora nationalist group, challenged the law and gathered enough signatures in Macedonia to force a national referendum on the issue. The referendum, held in November 2004, failed to garner enough support to restore the previous municipal law, thus ensuring continuity of the reform process outlined in the Ohrid Agreement. Prior to the referendum, Prime Minister Hari Kostov of the ruling Social Democratic Alliance of Macedonia (SDSM) threatened to resign if voters rolled back the decentralization plans. Despite the failure of the referendum, Kostov quit, citing an inability to work with the ethnic Albanian political parties in the ruling coalition. Overall, the government found itself in a delicate situation, needing to strike a fine balance between keeping ethnic Macedonians happy, granting ethnic Albanians more rights, and sticking to the Ohrid Agreement agenda—key to the success of Macedonia's bid to join the European Union (EU) and to maintaining good relations with the United States.

A few days before the referendum was held on November 7, the U.S. State Department announced that Washington would start to recognize the constitutional name of the country, Republic of Macedonia, thus dropping the controversial "Former Yugoslav" precursor still used by a number of international bodies. The name is the subject of a long-running dispute with

Greece, which refuses to recognize Macedonia under its constitutional name, insisting that it represents a territorial claim on the northern Greece province bearing the same name. While the announcement might have overshadowed the referendum with mass celebrations continuing into the weekend (the referendum was held on Sunday), early opinion polls in Greece showed that close to 90 percent of the population supported the government's threats to veto Macedonia's potential entry into the EU. Brussels has indicated that it does not intend to follow the U.S. lead as Dutch prime minister Jan Peter Balkenende (holding the EU presidency) announced that the EU will still use the "Former Yugoslav Republic of Macedonia" for the time being.

Domestically, the security situation has continued to improve, with the implementation of the reforms aimed at integrating the ethnic Albanian community and at further easing the secessionist tensions that led to the 2001 conflict. Additional progress has been made in incorporating the National Liberation Army (NLA), the force behind the insurgency, into the Macedonian political system. The NLA's successor, the Democratic Union for Integration (DUI), is not only represented in the Parliament, but is also a partner in the ruling coalition. Albanian leaders participate fully in the political process, and recent reports suggest that the activity of Albanian militant groups decreased significantly in 2004 compared with the previous two years.

Nevertheless, the reform efforts of the government, especially regarding local government reform and providing Albanians with greater political representation, have sparked communal violence in several parts of the country. From roadblocks and street riots targeting the local headquarters of the ruling party to Molotov cocktails thrown at mosques, social tensions in Macedonian society still ran high in 2004. Many of these violent acts, however, were political in nature (involving local party officials), and in only a few cases did they threaten the fragile ethnic peace in the country.

National Democratic Governance. In March 2004, Macedonia formally applied to join the EU as then prime minister Branko Crvenkovski presented the country's application to EU Council president Bertie Ahern in Dublin. Macedonia's commitment to conduct political and economic reforms that would facilitate the country's integration into Europe is expected to accelerate the current reform process and further increase its scope. The government has enjoyed a year of political stability and public support for its reform agenda. *Macedonia's new rating for national democratic governance is set at 4.00 owing to the adequate functioning of state institutions but the absence of an effective system of checks and balances among the branches of government.*

Electoral Process. Following the tragic death of President Boris Trajkovski in February 2004, Macedonia held early presidential elections in the spring, won by Branko Crvenkovski of the ruling SDSM. Observers from the Organization

for Security and Cooperation in Europe (OSCE) found the elections generally consistent with international standards. The results left the SDSM in control of both branches of the executive (president and cabinet), in addition to its majority in the legislature. Official results from the November referendum on the decentralization reform indicated that the turnout was significantly below the 50 percent required by law. While the opposition claimed serious irregularities and fraud, international monitors concluded that the vote was conducted fairly. Because the referendum was scheduled for the fall of 2004, the local elections, originally meant to be held at the same time, were postponed to March 2005. The further consolidation of the SDSM's power as a result of recent electoral results, as well as the public support received at the time of the referendum, indicate that the government is in a better position to pursue its reform agenda. *Macedonia's electoral process rating improves from 3.50 to 3.00 given the successful implementation of the 2004 elections and favorable assessments by the OSCE, which considered them fair, with a limited number of irregularities.*

Civil Society. While the general development of the nongovernmental organization (NGO) sector in Macedonia has been positive, no significant changes took place over the past year. It is still difficult to talk about a strong civil society, especially in light of continuing communal and political violence in several parts of the country. The process of increasing NGO organizational capabilities and institutional development, which registered significant progress in 2002 and 2003, has met challenges as external support has been declining and the government has not created an appropriate legal framework for NGOs to get funding domestically. *Macedonia's rating for civil society remains at 3.25.*

Independent Media. Attacks on journalists and interference with editorial policies have remained at 2003 levels, with several incidents reported. Despite serious public criticism, the government has not made any attempts to amend the 2003 changes to the criminal code, which expanded the criminal character of libel. Soon after these changes, three Macedonian journalists were tried in court in accordance with these provisions. While the government has made efforts to be more transparent in its relations with the media and the public in general, a much awaited law on access to public information has not been adopted. Local media organizations in Macedonia not only remain divided along ethnic lines, but several of them were found to be violating coverage regulations during the presidential campaign. *Macedonia's rating for independent media remains at 4.25 owing to the lack of progress in decriminalizing libel and the lack of a legal framework for access to public information.*

Local Democratic Governance. With the government initiating the process of transferring power from the central government to the units of local self-

government (municipalities), the postconflict reforms in Macedonia started in earnest in 2004. Amendments to several key laws regulating territorial division and local finances have been adopted, and the failure of the November referendum signified broad public support for governmental policies. *Macedonia's new rating for local democratic governance is set at 4.00 owing to the launch of a significant local government reform effort, which, however, remains constrained by ambiguities in the division of competences between central and local authorities.*

Judicial Framework and Independence. Unlike in 2003, over the past year political and security factors did not complicate the reform of the judiciary. Improvements have been made to citizenship law and in the legal protection of citizens' rights in relation to state institutions. The Parliament also passed major legislation guaranteeing the representation of national minorities and the use of minority languages. Nevertheless, much more needs to be done in the area of implementation, as stated in the European Commission's annual review. *Macedonia's rating for judicial framework and independence improves from 4.00 to 3.75 owing to the introduction of new legislation in line with EU standards, although the changes have yet to notably improve the performance of the judiciary.*

Corruption. The fight against corruption in 2004 lost much of the momentum gained the previous year. Still, the perception of corruption, as measured by Transparency International, improved slightly, and the country moved up in the index. The first year of the Anticorruption Commission was successful—an indication that such a body was badly needed in Macedonia. But in fighting and institutional rivalries prevented both the government and the commission from effectively pursuing their anticorruption programs and shifted public attention away from the issues of the day. *As a result of these obstacles, and the fact that no progress has been made in several high-profile corruption cases, Macedonia's rating for corruption remains at 5.00.*

Outlook for 2005. The reform process is expected to continue throughout 2005 and be completed at least in the areas of local government reform and integration of the Albanian minority. Well positioned to capitalize on its recent electoral gains and increased public support for its reforms, the ruling SDSM coalition should be able to push through with overhauling the judiciary and further harmonizing Macedonian legislation with EU law. The local elections scheduled for the spring will be a crucial test for the future success of the government's reform agenda. The EU accession process is expected to further contain ethnic tensions and consolidate political stability, although a permanent solution to the Kosovo question (regarding its administrative status) would definitely help the country overcome some of its present challenges.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	4.00						

Macedonia has a multiparty, parliamentary political system based on the 1991 Constitution, adopted right after the country gained independence from Yugoslavia. The constitutional amendments of November 2001, mandated by the Ohrid Framework Agreement, reconfirmed this institutional setup and provided for greater democratization of politics at the local level and increased participation of minority groups in the political process.

A key feature of Macedonia's parliamentary system is the separation of powers among the three branches of government: the Parliament (Sobranie), the executive (Council of Ministers and president), and the judiciary (Supreme Court, Constitutional Court, and public prosecutor). The Parliament has a leading position within this system of government with its power to adopt legislation and decide on public finances, including the state budget. It also has the power to appoint members of the executive, judiciary, and public institutions. The Parliament is a unicameral body with 120 seats filled during general elections using the method of proportional representation.

The executive branch of the government in Macedonia is dual, comprising the president and his administration and a cabinet of ministers, known formally as the government. The cabinet initiates draft legislation, provides for the day-to-day operation of state institutions, and executes laws and regulations adopted by the Parliament. As in other parliamentary democracies, the cabinet is typically formed by the political party or coalition controlling the majority of votes in the assembly following a parliamentary election. While the Parliament appoints the prime minister, he or she must be nominated by the president.

The president is elected in a separate poll by a popular majority vote. Aside from certain powers of appointment in the judiciary, the president is entitled to veto legislation adopted by the Parliament with a simple majority. His veto power is quite limited, however, since it does not apply to legislative acts adopted by a qualified majority vote and can be overridden by a simple majority.

An important institution in Macedonia's system of checks and balances is the Constitutional Court. Providing constitutional oversight of major acts of the Parliament and the cabinet, the court has the power to annul legislation or decrees that are found to violate the Constitution. The Republican Judiciary Council similarly provides oversight of the court system and judges. The Parliament appoints council members as well as Constitutional Court judges and the public prosecutor.

Macedonia's Constitution firmly states the principle of separation of powers, and the country's leaders applied that principle in the establishment of national political institutions. Yet it remains difficult to determine, as in many other countries in transition, to what extent the system of checks and balances is effective in reality. Often the lines of separation among the executive, legislative, and judicial bodies become blurred as one political party gains control (after elections) of both the legislature and the executive, which in turn provides an opportunity for partisan changes in the judiciary. Some members of the opposition Internal Macedonian Revolutionary Organization–Democratic Party for Macedonian National Unity (VMRO-DPMNE) voiced such concerns after the extraordinary presidential elections in early 2004, when the ruling Social Democratic Alliance of Macedonia (SDSM) also secured the presidency. Those fears, however, have so far been unfounded. For one thing, the SDSM leads a 10-member coalition that won the parliamentary elections back in 2002, and decision making in the Parliament in the past few years has been based on political maneuvering and compromise with the main coalition partner, the Democratic Union for Integration (DUI), and other junior coalition partners.

Another factor in keeping the separation of powers and democratic principles of governance key priorities for Macedonian politicians and policy makers has been the need to comply with European Union (EU) and NATO accession criteria. In March 2004, Macedonia formally applied to join the EU when Prime Minister Branko Crvenkovski presented the country's application to EU Council president Bertie Ahern in Dublin. Macedonia's commitment to conduct political and economic reforms that would facilitate the country's integration in Europe dates back to 2001, when it became the first western Balkan state to sign a Stabilization and Association Agreement with the EU. The formal application is likely to accelerate the reform process and further increase its scope. The magnitude and range of required reforms will be known as soon as the European Commission announces its opinion on Macedonia's bid, expected as early as 2005. The latest commission report on Macedonia, released in April 2004, marked the progress made in 2003 in harmonizing national legislation with EU law and stressed the need for greater implementation and to improve good governance, the rule of law, and the fight against corruption and organized crime. While the EU has set no specific timetable for negotiations or an entry date, future accession is expected to provide a powerful stimulus for continued reforms in the areas of political democratization and economic liberalization.

Macedonia's bid to join NATO has similarly spurred reforms in the security forces. The country has been an active member of NATO's Partnership for Peace program and other initiatives as a way of preparing for full membership in the future. Closer cooperation with NATO has helped the country's armed forces, established in 1995, to strengthen civilian control of

the military and defense structures and to streamline military planning and resource management. According to the Constitution, the commander in chief of the armed forces is the president, while a civilian minister of defense oversees all security- and defense-related activities. Both the Macedonian Ministry of Defense and the general staff of the armed forces were restructured according to NATO standards back in September 2000.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
3.50	3.50	3.50	3.75	4.50	3.50	3.50	3.00

After President Boris Trajkovski was killed in a plane crash on February 26, 2004, Macedonia held extraordinary presidential elections in April. Since the electoral law at the time did not contain any provisions for the unexpected termination of the mandate of an incumbent president, the Parliament passed an amendment to the Law on Presidential Elections. The change provided for a vote in accordance with the Constitution (which mandates an election within 41 days of a vacancy).

The elections were held in two rounds on April 14 and 28, since none of the candidates gathered a majority of all registered voters in the first round. The two leading candidates—Prime Minister Branko Crvenkovski of the SDSM and Sasko Kedev of the VMRO-DPMNE—met in the second round, and Crvenkovski secured the presidency with a clear 60.5 percent of the vote against 36.2 percent for Kedev. The Albanian parties nominated the other two main candidates in the first round: Gezim Ostreni of the DUI (14.79 percent) and Zudi Xhelini of the Democratic Party of Albanians (8.67 percent).

The final report issued by the Organization for Security and Cooperation in Europe (OSCE) on the elections found that their conduct generally complied with international standards, with a relatively small number of election irregularities (proxy voting, political violence, the presence of unauthorized personnel at polling stations, and voter intimidation). However, the OSCE observers noted several disconcerting developments in the election process. Among these were the failure of the State Election Commission (SEC) to correct legislative inconsistencies arising from the electoral law, the presence of excess names on the voter list, and a relatively high incidence of ballot stuffing in the second round. In addition, the OSCE final report criticized the manner in which the SEC dealt with complaints during both election rounds. According to the OSCE report, although the Constitution guarantees public process before the court for election- and referendum- related appeals, court decisions were not published and were returned to the submitter of the appeal.

As Crvenkovski took over the presidency, the Parliament initiated procedures for electing a new cabinet. The ruling coalition designated Interior Minister Hari Kostov as the new prime minister, and on June 2 the Parliament elected him with a vote of 68 for and 12 against. Kostov retained all of Crvenkovski's ministers, and Siljan Avramovski took over the Ministry of the Interior. In his inaugural address to the Parliament, Prime Minister Kostov outlined as key priorities of his cabinet improving living standards, reforming the judiciary, and advancing the country's integration into the EU and NATO.

After the November referendum, Kostov suddenly resigned, citing policy differences and indirectly blaming the ethnic Albanian DUI for putting ethnic and personal interests above policy goals, particularly economic ones. The Parliament accepted Kostov's resignation and, on November 19, voted then defense minister Vlado Buchkovski as the country's new prime minister. Buchkovski succeeded interim prime minister Radmila Secerinska.

Kostov's government had a turbulent tenure despite being in office for only six months. The cabinet successfully mediated many difficult negotiations between the SDSM and the DUI regarding different aspects of the reform process. As an example of the tense relationship with the coalition partner, early in Kostov's term the Parliament passed two amendments to the Law on Local Elections. In May, the Parliament adopted a supplement (which is technically different from an amendment) that mandated local elections every four years in the third week of October, with a preceding 20-day campaign period. The delays in adopting the complete package of decentralization reform envisioned in the Ohrid Framework Agreement (finally passed in August) mandated an additional change in the Law on Local Elections that set a new date for the election. The poll had to be postponed (from November 2004 to March 2005) to avoid a conflict with the date set for the referendum vote.

Preliminary results from the referendum indicated that voter turnout was between 25 and 27 percent, way below the constitutional requirement of 50 percent for it to be legally valid. A few days after the referendum, the OSCE released a statement affirming that the conduct of the referendum was consistent with OSCE principles. However, the opposition and the World Macedonian Congress, which initiated the referendum petition, claimed that there were significant irregularities. The final official results and an OSCE report found no grounds for those complaints.

The Parliament did not adopt any new amendments to the legislation on parliamentary elections, which had already been significantly revised in 2002. As required by the Ohrid Framework Agreement, before the 2002 parliamentary elections, Macedonia's legislators had enacted several amendments and supplements to the Law on Election of Members of Parliament, the Law on the Voters List, and the Law on Election Districts. The changes

created a proportional electoral system, with all 120 seats allocated according to a vote on closed party lists in six multimember constituencies (electoral districts). The districts are of similar size (roughly 280,000 registered voters) and do not follow ethnic or religious boundaries. In addition, the amended legislation eliminated altogether the 5 percent electoral threshold, an element of the old system, allowing for greater political representation.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
3.75	3.75	3.50	3.75	4.00	3.75	3.25	3.25

One of the main challenges to Macedonia's reform efforts since gaining independence in 1991 has been the dual nature of its transition. Along with the process of political democratization and economic liberalization, the goal of building a civil society has also depended on the integration of the country's ethnic and religious communities. Nongovernmental organizations (NGOs), a key building block of a functioning civil society, are a relatively new concept in Macedonian society. During the time the country was part of Yugoslavia, only a few NGOs existed, almost all with a focus on environmental issues. In the past 10 years, both the number and scope of such organizations in Macedonia have risen exponentially, and their role in dealing with pertinent societal, political, and economic issues has increased in recent times.

There are no recent official estimates of the size of the NGO sector, although previous accounts, such as the World Bank 2003 Macedonian NGO Outreach project, have put the number at 3,000. As in previous years, the main factors behind the boom in the sector are the availability of (mostly external) funds; the government's policy of seeking NGO advice on its reform plans; and the myriad issues that require NGO involvement, especially at the local level.

Traditionally, the major donors to Macedonian NGOs have been the United States and the EU, which have supported organizations and projects in the areas of decentralization, private sector reform, and the development of small- and medium-size enterprises, as well as reforms in the judiciary and education. Through the European Agency for Reconstruction, the EU has provided funds supporting projects that deal with good governance, institution building, the rule of law, infrastructure, and social development. Most of this funding supported government projects and reforms, with only a small part directed to civil society organizations. In addition to the EU, several European governments have been active donors in specific areas, such as for nurturing the growth of civil society, increasing respect for human rights, and improving interethnic relations. A reduction in international funding is likely to put financial pressures on the NGO sector, and locating a continu-

ation of external funding will be a significant challenge in a situation where local sources remain inadequate.

Current Macedonian law does not have special provisions for registering NGOs. Nonprofit entities are registered under the same regime as trade and professional organizations, employer and employee unions, interest groups, foundations and others. The operative law is called the Law on Citizen Associations and Foundations and it was enacted by the parliament in June 1998. The law prohibits all of the above-mentioned entities to be involved in direct economic activities.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
4.00	4.00	3.75	3.75	3.75	4.00	4.25	4.25

Article 16 of the Constitution guarantees freedom of speech and access to information, and 2004 showed a mixed record of the government's commitment to both. Continuing the trend of the past few years, the government did not interfere openly in the editorial policies of either the private or the public media. Yet officials did nothing to remove the criminalization of libel, which has remained in the criminal code after its 2003 amendment despite criticism from local and international press rights organizations. In its latest annual report on Macedonia, Reporters Without Borders described the defamation law as "harsh, not up to international standards, and allowing politicians and the government to sue journalists more easily." That conclusion stemmed from three court cases against journalists at the end of 2003. Zoran Markozanov of the weekly *Zum* received a three-month suspended prison sentence and a year's probation for defaming the leader of the Liberal Party, Stojan Andonov. A Skopje court handed Sonja Kramarska of *Utrinski Vestnik* a fine for defaming the same individual. Dragan Antonoski of the private TV station A1 received a fine for describing Jovan Andreevski, chief of the general staff, as a traitor in reference to his conduct during the Albanian insurgency in 2001.

Reporters Without Borders also reported several acts of violence against journalists. Four Macedonian journalists were attacked in 2004—all members of TV crews reporting from ethnic Albanian areas. Ivona Talevska and her cameraman from TV Sietel were threatened at gunpoint and kicked, then had their equipment destroyed. Locals in an Albanian village beat up Vanja Stefkovska and a crew member with MTV while they were covering a local demonstration.

The main institution in the media regulatory framework in Macedonia is the Broadcasting Council. The council grants licenses to electronic media and provides oversight of compliance to media regulations and established

standards. During the presidential elections in the spring of 2004, the council monitored the following electronic media to make sure they provided equal access to all candidates and informed the public about the election campaign in a fair and just manner: the 3 channels of the public broadcaster Makedonska Radio Televizija (MRT), the leading private stations A1 and Sietel, 54 other (mostly local) TV stations, and some 67 radio stations. The OSCE observation of the election determined that the media situation was generally good and that most media organizations had complied with the rules and laws for election coverage. Similarly, in the opinion of this analyst the Broadcasting Council acted properly and did not curb media independence. Only several local public broadcasters committed serious violations of biased reporting, political influence, and media independence. The council reported that most violations had to do with the duration of paid political programming but no action had been taken owing to the council's lack of enforcement authority, which remained a problem at year's end.

The draft of new legislation on access to public information remained in the works in 2004, although other countries in the region have successfully adopted similar forms of legislation.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	4.00						

Local self-government reform and the process of decentralization in Macedonia are prominent parts of the Ohrid Framework Agreement. For more than two years, government officials, NGOs, and local government representatives have been involved in drafting plans, assessing reform options, and participating in heated public debates in three principal areas: redrawing municipal borders, transferring powers from the central to the local level, and identifying sustainable financing solutions for local government entities. In addition, discussions about the likely provisions of a new Law on the City of Skopje have stirred public sentiment, especially among ethnic Macedonians, who fear the possibility of a bilingual national capital.

In June 2004, the government approved a package of six draft laws on the transfer of power from the central government to local entities. At the time, the government spokesman, Saso Golakovski, announced that 10 other pieces of legislation were under review. The government's proposal for a new territorial division law included reducing the number of municipalities from 123 to 80 (and to 76 by 2008) and adding the ethnic Albanian-dominated Saraj and Kondovo municipalities to that of Skopje, which would effectively make Albanian the second official language in the capital city. When announcing the plan, Prime Minister Hari Kostov stated that the proposed

local reorganization met the main goals of decentralization reform: achieving economic sustainability, providing for efficient services to citizens, and increasing citizen participation. The Parliament passed the bill in August.

In September, the Parliament adopted a crucial piece of legislation—the Law on the Financing of Local Self-Government Units—that some view as the most important law for local government reform. The new law outlines a process of fiscal decentralization that will be conducted in two stages, beginning in January 2005. During the first stage, the central government is expected to transfer funds to municipalities, retaining the size of the current subsidies but disbursing them among a fewer number of entities. The funds should support education, health care, and social protection activities carried out at the local level. Later on, municipalities will be allowed to collect and manage a portion of tax proceeds. Until now, municipalities have participated in pilot projects for managing property taxes, but their main source of revenue has been proceeds from administrative and communal tax collection and granting local licenses. In addition, municipal governments will have the right to retain 0.5 percent of income taxes as well as 2.5 percent of value-added tax proceeds. The greater fiscal autonomy of local governments is especially important at this stage of the local government reform process, since it will increase substantially the share of local governments' own revenue, currently at only around 20 percent. The central government provides the rest through intergovernmental transfers.

As many municipalities have run fiscal deficits in the past, this new fiscal autonomy would provide an opportunity to put local finances in order and to raise money for funding educational, cultural, and other functions that have already been transferred to the local level. The new law also allows municipalities to borrow additional funds in the capital markets—under the condition that the Ministry of Finance approve all international issues.

The passing of the municipal financing bill is indeed a turning point in Macedonia's local government reform. Aside from providing an adequate foundation for sustainable local government, the law sets limits on the central government's authority vis-à-vis these local entities, provides for greater civic participation, and outlines new possibilities for the free association of municipalities. The deliberations on the draft, as well as on other major local government reform bills, included open political dialogue among ruling coalition partners, on the one hand, and between government and the Parliament on the other. NGOs and local government associations were similarly included in the process, making it more transparent and democratic.

Despite the progress registered in formulating and passing key local government legislation in line with the reform agenda set out in the Ohrid Framework Agreement, the government's efforts have stirred up significant resistance, especially among local ethnic Macedonian communities. In some cases, popular discontent took the form of roadblocks, as in Obleshevo in

June, and in demonstrations and street riots in Skopje and Struga. The World Macedonian Congress, a nongovernmental diaspora organization, initiated a campaign for collecting signatures to hold a national referendum on the new administrative division of the country. After the campaign collected approximately 180,000 voter signatures, the Parliament was forced to pass a bill in September authorizing a national referendum on the new municipal borders. As discussed in the previous section, the referendum took place on November 7 but failed to reverse the course of local government reforms.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.25	4.50	4.25	4.25	4.75	4.50	4.00	3.75

Improving the work of the judiciary has been at the forefront of reform efforts in Macedonia for the past few years. Along with domestic critics pointing out the inefficiencies and slow pace of the judicial process, the European Commission has also had this area on its radar screen given Macedonia's accession aspirations. Following the country's formal application to join the EU in March 2004, the member states asked the commission to prepare an opinion of the country's prospects. The opinion will be based on a detailed questionnaire with sections on political institutions, market conditions, and the judiciary, which the Macedonian government has to complete and return for assessment. Within the current review of the stabilization and association process, the commission advised the government to take further steps in the areas of rule of law and strengthening administrative capacity. The commission report, while praising the general progress in reform efforts, stated firmly that the government must initiate a comprehensive overhaul of the judiciary. This process, in the commission's opinion, should be combined with greater efforts regarding the implementation of harmonized legislation (laws approximating EU law, many of which have already been adopted).

The Macedonian government has recognized the need for substantial change and initiated several reform measures in 2004. Minister of Justice Ixhet Memeti acknowledged publicly that the judicial system required thorough restructuring. In April, he announced that his team was working on a package of legal amendments that would provide a framework essential for the successful reform of the system. Among the proposed changes were restricting the existing practice of delaying—sometimes substantially—trials, redefining certain provisions of the criminal code, and amending the entire judicial process. In addition, the Ministry of Justice plans to propose constitutional amendments that would redefine the position of judicial power within the country's political system. More specifically, these amendments would address the issue of appointing and dismissing judges, determining judges'

immunities, and reinforcing the independence of the judiciary by setting up a separate judiciary budget. Memeti also announced plans to abandon the current practice of appointing judges through judiciary exams and to further strengthen the administrative capacity of the judiciary by introducing a new system of recruiting, training, evaluating, and promoting judges.

The current efforts to reform the Macedonian judiciary have been possible in part because of the significant legislative and constitutional reforms introduced in the aftermath of the 2001 Ohrid Framework Agreement. While these changes introduced a new political system at both national and local levels, they also provided for an equitable legal representation of ethnic minorities and the use of minority languages, as did constitutional amendments. A key reform in 2003 was the introduction of the institution of the ombudsman in Macedonia, an essential guarantee for the functioning of the new system and for stimulating civic participation across ethnic and religious lines.

The Parliament approved important amendments to the Law on Citizenship in January 2004, establishing new requirements for Macedonian citizenship. The required period of permanent residency in the country was reduced from 15 to 8 years, thus annulling Article 11 of the previous law, which had provided for a faster procedure if the applicant was an ethnic Macedonian. The two other conditions for citizenship set out in the law were proficiency in the Macedonian language and evidence that the applicant does not pose a threat to national security. One of the most bitterly debated draft laws, the Law on Citizenship was initially vetoed by the late president Boris Trajkovski, but the Parliament subsequently adopted it with a simple majority of 61 votes.

The Parliament managed to adopt two other reform-oriented laws that are crucial not only for meeting the goals of the Ohrid Framework Agreement, but also for fulfilling EU accession targets. In March, the deputies passed much anticipated amendments to the Law on Internal Affairs, effectively putting border control under the auspices of the Ministry of the Interior instead of the Ministry of Defense. Controlling the flow of people and goods across the country's borders has been a serious issue in past years, especially in light of the Albanian insurgencies in the region. Taken together, these amendments provide an important restructuring of the Ministry of the Interior in line with Article 75 of the Stabilization and Association Agreement with the EU.

In July, parliamentary deputies successfully passed the new Law on Prevention of Money Laundering, building on several legislative initiatives from 2003. The most important provision of the law is the requirement to establish the identity of any counterparty involved in a transaction of 15,000 euro (\$18,000) or more. At the same time, savings bank depositors wanting to transfer in or out of an existing account 2,500 euro (US\$3,000) or more must be identified by the bank and placed into a special register. During the parliamentary deliberations, Minister of Finance Nikola Popovski said that

the major goal of the law was to reduce the number of cash transactions and introduce new controls on money laundering.

In general, the constitutional and legislative reform process in Macedonia over the past year has proceeded well, partially as a result of the political stability and calm security situation so lacking in previous years. Important steps have been taken in the area of citizenship law and in the legal protection of citizens' rights in relation to state institutions. Nevertheless, more needs to be done with respect to implementation, as the European Commission stated in its annual review of the country's progress.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	5.00	5.00	5.50	5.50	5.00	5.00

The fight against corruption in Macedonia gained momentum in 2003, a stellar year in terms of fighting corruption, with the enactment of a series of laws and regulations and the creation of an independent Anticorruption Commission. In addition, authorities launched several high-profile corruption cases (most notably against former interior minister Ljube Boskovski and former defense minister Ljuben Paunovski), as prosecutors investigated the deeds of members of the previous government. Not surprisingly, corruption surveys, including Transparency International's Corruption Perception Index (CPI), which measures public perception of corruption, reflected these accomplishments. The 2004 CPI score for Macedonia was 2.7 on a scale of 0–10, with 10 representing the lowest level of perceived corruption. That was a slight improvement from the 2003 score of 2.3 in that year's CPI survey.

In the second half of 2004, however, the momentum in the fight against corruption was lost. Much-anticipated developments in the aforementioned court cases failed to take place as trials bogged down in the slow judicial process. The Anticorruption Commission blamed the government several times for a general lack of coordination among government institutions, necessary to fully implement the anticorruption initiatives of 2003 and the work of the commission itself. At a press conference held in August, the head of the commission, Jovan Trpenovski, told journalists that the government had given up the fight against corruption. He complained about the refusal of the Ministries of Finance and Transport to support the commission in the investigation of the two high-profile cases of suspected corruption: the privatizations of the OKTA oil refinery and the Ferspred forwarding/freight company. The previous VMRO-DPMNE government oversaw both of these privatizations, yet according to the commission, the current coalition had taken no action to reopen the deals despite the suggestion that corruption had taken place. The case of OKTA, in particular, has drawn enormous pub-

licity. A Greek concern bought the company, Macedonia's sole oil refinery, in 1999 under conditions that granted the new owner a full monopoly over the import of petroleum and guarantees by the government to buy 500,000 tons of oil for a period of 20 years.

A controversial amendment to the Law on Anticorruption passed in July reignited the infighting between the government and the commission. The new measures state that the body must undergo "professionalization," receive a five-year mandate, and make use of a budget that the government would determine and approve. Commission officials said that the changes altered the independent nature of the institution and threatened to turn it into a bureaucratic department of the government. The friction between the government and the commission dates back to 2003, when commission officials opposed the government's anticorruption program, stating that under the Law on Anticorruption they were entitled to develop and approve such a program and should have an upper hand in corruption investigations.

The commission's discontent with the lack of support from the government was aired one more time before the aforementioned amendments to the Law on Anticorruption were passed. In its annual report before the Parliamentary Committee on the Political System and Interethnic Relations in February 2004, the former head of the commission, Sladjana Taseva, remarked on the lack of government cooperation and stated that further legislative and constitutional reforms were needed to increase the effectiveness of the commission. According to the report, the commission held 55 sessions in 2003, cited 650 cases involving alleged irregularities in privatization deals and public acquisitions/procurement, and met with 1,200 citizens. Lacking the power to investigate cases and enforce punishments, however, the commission can only point to instances of corruption; it cannot act upon them.

In an effort to improve relations with the corruption watchdog, in the fall of 2004 Prime Minister Kostov met with Jovan Trpenovski, the current head, to discuss the commission's work and its cooperation with the cabinet. After the meeting, the prime minister announced that the government would adopt a special policy for meeting commission requests. Officials will make their best efforts to address such requests within 15 days after submission, but in no case should answers take longer than 30 days. In addition, each ministry will appoint a special liaison to facilitate the processing of appeals from the commission.

The controversy involving the executive and the Anticorruption Commission in 2003 is a shortcoming in the generally positive developments in the fight against corruption in Macedonia over the past two years. Recent legislative changes should help to reduce graft, although institutional rivalries have considerably slowed down reform efforts. Also proving a disappointment are delays in initiating the broad constitutional reforms necessary to amend the immunity status of magistrates and provide an overhaul of the

judiciary—even though Branko Crvenkovski, when still prime minister, pledged these changes years ago. The plans to improve the transparency and accountability of the executive have similarly not been fulfilled. As noted previously in the section on media, the Parliament has yet to pass a law on access to public information.

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Moldova

<i>Capital</i>	Chisinau
<i>Population</i>	4,200,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$1,470
<i>Private sector as % of GDP</i>	50%
<i>Ethnic groups</i>	Moldovan/Romanian (64 percent), Ukrainian (14 percent), Russian (13 percent), Jewish (2 percent), Bulgarian (2 percent), other [including Gagauz] (5 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	3.25	3.50	3.25	3.25	3.50	3.75	4.00	4.00
Civil Society	3.75	3.75	3.75	3.75	4.00	3.75	4.00	4.00
Independent Media	4.00	4.25	4.00	4.25	4.50	4.75	5.00	5.00
Governance	4.25	4.50	4.50	4.50	4.75	5.25	5.50	n/a
National Democratic Governance	n/a	5.75						
Local Democratic Governance	n/a	5.75						
Judicial Framework and Independence*	4.25	4.00	4.00	4.00	4.00	4.50	4.50	4.75
Corruption	n/a	n/a	6.00	6.00	6.25	6.25	6.25	6.25
Democracy Score	3.90	4.00	4.25	4.29	4.50	4.71	4.88	5.07

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Since declaring independence in 1991, Moldova has had to face four major interdependent tasks: building a state without any prior tradition; political transition; economic transition; and dealing with the secessionist conflict with its eastern region, Transnistria. There has been some progress on the first two tasks. Moldova has managed to become a functioning state, despite many problems; democracy and pluralism have achieved levels stronger in the 1990s than those of any other post-Soviet country except for the Baltic states; contested elections, a credible opposition, and critical media have been a reality in the Moldovan polity. However, the slow pace of economic reform, difficult economic circumstances, and the still unsolved conflict in Transnistria have negatively influenced the state of democracy in Moldova. In addition, there have been serious setbacks in the development of democracy in many spheres of Moldovan public life since the Party of Moldovan Communists came to power in 2001.

Major events in Moldova in 2004 were shaped by two factors. First was the anticipation of the parliamentary elections scheduled for March 6, 2005. The opposition to the ruling Party of Moldovan Communists crystallized around a broad coalition of parties known as “Democratic Moldova Bloc” as well as the Christian Democratic People’s Party. Civil society groups and independent media showed willingness to oppose governmental pressure and contribute to a more or less fair electoral campaign.

However, the authorities have not improved their attitude toward independent groups in society, have not decreased pressure on independent media, and continue to exercise effective control of public television and radio, despite journalist protests and external calls for freedom of speech and media protections. There has also been a tendency to use law enforcement agencies and the fight against corruption to discredit political opponents. Second, Transnistria has been high on the agenda. Tensions around Transnistria increased, with human rights abuses in the region directed against Moldovan schools. Another problem area has been the increasingly assertive stance of Russia, which is seeking to maintain its military presence in the region despite Moldovan and Western calls to respect its own engagements taken at the 1999 summit in Istanbul sponsored by the Organization for Security and Cooperation in Europe (OSCE) and the OSCE ministerial meeting in Porto in 2001 on withdrawal of troops and armament from Transnistria.

On the positive side, there is a broad political consensus in Moldova on how to deal with Transnistria. The ruling and opposition parties, as well as key nongovernmental organizations (NGOs) and think tanks, agree on the need for greater European Union (EU) and U.S. involvement if a sustainable solution to the conflict is to be achieved.

National Democratic Governance. The ruling Party of Moldovan Communists has continued its gradual evolution toward authoritarianism. Despite the fact that Moldova is a parliamentary republic, President Vladimir Voronin has been the dominant figure in Moldovan politics. President Voronin is also head of the ruling party, which provides him with excessive leverage over the executive and the legislative. Relations with Russia have deteriorated because of Russian support for Transnistria and Moldova calls for Western involvement in the conflict settlement process. Relations with the EU have intensified considerably. An action plan on increased cooperation was signed, and the EU has been increasingly present, directly or indirectly, in the efforts to deal with Transnistria. The long-term objective of EU membership for Moldova continues to enjoy broad support in the society. The main obstacles to the efforts to come closer to the EU, however, are the ruling party's internal policies, which do not always meet democratic standards. The role and influence of international actors, particularly in supporting democracy in Moldova, remain crucial. *Moldova's new rating for national democratic governance is set at 5.75, reflecting the lack of governmental control over the entire territory of the country and the absence of an effective system of checks and balances in the political sphere.*

Electoral Process. After the 2003 local elections, considered the worst since Moldova's independence in 1991, nothing seemed to indicate throughout 2004—a preelectoral year—that the parliamentary elections in 2005 will produce an improvement. Some fine-tuning of electoral laws was carried out, but the overall situation remains the same. Lack of funds, control of the Central Election Commission and of the Audiovisual Coordination Council by the governing party, and murky legislation on campaign expenditures are just some of the factors that failed to improve in 2004 in order to ensure free and fair elections in 2005. *Moldova's electoral process remains unchanged at 4.00.*

Civil Society. The government has been encouraging and supporting the creation of pro-governmental NGOs. However, these government-inspired organizations do not build credibility in the society at large. The “parallel” civil society problem suggests an unfriendly attitude of the government toward civil society. Failure of the government-inspired structures to replace or even seriously affect the position of established NGOs shows a certain strength of the civil society in Moldova. In 2004, the government was very receptive

to civil society recommendations on ways of promoting conflict settlement in Transnistria and the European integration of the country. In anticipation of the 2005 parliamentary elections in Moldova, a broad coalition of major NGOs was created in May 2004 to support a democratic electoral process. Civil society groups were ready to challenge the government on issues of public interest. However, civil society groups remain dependent on external political and financial support. *Moldova's civil society rating remains unchanged at 4.00; although civil society groups show a certain vibrancy, their financial viability is questionable and they are not entirely free from governmental pressures.*

Independent Media. In 2004, the authorities suspended broadcasting rights for two months to Euro TV and Radio Antena C—two leading media outlets—for being critical of the government. The media got back on the air following journalist and civil society protests and OSCE and Council of Europe messages to the government. A journalist investigating cases of governmental corruption was beaten in June 2004, though Moldovan journalists have traditionally not been subjected to physical pressure. The situation around the public television and radio broadcaster was tense in 2004. The transformation of the former state television and radio into a public broadcaster has been under way. In the process of this transformation, most critical-minded journalists lost their jobs and started protests. The conflict between protesting journalists and the broadcaster remained unresolved at the end of 2004. On paper, the public broadcaster is independent from the government, but media coverage remains biased in favor of the authorities. However, the first steps toward reforming the public broadcaster have begun. Generally, most media remain beholden to economic forces and under the control of political forces, either those in power or those from the opposition. On a positive note, in April 2004 libel was excluded from the criminal code. *Moldova's independent media rating remains the same at 5.00; although the legislative framework in which media operate has improved, some media outlets have been in danger of closure by the government.*

Local Democratic Governance. The problems of democracy are greatest at the local level because local authorities are more financially dependent on the government, are less visible in the media, have fewer resources to promote or defend their views, and have less access to international institutions than other actors in society. Mayors are elected directly by citizens, while local counselors are chosen according to a proportional voting system. Local authorities often lack the resources to fulfill their responsibilities, and their financial independence was further undermined in 2004. Grants from central authorities constitute the main source of income for local authorities, making them dependent on the central government, which allegedly discriminates against mayors from opposition parties. There have been government ef-

forts to influence the way associations represent local authorities in order to strengthen the pro-governmental association of mayors. Government pressure on the authorities of the capital, Chisinau, including Mayor Serfaim Urechean, remained high, and law enforcement agencies were involved in politically charged cases of corruption in both Chisinau and the Gagauz autonomy. *Moldova's new rating for local democratic governance is set at 5.75 owing to the weakness of local authorities and their increasing political and economic subordination to the central government.*

Judicial Framework and Independence. Despite an adequate and consolidated judicial framework respectful of human rights, many abuses still persist. The Constitutional Court, considered the last bastion free of political influence, succumbed to political pressure in its refusal in 2004 to review the constitutionality of Article 347 of the penal code with regard to the desecration of state symbols, which contradicts freedom of expression. The Supreme Council of Magistrates, the institution responsible for appointing judges, remains controlled by the executive and therefore cannot guarantee the appointment of independent and competent judges. Budgetary constraints on the judiciary and low salaries are other unsolved problems. Late in 2004, the Ministry of the Interior admitted that human rights abuses by its personnel are recurring. Torture during detention is still a widely used practice, and legislation is in need of improvement to allow effective prosecution against torture. Civil society agrees that the overall situation in the judiciary has deteriorated even further throughout 2004, to the point that a free and fair trial can no longer be ensured. This explains the high number of successful Moldovan applications submitted to the European Court of Human Rights. *In view of these findings, the country's rating for judicial framework and independence worsens from 4.50 to 4.75.*

Corruption. Corruption remains deeply rooted in Moldovan society despite efforts by the authorities to counter this phenomenon. The commendable rhetoric, strategies, and action plans put forward by the Moldovan executive to combat corruption have not had a major effect. Worse, in many ways the anticorruption measures are used abusively by the central authorities against political opponents. Many state institutions are mobilized in the fight against corruption, in particular the Center for Fighting Economic Crimes and Corruption. However, international organizations that monitor corruption suggest there have been no changes with regard to previous years in Moldova. Corruption and misuse of political power exist at the highest levels of Moldova's political system, and vested economic interests often go hand in hand with political interests. The inclusion of Transnistria in this discussion serves only to exacerbate the overall picture. *The country's rating for corruption thus remains unchanged at 6.25.*

Outlook for 2005. The relative equilibrium of negative and positive tendencies in Moldova's recent social and political development will continue into 2005. After the March 6, 2005, elections, the Communists are likely to remain in power, though with a slightly weakened position in the Parliament. This will make them more attentive to calls from the opposition and the international community to advance reforms. Democratization measures enacted for the international audience will alternate with centralizing measures by the government. No breakthroughs in political and economic reforms should be expected, but increasing centralization by the government is also less likely. Moldova's weak democracy will not deteriorate significantly. Rather, it could improve with the aid of constant external pressure on the government. The Transnistria situation has the potential to deteriorate further. Efforts to compel the EU and the United States to play a larger role in the conflict settlement in Transnistria will be the main focus of Moldova's foreign policy.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.75						

Since 2000, Moldova has formally been a parliamentary republic. However, real power lies with the president. The current president, Vladimir Voronin, is also chairman of the Party of Moldovan Communists (PCM), which has held a constitutional majority in the Parliament since 2001. The PCM was widely supported in elections as a response to the volatile, if not chaotic, political environment of the 1990s. The dominance of this single party since 2001, coupled with a political culture that has not fully internalized the values and rules of democracy, has led to a political situation where separation of powers is constitutionally enshrined but under serious strain in practice. Formally, all relevant political actors accept that democracy should be the foundation of the political system. Yet the practice of democracy encounters serious drawbacks as the current government often equates democracy with majority rule, without due respect for minority views and constitutionally guaranteed rights. In the *Journal of Democracy*, Lucan A. Way argued that Moldova is a case of "failed authoritarianism" because democratic political competition endured not because civil society was strong or leaders were democratic, but because politicians were too polarized and the state too feeble to enforce authoritarian rule in a liberal international context.

After a decade of chronic instability, with eight governments between 1991 and 2001, the Moldovan governmental system has been relatively stable in recent years but still lacks effective checks and balances. However, stability has come partly at the price of a visible reversal in the democratization trend. The executive has been under the control of the president. Virtually all appointments in the executive have been made by the president rather than the prime minister or the Parliament, despite Moldova's formation as a parliamentary republic.

The legislature has been further marginalized in the political system. Moldova has followed the trend seen in other countries where the head of state is also leader of the majority party in the Parliament, which then tends to rubber-stamp decisions made elsewhere by the president. The legislative, like most public institutions in Moldova, lacks the resources, know-how, and often the desire to monitor and professionally assess all governmental or presidential initiatives. The quality of draft laws has often been questionable, as stated publicly by Speaker of the Parliament Eugenia Ostapciuc. In 2001, the Center for Legislative Expertise was created under the auspices of the government with the aim of improving the quality of draft laws. However, this goal was never accomplished, and the center was disbanded in October 2004.

Public access to information has been a problem in Moldova. In an October 2004 report, Miklos Haraszti, representative on freedom of the media for the Organization for Security and Cooperation in Europe (OSCE), noted that although Moldova "can be proud" of its Law on Access to Information, adopted in 2000, the legislation runs counter to the Law on State Secrets. In addition, a Transparency International experiment in 2004 revealed that the Law on Access to Information is not currently being implemented. Transparency International has requested information from 95 governmental agencies, and only half have given satisfactory answers, while 26 state institutions have refused to answer in general, including the Parliament, four ministries, the fiscal authority, the city administration of the capital, and the Supreme Court of Justice. A number of members of Parliament (MPs) interviewed in Chisinau have also complained that they cannot get the information they want from the authorities, even if they are entitled to it. MPs have had problems identifying how certain institutions spend budgetary money, in particular the presidency, the Parliament, and the Service for Intelligence and Security (SIS). Allegedly, the budgetary watchdog—the Moldovan Court of Accounts—has also been reluctant to make public its findings on how budget resources are spent.

The military and security services are under civilian control yet remain largely inefficient and underperforming. Problems in reforming and modernizing the military include lack of funds, lack of political will, and uncertainty about the future of the Moldovan military. As part of the conflict settlement negotiations with the secessionist region of Transnistria, demilitarization of Moldova is one of the options under discussion. Thus, any type of military

reform is difficult to plan, as it is not clear what form the military should take in the future or if there should even be a military. There is a lack of civilian expertise in security and defense matters, which poses certain problems in controlling the quality of the security sector. The intelligence service—the SIS—has been largely under the de facto control of the president. The SIS has played an increasingly ambiguous role in internal politics. According to some interviewees in Chisinau, as well as media reports, the SIS has been helping the ruling party achieve its political and electoral objectives at both national and local levels and engaging in the intimidation of journalists through “discussions.”

In 2004, Moldova remained divided, with its secessionist region of Transnistria maintaining its de facto independence. Transnistria is a breakaway republic in the eastern part of Moldova, led by self-proclaimed president Igor Smirnov, who is a Russian citizen. The European Court of Human Rights concluded in July 2004 that the Transnistrian republic “remained under the effective authority, or at the very least under the decisive influence, of Russia, and in any event that it survived by virtue of the military, economic, financial, and political support that Russia gave it.” The Russian Federation continues to maintain a military presence in Transnistria despite Moldovan objections and in breach of earlier Russian commitments on the withdrawal of troops.

Marking Russia’s increasingly assertive stance, Transnistrian authorities attempted in July 2004 to close down the only five Moldovan schools in the region that were using Latin script, which is used in the rest of Moldova. Moldovan policy, in response, sought greater European Union (EU) and U.S. involvement in the settlement process. In this endeavor, the Moldovan government has had broad internal support from the main political parties and civil society groups. While the concrete parameters of greater EU involvement in the conflict resolution in Transnistria are not yet clear, the EU, supported by the United States, is increasingly participating directly or indirectly in various aspects of the settlement process.

For the first time since independence, the opposition, the government, and civil society arrived at a consensual approach in 2004 on how to deal with Transnistria. This consensus is in favor of greater Western involvement in the conflict settlement process and a realization that a settlement would not be sustainable without the decriminalization, democratization, and demilitarization of Transnistria. Another key consensus is that in the long term, Moldova must seek EU membership; thus, an EU-Moldova action plan was negotiated and approved in 2004 toward that end. Its priorities include cooperation with the EU on the Transnistria problem, increased economic and political cooperation, and EU support for democratization and economic transition in Moldova. On the two vital questions for Moldova—Transnistria and European integration—there seems to be a broad consensus in the society. The problem remains that despite a discursive acceptance of European

integration as a strategic objective, the government pursues many policies that do not meet democratic standards.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
3.25	3.50	3.25	3.25	3.50	3.75	4.00	4.00

Moldova is a parliamentary republic with a proportional electoral system based on a single electoral district in which the whole country votes for just one party list rather than individual deputies or party candidates linked to a region. The country has been able since its independence in August 1991 to ensure reasonably free and fair conditions for a total of seven nationwide elections, resulting in peaceful and effective rotations of power. The last elections, held in May 2003, are the first to be held nationwide after the PCM came to power in 2001. The 2003 local elections are considered by the OSCE and local observers to be the worst since 1991, owing to abuses ranging from biased reports in the media in favor of the ruling party to the arrest of opposition candidates and the use of public funds by candidates affiliated with the ruling party. The clearly deteriorating political climate throughout 2004 does not bode well for the parliamentary elections in March 2005.

A recent report by the International Foundation for Election Systems (IFES) and the Association for Participatory Democracy (ADEPT) states the Venice Commission came to the conclusion in 2002 that the electoral code and the Constitution of Moldova provide an “adequate framework for the political parties and electoral coalitions to compete on the political arena on the basis of equality.” However, in preelectoral years attempts are made to change the electoral legislation to extract as much political capital as possible from the subsequent elections. There are also genuine attempts from the two opposition parties in the Parliament and civil society to reform the political system or change the electoral laws. Alianta Moldova Noastra, the main opposition party in the Parliament, has attempted to initiate a bill to switch from a proportional system to a mixed electoral system in order to allow voters to directly choose half of their representatives. This and other such initiatives by the opposition parties have been vetoed by the Parliament because of their proximity to the elections. Also, most opposition parties agree that the electoral thresholds are too high, thus preventing smaller parties from acceding to the Parliament.

The date for the forthcoming parliamentary elections is March 6, 2005, and the electoral campaign will start 45 days prior to that date. The Central Election Commission (CEC) started registering the political parties for the elections on December 27, 2004, and by December 31, 22 parties had been registered. The main contenders in the legislative elections of 2005 will be the

ruling PCM, the preelectoral coalition Democratic Moldova Bloc (DMB), the Christian Democratic People's Party (PPCD), the Social-Democratic Party of Moldova, and the pro-Russian left-leaning preelectoral Motherland-Rodina Bloc. Only the first four parties are expected to gain seats in the next Parliament. The DMB, which is led by the current mayor of Chisinau, Serafim Urechean, was created on May 8, 2004, by the Alliance Our Moldova, the Democratic Party, and the Social-Liberal Party; the DMB also includes 11 smaller parties from all sides of the political spectrum, resulting in a very heterogeneous political formation.

Legislation regarding the registration of political parties and other sociopolitical organizations was modified in January 2004 to prevent the fragmentation of the Moldovan political scene into numerous small parties. Registering a political party is not overly complicated, but parties need to reregister annually by submitting for verification to the Ministry of Justice membership lists with signatures of at least 5,000 members. The Venice Commission calls this "abusive control" and recommends that once the party is registered and has captured at least 1 percent of the national vote or has won seats in the Parliament, even as part of a coalition, this should be sufficient evidence of legitimate party support.

Lack of sufficient funds is viewed as an impediment to holding free and fair elections: 10 million lei (about US\$800,000) have been allocated for the 2005 elections, of which only 800,000 lei are transferred to the CEC. The CEC's competences, ranging from organizing the elections to submitting proposals for the improvement of the electoral legislation, far exceed its financial capacity. The U.S. embassy in Chisinau has pledged funds to the CEC for the acquisition of ballot boxes for the 2005 elections.

The opposition and political analysts agree that fair campaign opportunities and voting procedures are unlikely and question the impartiality of the CEC and the Audiovisual Coordination Council (ACC), which has the power to grant or withdraw broadcasting licenses. Both organizations are responsible for providing adequate conditions for free and fair elections, but members of both are appointed by the governing party, thus jeopardizing their impartiality. The opposition's calls for proportional representation of political parties in the CEC to render it truly impartial have gone unanswered.

The electoral campaign will be fought primarily in the media. In view of growing criticism by the opposition and the OSCE regarding the control and harassment of Moldovan media by the authorities (including the ACC), the president initiated in July 2004 the signing of a convention regarding "guarantees for democratic processes and freedom of means of mass information." In November, this convention—which calls on all political forces to respect the democratic processes and the independence of the mass media—was signed by 14 parties. However, an important opposition party, the PPCD, refused to sign. The Coalition for Free and Fair Elections, a group of

nongovernmental organizations (NGOs), later commented that the convention had not surpassed a purely declaratory nature and that the president's initiative was intended simply to stave off criticism regarding government control over the media.

Moldovan electoral legislation allows political parties to request non-interest loans from the state for campaign expenses in proportion to their representation in the Parliament. Parties that subsequently do not accede to the Parliament must reimburse the loans within two months after the elections. Parties also finance their campaigns with money from affiliation and membership fees and donations. Foreign financial contributions are strictly prohibited by electoral law. Local experts agree that the current legislation makes it nearly impossible to scrutinize donations and campaign expenditures. Donations come mainly from the Moldovan business sector. It is common knowledge that the ruling party exerts pressure on companies by threatening fiscal control in order to ensure their financial support during elections.

Although the 2001 parliamentary elections witnessed a relatively high voter turnout of 67 percent, the Moldovan public is generally either apathetic or averse to politics. The Moldovan Department for Statistics and Sociology declares that 600,000 Moldovans live abroad and some 15 percent live in the breakaway republic of Transnistria, which also negatively affects voter turnout. The CEC is making efforts to allow these Moldovans to vote. In Transnistria, polling stations will be set up in the few local electoral districts where Moldovan authorities can exercise control over election day proceedings. Moldovans living abroad can vote in Moldovan consulates and embassies.

Moldova possesses a sound legislative framework regarding the protection and development of ethnic minorities. Electoral laws guarantee the printing of campaign materials in minority languages, but the high 6 percent parliamentary threshold makes minority party representation impossible. There are many fewer women than men in the Moldovan Parliament and local administration, representing only 10–16 percent of public officials, reports IFES and ADEPT. However, the PPCD's electoral list for the forthcoming elections reflects equal representation between men and women.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
3.75	3.75	3.75	3.75	4.00	3.75	4.00	4.00

There were persistent problems in civil society in 2004 compared with previous years. First, civil society groups were excessively politicized. The government's unfriendly attitude toward civil society groups strengthened

the pro-opposition bias of many NGOs. Second, political parties and the government preferred to cooperate with NGOs and think tanks that were closer to their own opinions. Third, the (financial) sustainability of NGOs remained in question. Internal sources of funding are limited. The business community prefers to support activities that are further from politics and closer to charity. This reflects not only a traditional lack of business support for civil society, but a political environment that does not encourage such support.

The development of civil society in Moldova is influenced by the following factors. Across the political spectrum there is an expectation that civil society groups should serve political interests, rather than politicians serving the interests of civil society. In this sense, the political elite still have a rather distorted understanding of what civil society is. In the words of one Western diplomat in Chisinau, “No government in Moldova has the ability to reverse civil society; it can only limit its development.” Therefore, the failure of the Communist authorities to co-opt important civil society actors, or create viable and attractive alternatives to them, suggests that the development of civil society in Moldova has been more successful than other dimensions of post-Communist transition in the country.

There are 2,758 registered NGOs in Moldova, according to data from the National Assistance and Information Center for NGOs in Moldova (CONTACT). Though most are not active, there are a number of very active and high-profile NGOs. Civil society development in Moldova has a mixed record in 2004. On the one hand, the government pursued a policy that is less than friendly toward civil society because of the government’s authoritarian tendencies and opaqueness. On the other hand, the dialogue between civil society groups and the government on foreign policy and the Transnistria issue has been rather successful. This was due to the emergence of a large consensus in society on the foreign policy priorities of the country and ways to solve the conflict in Transnistria, as well as the government’s dissatisfaction with previous policies, which made it more receptive to recommendations coming from nongovernmental actors. In addition, major civil society actors joined forces to monitor and limit governmental abuses in preparation for the 2005 parliamentary elections.

In 2003–2004, a number of organizations were launched with the more or less open support of the PCM, the presidency, and/or the government. Such organizations are generally created when their existing NGO counterparts are perceived as being too critical of the government. The aim of these parallel NGOs is to split civil society and create the appearance of support for governmental policies and actions. These government-inspired NGOs include the League of Professional Journalists, the Association of Mayors and Local Authorities, and the Union of Writers Nistru-Dnestr. They were created as pro-government replicas of the Union of Journalists

in Moldova, the Federation of Local Authorities, and the Union of Writers, all of which have been quite outspoken against the centralizing tendencies of the government.

However, government-sponsored organizations could not build credibility with those inside the arena they claimed to represent or in the society at large. Usually, soon after their much publicized creation, these structures disappear from public view. The “parallel” civil society problem seems to suggest a number of things. It underlines the unfriendliness of the authorities toward civil society structures. It also is indicative of a certain, albeit limited, progress in democratization, as it shows that even the Communist authorities find it necessary to express their negative views of various NGOs through the creation of competing structures, rather than outright repression, banning, or suspension as witnessed in most post-Soviet societies. Last, the failure of the government-inspired structures to replace or even seriously affect the position of established NGOs shows a certain strength in the Moldovan civil society.

The “parallel” civil society strategy has been applied to trade unions as well. The Communist Party overtook the Solidaritatea trade union in 2003. There have also been reports from the Confederation of Trade Unions and other sources that there is pressure on public sector employees to join the pro-government trade union. Otherwise, trade unions remain relatively independent from the government, but their importance seems to be declining in terms of both political influence and membership.

In anticipation of the 2005 parliamentary elections, in May 2004 a broad coalition of major NGOs was created called the Civic Coalition for Free and Fair Elections, also known as Coalition 2005. The coalition does not support any particular political party, but rather promotes the democratic electoral process itself. The coalition was launched initially by 15 NGOs, but by the end of 2004 it had 140 institutional members. It was created as a response to the deteriorating democratic environment in Moldova. The coalition aims at mobilizing the electorate and promoting civic education in general. It also hopes to monitor abuses in the electoral process, such as the use of administrative resources and biased media reporting, observing elections and the counting of ballots, organizing exit polls, and monitoring the use (and misuse) of public money during the campaign.

The existence of Coalition 2005 is a telling example of the mobilization and joint efforts of the most active and visible institutions of civil society in Moldova. It shows that civil society is relatively vibrant and willing to withstand and resist the shift from democratization toward authoritarianism. However, the very necessity of such a coalition indicates the fragility of democracy in Moldova.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
4.00	4.25	4.00	4.25	4.50	4.75	5.00	5.00

Moldovan legislation guarantees freedom of expression and editorial independence and prohibits censorship in the media. However, actual practice differs from these declared principles, as interference in media reporting and pressures on journalists are widespread. Freedom House's *Freedom of the Press Survey 2004* has downgraded Moldova's rating for press freedom from "Partly Free" to "Not Free."

The most important newspapers are the Russian-language *Komsomolskaya Pravda*, *Argumenty i Fakty*, *Nezavisimaaia Moldova*, and *Moldavskie Vedomosti* and the Romanian-language *Flux*, *Timpul*, *Jurnal de Chisinau*, *Moldova Supterana*, and *Saptamana*. Important radio stations are Radio National, Radio Antena C, and the regional Vocea Basarabiei, as well as a number of FM music stations. Popular television networks with national coverage are Moldova 1, ORT Moldova, and TVR 1. Important television stations that cover only parts of Moldova (mainly Chisinau) are NIT, Euro TV, and PRO TV. There are no restrictions on the use of the Internet, yet access is problematic outside the capital, Chisinau, owing mainly to economic barriers.

In print media and radio, the majority of outlets are privately owned and relatively free of excessive ownership concentration; however, interference in editorial policy from owners is widespread. Most media are not financially sustainable and depend on sponsorship, which usually comes at the price of serving certain political or business interests. Generally, the public enjoys access to different sources of print information that represent various viewpoints.

The situation is different when it comes to television. The single most important national TV broadcaster, Moldova 1, is under the control of the government. The other TV stations are either neutral and avoid political news or are overtly pro-governmental. Euro TV, owned by the Chisinau municipality, is openly critical of the government. The urban population, especially in Chisinau, has access to TV stations that reflect different viewpoints. The situation is more difficult in the countryside, where very often the only and main source of information remains the government-controlled Moldova 1, which is one-sided in favor of the government.

Media independence in 2004 followed the negative trend set in 2001 with the arrival of the Communist Party in government, and pressure on journalists has increased steadily. In June 2004, Alina Anghel, who had been writing on cases of governmental corruption for the weekly *Timpul*, was beaten; it was widely believed that the attack was related to her professional activities. In

the words of a Western diplomat in Chisinau, the case of Alina Anghel is an important new development because “normally journalists don’t get beaten up in Moldova and they are not under physical pressure.”

Between February 6 and April 8, 2004, the authorities suspended the broadcast rights for Euro TV and Radio Antena C, owned by the Chisinau Municipal Council. Authorities justified the suspension on the grounds that the media outlets had not reregistered as new legal entities, as requested by an August 5, 2003, ruling of the ACC. Permission to return to the air was given after numerous protests, including a week-long hunger strike by 31 journalists, a more or less consolidated protest of civil society groups, and pressure from the OSCE, the Council of Europe, and Western embassies in Chisinau.

The Ministry of Justice’s declared intention to reregister all periodicals and news agencies by the end of 2004 was a controversial act by the authorities. A coalition of the most representative NGOs from the media sector, including the Union of Journalists of Moldova and the Independent Journalism Center, qualified this draft as an attempt to limit the freedom of media activity during the electoral campaign by tying them up with the bureaucratically cumbersome reregistration procedure.

Almost all of the important opposition newspapers were sued for libel in 2004 by representatives of the authorities. These include the newspapers *Moldavskie Vedomosti*, *Timpul*, *Flux*, and *Jurnal de Chisinau*. *Timpul* even went bankrupt but reappeared soon after with a legally changed name, *Timpul de Dimineata*.

International actors have played an important role in the development of independent media in Moldova. The OSCE and its mission to Moldova, the Council of Europe, and Western embassies have been quite outspoken in their support of press freedom. These entities have not limited themselves to general statements but have also made concrete proposals that aim at overcoming different crisis situations surrounding Teleradio Moldova and Euro TV/Antena C and the criminalization of libel. Journalists have also appealed to international actors for support.

In 2004, efforts to transform the state-run Teleradio Moldova Company (the broadcaster of Moldova 1 and Radio National) into a public broadcaster continued with great difficulties. On paper, the company is a public and independent institution. In practice, it is controlled largely by the authorities. A report by Miklos Haraszti, the OSCE representative on freedom of the media, mentioned that Moldova is “one of the first countries in the region that transformed its state broadcaster into a public service. However, the news coverage’s overwhelming tilt toward the ruling party is of concern.”

As part of the transformation of Teleradio Moldova into a public institution, the old institution was disbanded, all the journalists sacked, and a recruiting contest announced. As a result of the selection process, most of

the journalists who were critical of the government were not hired back. This was considered an unfair selection procedure, and a number of journalists (with the support of some civil society groups and political parties) went on strike on July 27, 2004. The crisis is not yet over. The OSCE representative on freedom of the media stated on a visit to Chisinau in October 2004 that “in the process of transformation of the state company into a public institution [there] existed numerous gaps.... The staff selection process was biased, aiming at creation of a politically unilateral team.”

For example, media monitoring conducted by the Center for Independent Journalism in Chisinau showed that in September, Moldova 1 and Radio National mentioned President Voronin 290 times and Prime Minister Vasile Tarlev 287 times in their news programs, while the leaders of the two main opposition groups, Serafim Urechean and Iurie Rosca, were not shown at all on public TV and were mentioned only 12 and 5 times, respectively, on Radio National. Previous monitoring has also shown that Euro TV is biased in favor of Serafim Urechean, the mayor of Chisinau.

On the positive side, the central authorities removed the article on libel from the criminal code in April 2004 and abolished the provision that had permitted journalists accused of calumny and defamation to be imprisoned for a maximum of five years. Such progress was mainly the result of external pressure on the government. The government is not indifferent to its image abroad, which causes it to follow or at least mimic changes suggested by international actors such as the EU, the OSCE, the Council of Europe, and the United States.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.75						

The problems of democracy are greatest at the local level because local authorities are more financially dependent on the central government, are less visible in the media, have fewer resources to promote or defend their views, and have less access to international institutions than do other actors in society. The former framework of local governance is being gradually replaced by a more centralized system. In this context, the Council of Europe’s Congress of Local and Regional Authorities of Europe (CLRAE) called on all the players involved in the development of local democracy in Moldova to “take firm, sustained, and coordinated action to prevent the country from effectively putting itself beyond the pale of the democratic standards advocated by the Council of Europe.”

The national legislation, including the Constitution and the Law on Local Public Administration, provides a framework for local democratic

governance; however, the practical state of democracy at the local level has been in a negative trend since the Communist Party came to power. There has been a tendency to deprive local authorities of certain powers in favor of the central government. This has been the case particularly with the reorganization of Moldova into 32 smaller and less efficient territorial units (*raions*) following the abolition of 12 regions (*judets*). Overlapping responsibilities among different levels of authority remains an issue as well.

Citizens have the right to choose their local leaders on the basis of universal, equal, and direct suffrage by secret ballot. Mayors are elected directly by the citizens, while local counselors are chosen according to a proportional voting system. Traditionally, the voting procedure has been held regularly and judged free. However, according to the CLRAE, the latest local elections of 2003 revealed considerable drawbacks in the fairness of the electoral campaign as central authorities appeared to abuse their capacity to influence the elections.

The main sources of income for local governance are transfers and grants from the central authorities, which make local authorities highly dependent on a politically biased and centralizing government. On October 16, 2003, the Law on Local Public Finances was adopted and took effect January 1, 2004. One of the provisions of the law abolished the previous practice whereby the value-added tax was divided between the central government and the local authorities. With the new law, local authorities were deprived of this source of income, thus becoming even more dependent on the central government for grants.

In the new system, the central government (the Ministry of Finance) transfers funds to second-tier authorities (such as the chairman of the district), who then distribute the money among the mayors (the third tier) in a particular district. The problem is that district authorities have a high level of discretion on how funds are distributed among mayors. In a joint assessment on decentralization in Moldova, the European Commission and the Council of Europe have identified that “the existing legislative arrangements for calculating and distributing state grants do not seem to be objective, transparent, and clear...; the existing resource-sharing arrangements do not seem to ensure a fair distribution of resources at the level of the districts.”

In this context, it was suggested that the districts should be prevented from “playing a role in defining the amount of grants to be transferred to local authorities.” Such a system—according to a number of opposition party leaders interviewed in Chisinau—leads to serious discrimination against mayors from opposition parties in the receipt of grants distributed by the central and district authorities. In addition, it was argued that mayors who formally belong to opposition parties often are reluctant to actively support their own parties because this may result in fewer grants or even pressure from the district authorities or law enforcement agencies.

The government has also drafted the Law on the Chisinau Municipality Statute and the Law on Associations of Local Public Administration Authorities. According to a report of the CLRAE, the draft law on altering the structure of the capital and the powers of the mayor of Chisinau has been elaborated without consulting local elected representatives and seems to be aimed at curtailing the influence of the Chisinau mayor, who is also the chief opposition leader. According to the same source, the second draft law intends to alter the way associations representing local authorities are organized in Moldova; the resulting single national association would marginalize mayors who are not favorable to the ruling party. This would probably strengthen the pro-government Association of Mayors and Local Authorities at the expense of the independent National League of Mayors and Federation of Local Authorities. In March 2004, the two draft laws were submitted to the Council of Europe for comment. This is part of an arrangement between the Moldovan authorities and the Council of Europe in which Moldova submits draft laws concerning local self-government and mass media for council suggestions and expertise.

In March 2004, the Communist-dominated People's Assembly of the Gagauz autonomy in the south of Moldova dismissed the mayor of Comrat, the capital of the region. According to law, he could be dismissed only by popular vote or by the municipal council based on a court decision stating the mayor had been involved in criminal activities. However, the mayor of Comrat, who had been critical of the pro-Communist authorities, was dismissed on a mere allegation of "inefficient management, misuse of municipal funds, and repeated violations of law" without a court conviction.

There have been a number of cases across Moldova where local authorities have come under pressure from the district authorities, the SIS, the Office of the Prosecutor, or the economic police. What aggravates the problem is that most politically active people at the local level are particularly vulnerable to possible governmental pressure because they are either budgetary employees (such as teachers or doctors) who risk their jobs or local businessmen—both subject to eventual administrative or fiscal harassment.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.25	4.00	4.00	4.00	4.00	4.50	4.50	4.75

In 1994, the people of Moldova adopted a Constitution establishing a democratic state based on the rule of law and the observance of human rights. Human rights form the centerpiece of Moldova's Constitution, with around 30 percent of its articles devoted to human rights. Since 1997, the Moldovan Parliament has ratified the European Convention for the Protection of Hu-

man Rights and Fundamental Freedoms. A 1999 ruling by the Constitutional Court stipulates that the convention is an integral part of Moldova's legal system. Although the Moldovan Constitution and legal framework apply to the entire Moldovan territory, they have no actual effect in the breakaway republic of Transnistria, where its authoritarian statelike structures fail to guarantee even the most basic human rights.

Despite the fact that the Moldovan Constitution puts in place an adequate framework for the protection of human rights and fundamental freedoms, large areas of the constitutional provisions are overly general and rely on ordinary legislation for their interpretation. While respect for human rights and fundamental freedoms is enshrined in Moldova's Constitution and laws, in practice Moldovan citizens see their rights frequently abused. The Communist Party carried out changes to the Constitution in 2002, making the provisions for freedom of association—in particular public assemblies—more restrictive.

The Constitutional Court is not part of the Moldovan judicial system and is in theory independent and free from political influence. However, two of the court's six judges are appointed by the Parliament, two by the government, and another two by the Supreme Council of Magistrates (SCM). All three institutions are controlled by the Communist Party. In April 2004, the PPCD appealed to the Constitutional Court to review the constitutionality of Article 347 of the penal code, which prohibits the desecration of the state symbols of Moldova and other states.

A number of PPCD parliamentarians were prosecuted in 2004 for burning the Russian flag during a rally in a sign of protest. They claimed that Article 347 of the penal code contravenes the right to freedom of expression, a principle enshrined in Moldova's Constitution under Article 32. The Constitutional Court refused to examine this claim on the grounds that it is allowed to verify the constitutionality of normative acts but cannot exert control over the interpretation and application of organic or ordinary laws. However, the Constitution expressly stipulates under Article 135 that "the Constitutional Court shall exercise, upon appeal, the constitutionality review over laws of the Parliament."

Human rights abuses remain a stark reality in Moldova. According to the 2004 *Activity Report* of the Moldovan NGO Lawyers for Human Rights, those rights most frequently violated in Moldova are failure to enforce civil judicial decisions; violation of the rights to freedom of expression, assembly, and association; violation of the right to a fair trial; violation of the right to liberty and security through arbitrary arrests, torture, or inhumane or degrading treatment; violation of the right to the protection of property; and violation of the right to the respect of private life.

In November 2004, the Ministry of the Interior admitted that police occasionally maltreat suspects and abuse detainees. This year alone, 3,079 disciplinary sanctions and 19 sackings involved were carried out against police

officers. The authorities attribute these abuses to a lack of professional staff, especially graduates in civil specialties. However, considering the continuous reports of police abuses in the Moldovan press throughout 2004, it is questionable whether disciplinary sanctions are effective.

Torture during detention is still a widely used method of investigation among law enforcement personnel. In 2003, the new penal and penal procedure codes were adopted. Torture has been virtually decriminalized by the new penal code, making it very difficult to file a complaint for torture. Many of the cases brought for torture undergo excessive delays in court (some up to 4.5 years), while witnesses are usually too intimidated to testify. Local experts argue that the living conditions under arrest alone amount to inhumane or degrading treatment.

Moldovan applications accepted by the European Court of Human Rights are among the most numerous compared with those of other states. This is an indication of the seriousness of human rights abuses in Moldova and shows that the Moldovan judicial system is deficient. Moldova has complied with most of the European court's decisions, such as the aforementioned ruling on July 8, 2004. The Moldovan state has paid material compensation to the plaintiffs.

Several NGOs have blown the whistle on increasing abuses in the judiciary. These abuses have been made possible by a blurred separation of powers affecting the independence and impartiality of judges and the quality of the entire judicial system. This deterioration is a direct consequence of the new penal and civil codes and procedures, introduced in 2003. The appointment of judges has been left to the discretion of the president, since the SCM lost its competence to select and submit judges for presidential approval.

In principle, the president can decide only on the validity of the selection procedure and cannot as such reject a candidate. In reality, the president refuses many judges without any justification. The same applies to reappointments, resulting in the dismissal of many highly qualified and experienced judges. Court decisions are often overturned in the court of appeals in favor of the government. Certain sensitive cases are passed on to judges who are favorable to the government. The judiciary is economically dependent on the executive; it is underfunded and lacks qualified judges. Also, judges must work in precarious conditions and because of a high workload are unable to ensure free and fair trials for all citizens.

The decision of the SCM on February 12, 2004, regarding the February 6 annulment of elections for new SCM members is additional proof of the government's infringement on judiciary matters—new members were refused for no apparent reason other than they were unfavorable to the party in power. The president of the Supreme Court of Justice has in turn been accused by a former Communist parliamentarian of pressuring judges into steering the outcome of their cases in a certain direction.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	6.00	6.25	6.25	6.25	6.25

Corruption remains a major concern in Moldova and affects all levels of political, social, and economic life. Corruption has been identified by civil society and the government as a major obstacle to social and economic reform in Moldova. Fighting corruption is a declared priority for the Communist government, but toward the end of its mandate the results are mixed and have consisted mostly of declaratory documents such as the Program on Fighting Corruption, introduced in 2002. In 2004, at the behest of the president, a strategy and action plan for preventing and fighting corruption was elaborated. The “prevention” dimension is crucial in that it is the first time the authorities intend to tackle the causes of corruption as opposed to merely taking repressive measures. The strategy was reviewed in October 2004 by a group of national legal experts and Council of Europe representatives and was adopted by the Parliament in November 2004. It remains to be seen whether this initiative will exceed its declaratory nature.

The ineffectiveness of Moldova’s anticorruption measures thus far is reflected in Transparency International’s 2004 Corruption Perceptions Index. Moldova remained unchanged at 2.3 (10 representing the least corrupt) and is ranked 114th out of 146 states—the third most corrupt state in Europe, after Georgia and Ukraine.

Moldova inherited an overbureaucratized administration from the Soviet era and has not been able to shake off its legacy. In order to receive official documents from the appropriate public authorities, the Moldovan citizen must collect myriad documents and signatures. A simple bribe is more expedient. Companies are faced with such high taxes and legislative insecurity that bribes are handed out to avoid fiscal control. According to the 2004 report of Bizpro-Moldova on the cost of doing business in Moldova, every businessman pays an annual average of US\$336 in bribes, especially to fiscal authorities. Often, a part of their economic activities and assets is plunged into the shadow economy as a safeguard against legislative volatility and government interference. The shadow economy is said to account for around 50 percent of the Moldovan economy.

In Transnistria, the economy is entirely in the hands of the regional authorities, led by Igor Smirnov, the so-called president of the breakaway Transnistrian Republic of Moldova. He and his entourage’s economic activities revolve around smuggling goods in and out of Moldova/Transnistria, trafficking in illicit products, and money laundering. The smuggling and trafficking of goods by this illegal regime across Moldova’s borders gravely affects the Moldovan economy and deprives the state of substantial revenue from unaccounted-for customs duties.

In 2002, a law was introduced regarding the declaration of interests and assets for public officials. New amendments to this law were introduced in April 2004. However, no declaration has ever been made public by the Central Control Commission (CCC), which is responsible for examining these declarations. These amendments were hailed by the minister of justice (also the author of the amendments) as a renewed opportunity to fight corruption and illegal possession of property. The amended law substantially extends the list of public officials who must submit interest declarations, but whether it will also force the CCC to publicize its findings remains to be seen. It is not yet clear whether public officials will receive an administrative sanction (or be sacked) or whether they risk a prison sentence if found guilty.

The government advertises contracts through the National Public Procurement Agency. Calls for tenders are advertised on the Internet. All state acquisitions with public funds are organized through this agency. A Web site facilitates public access to tenders and is meant to increase the transparency of the process. Although the Web site provides a database with a list of previous tenders, it does not specify which company applied for a particular tender or the nature of the contract.

The main government institution for fighting corruption is the Center for Fighting Economic Crimes and Corruption (CFECC), created in 2002. After the center's reorganization during the summer of 2004, the fight against corporate crime took on a new urgency. In the first nine months of 2004, the CFECC investigated 217 cases of corruption.

There are fears coming from the opposition and civil society that the CFECC, whose powers are quite extensive, will be used by the authorities prior to the elections to exert pressure on the opposition. This comes after three close collaborators of Serafim Urechean (mayor of Chisinau and main opposition candidate for the forthcoming elections) had been arrested and investigated by the CFECC for abuse of power regarding the granting of real estate lots in Chisinau. Therefore, the opposition argues that anticorruption measures are put in practice selectively and appear targeted at political opponents. The center denies receiving orders from above and declares that people affiliated with the Communist government have also been investigated, in particular mayors and officials from various (local) public institutions.

Organs of civil society, especially politically active NGOs, are monitoring cases of corruption, but intimidation is used against whistle-blowers and journalists. One example is the former Communist parliamentarian Alexandru Ciugureanu, who accused the president of the Supreme Court of Justice of corruption and protectionism. Transparency International Moldova has also been taken to court by the Moldovan Customs Department for a recent publication on corruption within that department. Overall, a rather grim response follows any attempt to unveil corruption involving public officials.

The government-controlled state media give extensive coverage to the activities and “busts” operated by the CFECC. Observers suspect bias on the part of these media to cover mostly those cases that do not harm the image of the government. In a preelectoral context, this creates the impression of a “clean” government delivering on its electoral promises to fight corruption. The press affiliated with the opposition is also investigating corruption in parallel.

The public is largely insensitive to corruption at both personal and official levels. Corruption is ingrained in Moldovan society and has become institutionalized. Corruption is a “fast track” means to an end. The CFECC reported in October 2004 that throughout 2004, there had been around 12,000 complaints of cases of corruption by citizens. It is not clear whether this number indicates a civic awakening to the problem of corruption or if it simply represents a minuscule portion of all cases. According to Transparency International Moldova, an extrapolation from opinion polls indicates 1.2 million bribes in 2004 alone. When this number is compared with the 12,000 claims of corruption received by the CFECC in 2004, it appears that only about 1 percent of corruption cases—and petty corruption at that—are reported to Moldovan authorities, a frighteningly low number. Of these 12,000 claims, only a tiny fraction is further investigated.

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Poland

Capital Warsaw
Population 38,200,000
GDP/capita (PPP 2002 US\$) \$10,560
Private sector as % of GDP 75%
Ethnic groups Polish (96.7 percent), other
 [including German, Ukrainian, and
 Byelorussian] (3.3 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	1.50	1.25	1.25	1.25	1.25	1.50	1.50	1.75
Civil Society	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Independent Media	1.50	1.50	1.50	1.50	1.50	1.75	1.75	1.50
Governance	1.75	1.75	1.75	1.75	2.00	2.00	2.00	n/a
National Democratic Governance	n/a	2.50						
Local Democratic Governance	n/a	2.00						
Judicial Framework and Independence*	1.50	1.50	1.50	1.50	1.50	1.50	1.50	2.00
Corruption	n/a	n/a	2.25	2.25	2.25	2.50	2.50	3.00
Democracy Score	1.50	1.45	1.58	1.58	1.63	1.75	1.75	2.00

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Poland is a success story among the post-Communist democracies. After 15 years of transition and the implementation of difficult reforms, Polish leaders' efforts finally paid off in May 2004, when Poland joined the European Union (EU). Already Poles have started to feel and see the positive effects of membership, such as enjoying full access to the European common market and benefiting from the transfer of EU structural funds. They also look forward to the free movement of people, goods, and services that membership will eventually offer. At the same time, EU membership means that Poland's progress will now be judged by Western standards. In this regard, Poland still has a variety of challenges that it must address in order to bolster continued democratic development. Foremost among these are weak governance and widespread corruption.

Nevertheless, 2004 marked a breakthrough in bringing corruption to light. After an inquiry into the "Rywingate" media corruption scandal, the Parliament adopted a report that accused Prime Minister Leszek Miller, President Aleksander Kwasniewski, and other high-ranking government officials of breaking the law. Soon thereafter, a new parliamentary commission began to investigate "Orlengate"—an energy sector corruption scandal apparently involving the same decision makers, the intelligence services, and a prominent Russian spy. The investigations were strongly criticized by the post-Communist and left-leaning post-Solidarity establishment, who viewed them as an attempt to destroy the state. However, their efforts to block the investigations failed. The majority of the public and the media sided with the investigators and found their work necessary to heal Poland's system of governance. Rywingate, along with Iraq, the economy, and other factors, contributed to Leszek Miller's decision to resign in May. He was succeeded by Marek Belka, Miller's former finance minister.

National Democratic Governance. Poland was required to fulfill high standards of national democratic governance to achieve EU membership. Today, the country is a stable parliamentary democracy whose Constitution provides for an effective system of checks and balances. The prime minister holds the most powerful office. Although the president's role is more ceremonial, President Kwasniewski has been active in foreign policy since he was first elected in 1995. Poland has an underdeveloped cadre

of professional nonpartisan civil servants, a problem compounded by the government's frequent reluctance to appoint civil servants on merit. The state still retains shares in about 1,800 companies and fully controls about a third of them but is unable to adequately control the security and intelligence agencies. These are poorly overseen and have been drawn into current political disputes pitting the ruling Democratic Left Alliance (SLD) against the opposition and internal party factions. *Poland's new rating for national democratic governance is set at 2.50. Although government institutions already meet high democratic standards, the state continues to be overburdened and inefficient in some areas, and some powerful agencies lack sufficient democratic accountability.*

Electoral Process. Poland's parliamentary system is based on the principle of proportional representation. The most recent parliamentary elections were held in 2001. In 2004, for the first time in history, Poles took part in elections to the European Parliament, but the turnout was only 20.9 percent. The ruling SLD achieved only the fifth-best result, while the opposition parties together gained about 80 percent support. Some observers viewed the vote as largely a referendum on the government's domestic performance. Since then—prime minister Leszek Miller and President Kwasniewski had both pledged to hold early parliamentary elections in the spring of 2004, voters were confused when balloting did not occur. Throughout the year, the opposition Civic Platform led the opinion polls with 20–30 percent support, and a new political party entered the scene when the Social Democratic Party was founded. *Owing to the low turnout in the European elections and the confusion over the scheduling of national elections, Poland's rating for electoral process worsens from 1.50 to 1.75.*

Civil Society. Poland has a vibrant civil society, with a wide range of interest groups participating actively and freely in the political and social life of the country. Labor unions, church-affiliated groups, public policy institutes, and numerous other organizations are influential and enjoy easy access to the media and legislators. In 2004, Polish nongovernmental organizations were able for the first time to profit from a law allowing taxpayers to donate 1 percent of their income tax payments to support organizations that work for the public benefit. Although some observers consider the scheme too complicated and say it makes it difficult for taxpayers to donate money, others see success in the US\$8 million that was collected for the 2003 tax year. Polish civil society also worked hard in 2004 to support a democratic election process in neighboring Ukraine, and thousands of Poles took to the streets late in the year to demonstrate against Ukraine's obvious election fraud. *The civil society sector in Poland is stable, and its rating remains at 1.25.*

Independent Media. Poland's media environment is generally free. The investigation of the Rywingate scandal, where leading figures from the SLD allegedly attempted to extort money from the publisher of one of Poland's largest daily newspapers, encouraged some journalists to speak more openly of instances when they were intimidated for publishing stories that were unfavorable to those in power. It also led to changes within Polish State Television, the country's largest broadcasting service, when its president, whom the Parliament determined to be guilty of conspiring in the affair, lost his job. A court ruling favored journalists in one of the year's most controversial libel cases, *Kwiatkowski and Jakubowska v. Majcherek*. *The rating for independent media improves from 1.75 to 1.50 owing to the successful investigation of the Rywingate scandal and the subsequent increase in media independence from powerful state actors.*

Local Democratic Governance. Post-1989 reinstitution of local self-government helped to increase public investment in waterworks, sewage systems, and the building of roads and other infrastructure. Equipping the units of self-government with new competencies did not go hand in hand with providing sufficient funds, however. Since the government frequently miscalculates the cost of new legislation, local authorities are often forced to make budget cuts to fulfill their most vital responsibilities. Nevertheless, most self-governments are coping well with this challenge, and local populations are taking greater interest in local affairs. In 2004, Poland began implementing the Integrated Operational Program for Regional Development—a plan for using EU structural funds in each of the 16 provinces. *Poland's new rating for local democratic governance is set at 2.00. While the necessary institutions are in place, the public does not yet hold them in high esteem.*

Judicial Framework and Independence. Although there is no widespread official abuse of the criminal code, the legal system is Poland's weakest branch of government. Despite some progress in reducing excessive court delays, for example, the number of court cases lasting for more than five years is still estimated at 6,300. Of these, about a quarter are in Warsaw alone. Under pressure from the enormous number of cases filed at the European Court of Human Rights, Poland introduced a new law that makes it easier for citizens to complain about excessive delays of court proceedings. About 30,000 people who had been sentenced to prison remain outside the penitentiary facilities because there is insufficient space for them. Poles rank the judiciary as the second most corrupt sector of Polish public life. *Poland's rating for judicial framework and independence worsens from 1.50 to 2.00. Despite frequent calls for reform in recent years, the changes in Poland's judiciary appear to be largely cosmetic, and corruption within the judiciary is viewed as widespread. Excessive court delays persist. Efforts to bring Communist-era officials to justice have been slow. Prison conditions remain poor.*

Corruption. In 2004, corruption remained Poland's most serious problem. Although new scandals are regularly brought to light—often involving high-level government officials—the scale of the problem is still large and punishment lax. Corruption is perceived at all levels of society, including in the health care system, in higher education, and in the news media. Opinion polls show that the public has a lot of tolerance for corruption. Nevertheless, in 2004, for the first time since regaining its independence, Poland took major steps toward exposing the mechanisms of corruption when the Parliament completed an in-depth investigation of the Rywingate bribery scandal and released a full and transparent report implicating several senior government officials. This and other successes in unveiling public fraud in 2004 could pave the way for bringing to justice individuals engaged in the highest levels of corruption. *Although the democratic process helped to reveal many corruption scandals, Poland's rating for corruption worsens from 2.50 to 3.00 owing to the sheer number of corruption cases, their scale, and the lack of law enforcement thus far.*

Outlook for 2005. Ongoing revelations of high-level corruption in Poland could lead to the removal from positions of power of numerous members of the Polish elite. At the end of the year, Poles will elect a new Parliament and a new president, and possibly vote on the European Constitution. The opposition parties are likely to prevail and form a new coalition government while the ruling SLD will fight for survival. President Kwasniewski's second and final term will end in 2005, and as of year's end a clear front-runner to replace him had not emerged. Kwasniewski will likely be concerned with trying to secure his legacy as a respected Western leader. In the preelection atmosphere, the government is unlikely to push forward any plans to further liberalize Poland's economy.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.50						

Poland's government institutions had to fulfill high standards of national democratic governance to meet the requirements for full European Union (EU) membership. Poland is a parliamentary democracy whose Constitution provides for an effective system of checks and balances. The government needs to be confirmed by the majority of the members of the Sejm (the lower

house of Parliament); the president has the power to veto legislation, and the presidential veto can be overridden only by a two-thirds majority of the Sejm; the Parliament can conduct its own investigations of government activity, and it has the power to impeach the president; the Constitutional Tribunal can declare bills or parts of bills unconstitutional, and its decisions are final.

The most powerful political office in Poland is that of the prime minister, who can be recalled only by means of a parliamentary constructive no-confidence vote. According to the Constitution, the president plays a more ceremonial role. However, President Aleksander Kwasniewski, a minister in the last Communist-era government, has played an active role in foreign policy, and some observers have criticized this as exceeding the authority granted him under the Constitution.

Poland's government institutions have the resources and capacity to fulfill their constitutional obligations. The same is true for political parties. Poland's citizens have direct access to legislators mainly through parliamentarians' regional offices, and indirect access through the media. Journalists can move freely in the Parliament's facilities and have almost unlimited access to the legislators there.

All legislation is published. However, the government refuses to publish some international treaties that were signed by the former Communist regime with the Soviet republics of Belarus, Ukraine, and Lithuania, fearing that the state would be forced to pay compensation to thousands of Polish citizens who lost property in Poland's prewar eastern territories. The Sejm's legislative proceedings are broadcast on public television and posted on the Parliament's Web site.

Poles have access to government information through the *Bulletin of Public Information*, which is also posted on governmental Web sites. Poland's administrative code obliges all government institutions to answer citizens' letters, complaints, and petitions. However, many officials struggle with the latest technology. A study conducted by the Polish nongovernmental organization (NGO) Civic Internet found that in 2004, only 28.3 percent of members of Parliament (MPs) replied to their voters' Internet inquiries, a six-point decrease compared with the previous year.

High-ranking government officials, including all MPs, must publicly declare the value of their private assets (houses, cars, shares, and so forth). These declarations are more detailed than those filed by the members of the European Parliament, and they are easily accessible to the public via the Internet. Officials must also declare whether they worked as agents for the Communist secret police and intelligence services. Those who admit such activities are not punished. Those who are found guilty of lying about their past by the lustration court are banned from performing public service for 10 years.

All government institutions are audited by the Supreme Chamber of Control. The chamber audits the legality, economic prudence, efficacy, and

diligence of organs of the government administration, the central bank, and other state and local organizational units. The chamber's president is appointed by the Sejm with the approval of the Senate (the Parliament's upper house) for a six-year term. In practice, the chamber's leadership is mostly of a different political background from that of the government—a factor that contributes largely to effective audits but can also lead to claims of political bias and motivation.

Poland has been struggling to create a high-quality, depoliticized, and protected civil service similar to those in Western democracies. By law, civil servants are supposed to be hired through a competitive selection process. However, Marek Belka's government (led by the Democratic Left Alliance) has followed in the footsteps of its predecessor and refused to appoint competitively selected civil servants to the posts of general directors in key government offices such as the Chancellery of the Prime Minister, the Ministry of the Interior, and the Office of the Committee for European Integration. The government also found a way to bypass the requirements of the law by appointing "acting" department directors and deputy directors.

The economy is generally free, although the state still had shares in about 1,800 companies in 2004 and fully controlled about one third of them. The fact that the government owns shares in a large number of companies has caused problems throughout the 15 years of Poland's transition. Politicians are tempted to control these firms and replace their management with people who are loyal to them. The most high-profile recent scandal, known as "Orlengate," came to the fore in 2004.

The affair began in 2002 when security agents arrested Andrzej Modrzejewski, CEO of the largest refiner and distributor of oil in Poland, PKN Orlen. The state still controls 27 percent of Orlen shares. The spectacular arrest was broadcast on the evening news and took place a day before a meeting of the company's supervisory board. The prosecutor charged Modrzejewski with disclosing confidential information concerning a company from an investment fund he had previously headed. Modrzejewski was released several hours before the board meeting, but the arrest provoked the board to fire him.

In April 2004, former treasury minister Wieslaw Kaczmarek publicly declared that Modrzejewski's arrest was politically motivated. He described a meeting among high officials of the government of the time—Prime Minister Leszek Miller, Justice Minister Barbara Piwnik, head of the civil foreign intelligence service Zbigniew Siemiatkowski, and himself—where the decision was made to arrest Modrzejewski. Modrzejewski's arrest was supposed to lead to his dismissal as CEO and thus prevent him from signing a large contract to supply Orlen with oil from J & S, an intermediary firm dealing with imports of Russian oil to Poland. After Kaczmarek's statements, the Parliament established an investigative commission. The prosecutor's office in Katowice also began to investigate the matter. These actions led to the

unearthing of further secret deals concerning Orlen that allegedly involved businessman Jan Kulczyk, Poland's richest man; Vladimir Alganov, a former KGB spy; and President Kwasniewski. The investigations were still under way at the end of 2004.

In May 2004, the Sejm adopted its final report on another scandal, known as Rywingate. It concluded that on July 22, 2002, Lew Rywin, a film producer, had approached Adam Michnik, editor of the newspaper *Gazeta Wyborcza*, and allegedly tried to extract a bribe from Michnik in return for securing passage of a series of new media regulations preferred by the newspaper's media holding company. According to the report, Rywin had acted on behalf of a group of leading figures from the SLD: Prime Minister Miller, members of his staff, and managers of media regulatory bodies and state-owned television. The report recommended that Miller be tried by the state tribunal—the court that judges the highest officials for violations of the Constitution or Polish law. Additionally, it concluded that since Kwasniewski knew of the bribery incident but did not inform law enforcement agencies about it, he should also be tried by the tribunal. Miller and Kwasniewski are unlikely to face trial as long as the SLD retains its parliamentary majority.

The intelligence services were often mentioned in connection with the year's major scandals. After 1989, the civil intelligence services were screened and many agents who had worked under the Communist regime were let go. The services were also partly reformed. However, the military intelligence service remained basically untouched, even throughout the process of Poland's integration into NATO.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
1.50	1.25	1.25	1.25	1.25	1.50	1.50	1.75

Poland has a multiparty parliamentary system. Elections to the lower house of the Parliament, the Sejm, are based on the principle of proportional representation. The electoral system includes two thresholds—5 percent for individual parties and 8 percent for coalitions of parties—for representation in the 460-member Sejm. The thresholds do not apply to national minorities. Thus members of the German minority have been able to hold on to two seats in the Parliament even though they received only 0.36 percent of the vote in the last elections. The 100 members of the upper chamber, the Senate, are elected on a “first past the post” principle. There are no legal barriers to independent and foreign election monitoring, but there is no need for it; elections are free and fair. The thresholds were introduced after Poland experimented with an unlimited proportional system. That system brought about an influx of new political parties. At one time, there were more than

20 of them in the Parliament and 7 in the coalition government. The current rules, introduced in 1993, limited the number of parties present in the Parliament and stabilized the electoral system.

Since 1989, no ruling Polish party has been reelected. Preceding elections, Polish politicians often unite around a new leader. After being elected to the Parliament, however, parties typically split up and regroup, giving rise to new formations. The births of Civic Platform (PO), Law and Justice (PiS), and the League of Polish Families (LPR)—centrist, center-right, and right-wing parties, respectively, that formed the strongest opposition forces in 2004—illustrate this trend. All three parties were established shortly before the last parliamentary elections in 2001. Many of these parties' leading politicians stem from Solidarity Electoral Action and the Freedom Union, which formed the ruling coalition from 1997 to 2000 but failed to win reelection in 2001. Both of those parties had roots in the Solidarity movement of the 1980s.

The last parliamentary elections were held in September 2001. Voter turnout was 46.2 percent, and the process was considered free and fair. The post-Communist Democratic Left Alliance (SLD), along with its electoral alliance partner, the Union of Labor (UP), captured 41 percent of the popular vote. This translated into 216 of 460 seats in the Sejm. Although this result gave the alliance a clear victory, it fell short of securing an absolute majority, leading the two parties to form a coalition with the Peasants Party (PSL). That coalition broke apart in March 2003, and the SLD and UP headed minority governments throughout the rest of 2003 and 2004. The populist Self-Defense Party has rarely opposed the government on most important votes, and the same can be said of the PSL.

There are no serious barriers to political party organization. Parties that receive more than 3 percent of the vote in national elections qualify for public funding. The most important new political entity founded in 2004 was the Social Democratic Party (SdPL). It was formed when politicians close to Speaker of Parliament Marek Borowski concluded that the SLD could not be reformed and decided to save as much support for the Left as possible. Borowski was joined in his efforts by a few prominent members of the UP, such as Tomasz Nalecz. The SdPL was registered just in time for the elections to the European Parliament, which were held on June 13. Their results were as follows:

Civic Platform	24.1%
League of Polish Families	15.9%
Law and Justice	12.7%
Self-Defense	10.8%
Democratic Left Alliance–Union of Labor	9.4%
Freedom Union	7.3%
Peasants Party	6.3%
Social Democratic Party	5.3%

Turnout for the European elections was only 20.9 percent, significantly lower than that in many older EU member states. There were several reasons for this development. First, Poles realized that the European Parliament has relatively little power. Second, Poland's official entry into the EU on May 1 did not dramatically alter people's lives for the better. In fact, many people quickly noticed sharp increases in food prices, and their enthusiasm for EU institutions waned. Third, entry into the EU was preceded by a long, relentless, pro-European campaign, and the people grew tired of it.

The victory of the opposition parties came as no surprise. The results reflected Poles' dissatisfaction with the government's failure to tackle domestic issues such as slow economic growth, high unemployment, and numerous cases of corruption among high government officials and members of the SLD establishment. Voters also punished the government for perceived weakness in the negotiations over the draft European constitutional treaty. But even though it put up a fight, Poland ultimately agreed to give up the Nice voting system in the European Council of Ministers—an arrangement that gave Poland almost as many votes as the more populous Germany, France, Great Britain, and Italy. It also lost its battle to insert a provision on Europe's Christian heritage into the Constitution's preamble, which was an important omission for many of Poland's Roman Catholics.

The European elections took place after a change of prime ministers. Leszek Miller resigned on May 2, the day after Poland entered the EU. Miller had made his decision at a ministerial meeting in Brussels in April when he learned of the split in the SLD. But the major cause of Miller's downfall was the media corruption affair known as "Rywingate."

After Miller's resignation, Kwasniewski failed to keep the promise he and the prime minister had made in 2003 to hold early parliamentary elections. Instead, he named Marek Belka as the new prime minister. Belka, a former deputy prime minister and minister of finance in Miller's government, first failed to receive a confidence vote because he was unable to win the SdPL's support. But when the president appointed him again, Sejm Speaker Borowski decided to back Belka for a few minor concessions. Among them were the quick drafting of a new health bill, a promise to "depoliticize" the cabinet, and another promise to call a new confidence vote in October. Borowski hoped that time would allow the SdPL to grow in strength and gain more support before the next elections.

Belka kept these promises. During his first months in office, he invited into his cabinet some former government officials from Solidarity-led administrations. Andrzej Ananicz was nominated to head the civil external intelligence service, Jerzy Miller was nominated to head the National Health Fund, and Anna Radziwill was appointed deputy minister of education. Belka thus began to realize the "historic compromise"—the plan to join forces of the post-Solidarity Left and the post-Communist SLD—an idea

long advocated by Kwasniewski and the influential *Gazeta Wyborcza*.

The establishment of the new leftist government did little to stop the SLD's plunge in opinion polls and did not give the SdPL the popularity boost it expected. The PO remained the most popular opposition force, with 20–30 percent support. In September, the PO began a nationwide campaign to downsize the state, making it less corrupt and more effective. The PO proposed to eliminate the Senate, halve the number of deputies in the Sejm, end proportional representation, and eliminate parliamentarians' immunity. Since the implementation of those changes would require amending Poland's Constitution, the PO began collecting the required half-million signatures for holding a referendum. By the end of the year, PO activists had gathered over 700,000 signatures. The campaign to amend the Constitution solidified support for the PO, and it was expected that this party would win the next elections in 2005 and form a new coalition government with the PiS.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25

Poland has a wide range of interest groups that participate actively and freely in the political process. Labor- and church-affiliated groups are influential, as they affect the political process on the local, regional, and national levels. Public policy institutes also play a significant role in the political arena. Other institutes are sponsored by the private sector, political parties, interest groups, and national and local governments. Many current and former government officials and policy makers have had affiliations with NGOs or the media and have brought to their government positions their understanding of the need for the state to protect the rights of the independent civic sector. The state hinders NGO registration and activity only in the case of extremist and intolerant groups. Article 13 of the Polish Constitution prohibits the propagation of Nazi, Fascist, and Communist ideology.

Poland's NGOs were active in a variety of initiatives in 2004. For example, a group of NGOs led a campaign to convince prominent politicians, journalists, and businessmen that the weakness of the Polish state and its vulnerability to corruption stem largely from its proportional electoral system, which makes parliamentarians more responsible to their parties and varied political networks than to the voters. Among the signatories of the May Appeal of the Concerned for the Fate of the Motherland, which called for the establishment of single-mandate electoral districts, were former foreign minister Wladyslaw Bartoszewski; Maciej Lukasiewicz, editor of the major daily *Rzeczpospolita*; and Jan Nowak-Jezioranski, former director of the Polish section of Radio Free Europe. In July, the movement organized a march

on Warsaw. The organizers held rallies in 30 cities and towns along the way. Despite these actions there was no evidence of policy impact by year's end.

Polish civil society also worked hard in 2004 to support a democratic election process in neighboring Ukraine, and thousands of Poles took to the streets late in the year to demonstrate against the obvious fraud in Ukraine's presidential election. Polish NGOs also sent 3,000 observers to Ukraine for the final round of voting. This support for Ukrainian democracy demonstrated both the vibrancy of Polish civil society and the country's commitment and sense of responsibility to promote further democratic expansion in Europe.

The government is generally receptive to policy advocacy from civil society groups. NGO representatives are invited to testify to parliamentary committees and in some cases to serve as expert advisers. The media also appreciates NGOs and charities. Two charities that traditionally receive a lot of attention are Polish Humanitarian Action, which collects food and other life necessities for victims of natural disasters and armed conflicts, and the Great Holiday Help Orchestra fund-raising drive for sick and handicapped children. The private 24-hour news channel TVN24 serves as one of the best forums for NGO experts. As in many developed countries, NGO representatives in Poland are frequently op-ed writers in the most influential newspapers.

Poland has a vibrant and politically diverse trade union movement. The two largest unions are the All-Poland Alliance of Trade Unions (OPZZ), with about 1.5 million members, and Solidarity (0.9 million members). OPZZ was established by the Communist authorities in 1984. It replaced the previous Communist workers' unions and was also supposed to replace Solidarity—the world's largest workers' union (with 10 million members at that time) and the only independent union in the Soviet bloc. Solidarity was banned in 1981 under martial law and had to operate underground. Many of its leaders were imprisoned and later sought refuge in the West. Solidarity was legalized again in 1989. Its decision to support Poland's economic shock therapy was crucial to the country's transition from planned to free-market economy.

In 2004, for the first time, Polish NGOs profited from the Law on Public Benefit Activities and Volunteering, which sets out rules governing cooperation between NGOs and municipalities. The law makes it easier for the NGOs to carry out "public assignments" and be paid for these services. They can also receive tax exemptions and be partly financed by taxpayers. The law stipulates that individuals can donate 1 percent of their income tax payments to an NGO or charity. In 2004, Poles used that option to donate US\$8 million to such organizations. Three quarters of that amount was contributed by Poland's richest 0.01 percent of the population.

However, some observers believe the procedure to donate money to NGOs is too complicated and so discourages taxpayers from taking advantage of this option, because taxpayers must first donate money to an NGO before they can claim the deduction. Some in the nonprofit sector advocate a system

where taxpayers can decide to donate as they prepare their tax returns. The state revenue service would then transfer the appropriate tax donation funds to individual NGOs.

Poland's accession to the EU opened new opportunities and presented new challenges for the civil society sector. On the one hand, Polish NGOs gained better access to EU funds meant to promote civil society. On the other hand, many international donors now view Poland as a normal Western country and prefer to direct their money elsewhere. Generally speaking, this situation is favorable to those NGOs that have a proven record. These organizations can count on increasing support from Polish businesses and individual donors. For some international donors, Polish NGOs continue to be attractive because they have good knowledge of the former Soviet Union and can be very helpful in democratizing that region, as they were during Ukraine's Orange Revolution.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
1.50	1.50	1.50	1.50	1.50	1.75	1.75	1.50

The media in Poland are generally free and independent, and freedom of the press is guaranteed by the Constitution. Poland has several organizations of journalists and editors, including the Polish Journalists Association, the Journalists of the Republic of Poland, and the Association of Local Press Publishers. The Press Freedom Monitoring Center, an independent NGO, tracks cases of possible violations of the rights of journalists.

However, Poland has laws that limit freedom of speech and of the press. The penal code provides for 6 months' to 10 years' imprisonment for anyone who publicly "insults, ridicules, or derides" the Polish nation, the state, or its principal organs. The law also sets penalties of up to 3 years in jail for libeling the president, 2 years where the victim is a member of the Parliament or the government, and 1 year for other public officials. Libel lawsuits brought against journalists are common, but fines rather than prison sentences are typically imposed. One of the most controversial libel cases in 2004 was brought by Aleksandra Jakubowska, then the prime minister's chief adviser, and Robert Kwiatkowski, then president of Polish State Television, against Janusz Majcherek, a columnist for the daily *Rzeczpospolita*, who had accused the two of conspiring to prompt Lew Rywin's bribery proposal. In September, a court ruled that Majcherek had the right to express his opinion, and Jakubowska and Kwiatkowski lost their case.

The centrist *Rzeczpospolita* is considered Poland's most important non-tabloid newspaper. The Norwegian Orkla group owns the majority of the newspaper's shares, with a minority remaining in state hands. *Rzeczpospolita*

sells about 180,000 copies daily. The tabloid *Fakt*, owned by the German media group Axel Springer, has the largest circulation (about 550,000), followed by the center-left *Gazeta Wyborcza*, with a circulation of about 430,000. *Gazeta Wyborcza* is owned by Poland's Agora. Other national dailies with relatively large circulation are *Super Express* (tabloid), *Zycie* (center-right), *Przegląd Sportowy* (sports), *Nasz Dziennik* (right, Catholic), and *Trybuna* (left).

The most important weeklies are *Wprost* (center-right), *Newsweek Polska* (center), *Polityka* (center-left), *Przegląd* (left), each selling 100,000 to 200,000 copies, and *Tygodnik Powszechny* (liberal, Catholic) with a circulation of 38,000. Another weekly that is influential on the left is *Nie*, edited by Jerzy Urban, a former spokesman for Communist leader General Wojciech Jaruzelski. *Nie* often runs sensationalist stories attacking the Catholic Church. There are also two English-language newspapers (the *Warsaw Business Journal* and the *Warsaw Voice*) and several dozen regional dailies, many of which are owned by German media companies such as Polskapresse-Passau and the Heinrich Bauer Group. Press distribution is dominated by two firms: the state-owned Ruch and the privately owned Kolporter.

The broadcasting market is much more restricted than the operations of the print media. Broadcasting is overseen by the nine-member National Broadcasting Council. The council's members are appointed separately by the Sejm, the Senate, and the president. The council exerts a high degree of control over broadcasting through its power of granting television and radio broadcast licenses, its oversight of the public electronic media, and its prerogatives with regard to private broadcasting (for example, it can punish private broadcasters for airing obscene content before 11:00 p.m.).

The largest broadcast media outlet is state owned. TVP is a conglomerate consisting of the 2 nationwide public television channels TVP1 and TVP2, 12 regional channels, and a satellite channel (TV Polonia) for the Polish community abroad. Under former head Robert Kwiatkowski, TVP was accused of being dominated by the Left, for example, of giving more airtime in news broadcasts to SLD leaders than to other parties and politicians. Kwiatkowski was linked to the Rywingate scandal and resigned his position. He was replaced in January 2004 by media expert Jan Dworak.

Poland's third most popular television station after TVP1 and TVP2 is the private Polsat. Another private station, TVN, has grown significantly in recent years and has successfully launched a 24-hour news channel. Several million households in Poland subscribe to some form of cable or satellite TV. There are 4 main nationwide radio broadcasters: public radio with 3 nationwide stations, Radio Zet (private), RMF-FM (private), and Radio Maryja (private, Catholic). There are also approximately 200 regional radio stations. Private stations' funding comes from advertisements. Public radio and television receive additional support through subscriber fees.

Poland's main press agencies are the Polish Press Agency, the Catholic Information Agency, and the Radio Information Agency. They are the primary source of information for private news and events. The main Internet news sites are Onet, www.onet.pl; Interia, www.interia.pl; and Wirtualna Polska, www.wp.pl.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.00						

Initiated in 1990 by the Solidarity-dominated Senate, the legislation that restored local self-government has proved to be one of Poland's most successful reforms. A second successful large-scale administrative reform was introduced in 1998 by the government of Jerzy Buzek. The Polish Constitution devotes an entire chapter to local self-government, and many other laws pertain to it. These regulations have decentralized political power and created three levels of government administration below the national level: 16 regions (*voivodships*), 314 counties (*poviats*) and 65 cities with *poviat* status, and nearly 2,500 communities (*gminas*).

The responsibilities of local authorities include education, social welfare, roads, public transportation, water and sewage systems, culture, and public order and security. Most responsibilities lie with the municipalities. The activities of all local self-governments are audited by the Supreme Chamber of Control just like those of the national government, as well as by the regional accounting chambers.

The Constitution grants all Polish citizens the right to elect local representatives. Since May 1, 2004, the citizens of other member states of the EU who live in Poland are also eligible to vote in local elections. The provincial marshals (presidents of *voivodships*) are elected by regional assemblies. Mayors of cities, towns, and other municipalities are elected in direct elections. Heads of *poviats* are elected indirectly by county councils (whose members are elected directly).

Local elections take place every four years. The last were in fall 2002, and their results were largely favorable to the opposition parties, whose mayoral candidates gained power in the majority of Polish cities (for example Warsaw, Lodz, and Bydgoszcz).

Candidates in local elections are often members of national political parties. However, independent candidates supported by citizens' committees have a much greater chance of winning local rather than national elections. There have also been some regional coalitions that would be unlikely on the national level (for example, involving the SLD and the Self-Defense Party). Local governments are generally free to design and adopt laws of their own,

although some restrictions apply. Cities with populations over 300,000 have to submit draft charters to the prime minister. And *voivods*—the central government’s highest representatives in the provinces—can declare local acts of law null and void if they consider them to be in breach of national law (local governments can take those decisions to court). These control mechanisms have worked well.

Local governments have very limited powers to levy taxes. Only municipalities are allowed to do so, and they collect farm taxes, property taxes, forest taxes, dog taxes, and transportation taxes. The amount of taxes is capped, and municipalities cannot choose to stop collecting any of these taxes (Warsaw, for example, has lowered its dog tax to a symbolic 1 zloty but could not do away with it altogether). The self-governments’ major source of income comes from nationally collected taxes; on the average, 75 percent comes from personal and corporate income taxes. Richer local authorities such as the city of Warsaw return some funds to the national government for redistribution to poorer self-governments.

In theory, the central government consults local self-governments on all vital legislation. The cabinet is not supposed to adopt any draft legislation affecting the finances of self-government that does not contain information on how much its implementation would cost local governments. The draft legislation must also have been reviewed by the 24-member Common Commission of the Government and the Territorial Self-Government—a body that is supposed to act as the major forum for consultations between the national government and representatives of the local self-governments.

In practice, the government frequently miscalculates the cost of new legislation, and the local governments are then left to deal with tasks they cannot afford. Sometimes the government tries to bypass the Common Commission. In 2004, for example, it first adopted a bill on municipal land-use planning and only then presented it to the Common Commission. The commission refused to review the bill because it did not contain information on how much it would cost local governments (according to the estimates of some local governments, that cost could be as high as twice their annual budgets). Government officials often tend to treat the Common Commission as nothing more than an NGO. They view the process of working together with the commission as “social consultation” and not a formal administrative procedure required by law.

Local self-governments are obliged to consult citizens directly on some decisions, such as development plans. They also must allow ecological organizations to be involved in the process of granting building licenses. Local authorities also use other means to attempt to raise the level of citizens’ participation in local affairs: Warsaw mayor Lech Kaczynski, for instance, conducted a special survey on whether businesses should be open on Sundays. However, the level of citizens’ engagement remains low. In the last local

elections, turnout ranged from 44.1 percent in municipal council elections to 49.5 percent in elections to county councils.

The awareness of the importance of local affairs might rise thanks to the prospect of receiving large amounts of money from EU structural funds. These funds will allow Poland to develop its infrastructure. Issues like the planning and construction of new roads, power plants, and sewage disposal facilities tend to arouse people's interest. In 2004, Poland began implementing the Integrated Operational Program for Regional Development—a plan for using EU structural funds in each of the 16 provinces. In 2007, the program will be decentralized, and each province will be able to devise and manage its own version.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
1.50	1.50	1.50	1.50	1.50	1.50	1.50	2.00

Poland's Constitution provides protections for fundamental individual freedoms, and they are generally respected. The Constitutional Tribunal determines the conformity of statutes and international agreements to the Constitution and considers complaints concerning constitutional infringements. The executive and legislative branches of the government comply when the tribunal strikes down certain acts of law as unconstitutional.

Polish courts are independent and impartial. Judges in Poland cannot belong to political parties or trade unions and are not allowed to perform public functions that would call their independence into question. Following nomination by the National Judicial Council, judges are formally appointed by the president, and they cannot be dismissed or removed arbitrarily. Individuals can be appointed judges at the age of 29 (though some achieve the status of junior judge at age 27) and need not have previously served as lawyers or prosecutors. In effect, many lack experience. The creation of the Center for the Education of Judges and Prosecutors in Krakow, which the government hopes to open in 2006, will help to train young judges.

Although there is no widespread official abuse of the criminal code, it is fair to say that the judiciary remains Poland's weakest branch of government. Court proceedings on the average take 6 months. In the Warsaw area, however, that period is 18 months. The record, an average 29 months, is held by the district court for central Warsaw. Although there has been some modest success in reducing excessive court delays, the number of cases lasting more than 5 years is still estimated at 6,300, with Warsaw the site of 1,200 of them. Such inefficiency has forced Poles increasingly to complain to the European Court of Human Rights in Strasbourg. Over the last 10 years, Poles filed almost 25,000 applications there and won 93 cases against

the Polish state. In 2004, Poland introduced a new law to make it easier for citizens to complain about excessive judicial delays and be compensated for them up to about US\$3,000.

Poland has also been slow in bringing to justice its former Communist rulers. The case against former interior minister General Czeslaw Kiszczak, charged with authorizing the use of force against striking coal miners in 1981, as a result of which nine miners were killed, has not been resolved since it was opened in 1994. The lustration proceedings to verify whether SLD chairman Jozef Oleksy lied about his association with the Communist intelligence services will enter their ninth year in 2005. Oleksy has twice been found guilty of lying about those ties, but the appeals procedures allow him to continue to hold public office. Nevertheless, 2004 brought some hope for punishing the leaders of the old regime as prosecutors from the Institute of National Remembrance began to investigate the 1981 imposition of martial law—an act that was illegal even under the law in force at the time.

Unfortunately, nothing was done in 2004 to improve the situation of the prison system. Since 2000, the number of prisoners has climbed 46 percent to 82,000, as the courts began sentencing more people to longer sentences. Many jails do not provide prisoners with the standard three square meters of space. Another 30,000 people who have been sentenced to prison remain outside of penitentiary institutions because there is no space for them.

Such problems remain unsolved owing to insufficient political will and widespread corruption among the judiciary's own senior leaders. For example, Prime Minister Miller's justice minister, Barbara Pivnik, was implicated in the scandal over the Orlen oil company. Marek Belka's first justice minister, Marek Sadowski, has for nine years avoided standing trial for causing a car accident, and his successor, Andrzej Kalwas, granted him immunity after Sadowski left office. There have been allegations that Grzegorz Kurczuk, another former justice minister under Miller, threatened and intimidated a newspaper editor. In this context, it is unsurprising that according to a 2004 study by the Stefan Batory Foundation, Poles rank the judiciary as the second most corrupt sector of Polish public life.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	2.25	2.25	2.25	2.50	2.50	3.00

In 2004, hardly a month passed without the revelation of a new scandal involving government officials, and Poles became convinced that their country's problem with corruption was worsening. That attitude was reflected in Transparency International's annual Corruption Perceptions Index. In 2004, on a scale of 10 (no corruption) to 0 (greatest corruption),

Poland received a mark of 3.5—worse than the previous year and the worst in the entire EU.

Official corruption in Poland can be divided into two categories: misuse of power and direct bribery. In 2004, the case of Robert Kwasniak offered a good example of the first type. In his capacity as deputy minister of finance, Kwasniak oversaw the Polish customs service, while his wife, who was a partner in a law firm, litigated against it. When companies had customs problems, Kwasniak allegedly passed the information to his wife, whose law firm then contacted those companies and offered “help” to overcome the difficulties. Kwasniak resigned two months after the allegations emerged. In a typical bribery scandal, SLD parliamentarian Andrzej Peczak was charged with accepting a Mercedes-Benz car in 2004 from arrested businessman Marek Dochnal. Peczak allegedly helped Dochnal obtain confidential information on privatizations of enterprises in the energy sector. The Parliament lifted Peczak’s immunity, and he was arrested in November.

The problem of corruption is not present just in the government. Poland’s entire health care system is notoriously corruption-friendly. Doctors are allowed to work in public hospitals and rent the same hospital facilities for their own private practices at different hours. As a result, patients who turn up at public hospitals may be told they can receive free treatment many months later or be seen that day by the same doctor for a fee.

The education system is marred by a lack of fairness. In 2004, journalists revealed that the University of Gdansk had accepted children of prominent local lawyers, prosecutors, and judges even though they did worse on the university’s entrance exams than other applicants. Students who did not have prominent parents had to pay university staff a US\$1,000 bribe to be admitted. The university refused to identify students who were wrongfully admitted on the grounds of protecting personal data. No one from the university administration was fired.

Although press investigations into corruption scandals are often much more efficient than those of state agencies, Polish journalism is not free of corruption, either. According to the latest International Index of Bribery for News Coverage released by the Institute for Public Relations and the International Public Relations Association, Poland’s journalists are more likely to be corrupted than their colleagues in other parts of the EU. Polish journalists fared better only compared with the press in non-EU member states such as Argentina, Mexico, Taiwan, and Ukraine.

Fighting corruption in Poland is extremely difficult because the population has accepted it. Opinion polls show that only 15 percent of the population would notify the police if they witnessed an act of bribery. Bribery was widespread under Communism, and some argue that the lack of a ban on former Communists holding public office allowed those practices to be injected into the new democratic system. Although Prime Minister Belka

promised to publish a list of high-ranking officials charged with corruption, by the end of 2004 he had not delivered on that pledge.

The struggle with corruption remains the domain of the media, a few dedicated NGOs such as the Stefan Batory Foundation, and a handful of individuals such as Julia Pitera, chairwoman of Poland's Transparency International and a Warsaw City Council member. Their work has had some success at the local government level, as in Opole, the first city in Poland to introduce transparent Internet bidding for public contracts. However, to achieve more dramatic reductions in corruption nationwide, Poland must undertake more coordinated and large-scale efforts involving both government and civil society.

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Romania

<i>Capital</i>	Bucharest
<i>Population</i>	21,700,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$6,560
<i>Private sector as % of GDP</i>	70%
<i>Ethnic groups</i>	Romanian (90 percent), Hungarian (7 percent), Roma (2 percent), other (1 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	3.25	3.25	2.75	3.00	3.00	2.75	2.75	2.75
Civil Society	3.75	3.75	3.00	3.00	3.00	2.75	2.50	2.25
Independent Media	4.25	4.00	3.50	3.50	3.50	3.75	3.75	4.00
Governance	4.25	4.00	3.50	3.75	3.75	3.75	3.75	n/a
National Democratic Governance	n/a	3.50						
Local Democratic Governance	n/a	3.00						
Judicial Framework and Independence*	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.00
Corruption	n/a	n/a	4.25	4.50	4.75	4.50	4.50	4.25
Democracy Score	3.95	3.85	3.54	3.67	3.71	3.63	3.58	3.39

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Since the fall of Nicolae Ceausescu in 1989, Romania has experienced political unrest and continuous struggle between old and new elites. Nevertheless, democratization has progressed. Independent media and civil society gained ground, and elections qualified as free and fair in 1992, 1996, and 2000. In 2003, Romania revised its 1991 Constitution and became a member of NATO. The European Commission formally acknowledged in 1997 that Romania had satisfied the Copenhagen political criteria and in 1999 invited the country to join the European Union (EU). Romania expects to sign the accession treaty to the EU in 2005 and become a full member in 2007. The EU introduced a safeguard clause allowing a one-year delay to the accession date if certain conditions are not fulfilled by January 1, 2007. The conditions refer mostly to reforms having to do with the judiciary, corruption, and economic competition. The former Communists have ruled 11 out of the first 15 years of transition and maintain old networks of influence and power. Their retention of strong positions in politics, press, and academia is seen as an enduring legacy of the Ceausescu era.

Strained by its swift move toward EU accession, Romania throughout 2004 continued to display what has become the main feature of Romanian political society—a gap between the “legal country” of formal regulations and the reality of actual conditions in Romania, which at times seems to be increasing rather than decreasing. Under pressure from Europe, some formal legal advances were made in 2004, but implementation lags owing to a lack of political will. While Romania is considered to have been in compliance since 2000 with the so-called Copenhagen political criteria of the EU, new concerns about media freedoms and the independence of the judiciary arose in 2004. Such fears, although shared by European members of Parliament and international media watchdogs, have been dismissed as unfounded by some who have depicted Romania as a model success story and the largest economic growth country in the region.

These achievements are real, as are other signs of development and normal behavior from the civil society. However, there is evidence for the first time that direct intervention from political leaders, not just institutional underdevelopment, is to blame for the poor state of the rule of law in Romania. Just 48 hours before the first round of legislative elections in 2004, a series of verbatim transcripts attributed to ruling party meetings were published and

brought fresh evidence that Romania's former Communists have not become less authoritarian while becoming pro-Europe. Following elections in fall 2004, the former opposition came to power and a new president replaced Ion Iliescu, although the difference between the electoral tallies was tight.

National Democratic Governance. Romania has a new government and president following legislative and presidential elections held at the end of 2004, consisting of a coalition of the former opposition with the Hungarian Democratic Union (HDU). The government practice of legislating through emergency ordinances continued, despite limitations set in the 2003 revised Constitution. To defend this practice, the government claimed with some justification that the Parliament is too slow to meet the deadlines for legislation to be passed under European integration directives. However, because ordinances end up being submitted for parliamentary approval, this practice does not impede the legislature's balance and check on the executive. The Law on Decisional Transparency was largely not implemented, and most of the legislation was passed without sufficient consultation with civil society. Negotiations with the EU were wrapped up at the end of 2004, but the conditions of entry agreed upon between the government (then dominated by the Social-Democratic Party [SDP]) and the EU remained for the most part unknown to the media and larger public. *Romania's new national democratic governance rating is set at 3.50 as voters proved in the last elections that they have the power to hold politicians accountable; however, it remains unlikely that a corrupt or ineffective officeholder can be unseated by any structure of horizontal accountability (such as the courts, anticorruption agencies, or disciplinary committees of the Parliament) between elections.*

Electoral Process. Romania held local, legislative, and presidential elections in 2004. Local elections were free and fair. General elections followed a disputed electoral campaign with pro-government electronic media bias. The ballot on November 28, 2004, saw many irregularities and illegal multiple voting in some counties. Since elections produced an unprecedented phenomenon for Romania—a concentration of votes for the two alliances (former Communist and anti-Communist) separated by just a few votes—illegal multiple voting may have played an important role in influencing the final results for the parliamentary elections. Following the scandal surrounding the November 28 elections, the second round of presidential elections was better organized and was won by the challenger, Traian Basescu, mayor of Bucharest. Basescu then managed to form a coalition based on parties that supported him, sending the former government party to the opposition ranks. Despite the scandal, the Romanian government and civil society managed in the second round to cooperate to solve problems, and the subsequent transfer of power was smooth. *Romania's electoral process score remains 2.75*

owing to the failure of law-and-order agencies to follow up on investigating allegations of fraud.

Civil Society. In 2004, the most visible advances in Romania were recorded by the civil society sector. Transcripts of former SDP-dominated government meetings leaked to the press showed that the government viewed civil society as a menace and that a plan was drawn by the SDP to create a counter civil society, with indications given to party activists to set up parallel nongovernmental organizations (NGOs) to copy and combat those with the highest profiles. In this context, the Romanian NGOs continued to play an important role in the democratization of Romania; however, they more often have found themselves fighting the government than cooperating with it. Not only has civil society become a more prominent and respected public actor, but in many fields, from social work to environment, it has come to complement or supplant the state. Legislation is anticipated for early 2005 that will improve the legal framework for NGOs. *Romania's civil society rating improves from 2.50 to 2.25 owing to both its boost in activity and the increasing reliance of the broader society on NGOs, especially in matters of governance and accountability of the administration.*

Independent Media. The Romanian Convent of Media Organizations adopted in July 2004 the first statute of the journalist and code of press conduct. Romanian legislation on free access to public information, adopted in 2001, continued to be an important mechanism for promoting public accountability. The print press, and even the local media, often very weak financially and largely shy in criticizing the government, played a substantial part in ensuring that citizens received relevant and balanced information to facilitate their participation in the November 2004 elections. The performance of Romania's radio and TV stations was uneven, however, as many of them are captured by vested interests. The year was plagued by scandals surrounding various media outlets, and evidence was published for the first time that the former government had schemed to control the media. *Romania's independent media rating decreases slightly from 3.75 to 4.00 because of electronic media compliance to political pressure during elections and the absence of significant changes otherwise in the media environment.*

Local Democratic Governance. The revision of the Constitution in 2003 was supposed to clarify the legal framework of local government by specifying that directly elected local authorities are not subordinate to the centrally appointed prefects. It was followed by legislation on decentralization and on the prefect institution, establishing the Law of the Corps of Prefects, in July 2004. In practice, however, prefects and heads of county councils, the latter being purely honorary positions, have come to enjoy the largest influence

at the county level. Nevertheless, local elections operate well as vertical accountability mechanisms, and several notoriously corrupt mayors lost their offices in June 2004. Local government is the most trusted tier of governance in Romania. *Romania's new rating for local democratic governance is set at 3.00 owing to the solid legal and financial basis of the local government and the proven capacity of the public, notably in urban areas, to unseat ineffective or corrupt local officials.*

Judicial Framework and Independence. The Romanian judiciary continues to be in transition, but the essential legislation to improve its performance is scheduled for completion in 2005. Following the 2003 revision of the Constitution in June 2004, the Law on the Superior Council of the Magistracy, the Law on the Organization of the Judiciary, and the Law on Magistrates were adopted and are being implemented. The Superior Council is to assume full responsibility for the recruitment, career development, and sanction of judges and prosecutors. Romania rescinded the prosecutor-general's legislated right to extraordinary appeal, which for most of the transition had served as the primary instrument of government interference in Supreme Court rulings, and adopted a new strategy for the reform of the judiciary beginning in March 2005. *Romania's score for judicial framework and independence improves from 4.25 to 4.00.*

Corruption. The Romanian government made some efforts to improve the regulatory framework of anticorruption. The first code of conduct for civil servants, passed in 2004, brought some clarification to conflict of interest legislation by specifically defining public interest, personal interest, and the situation of conflict of interest. However, most individuals who enjoy powerful positions continue to be above the law. A civil society coalition that documented corruption of candidates to the Parliament produced a list of more than 100 names, and roughly a quarter were removed from electoral lists after disclosure. The new president vowed to fight corruption, and considerable public support was shown for the civil society's anticorruption campaign. The new government appointed at the end of 2004 gave up immunity for former dignitaries and initiated investigations in a few notorious cases of tax evasion that had been shielded owing to political protection. *Both legislative improvements and actions taken by government and civil society justify an improvement in the corruption rating from 4.50 to 4.25.*

Outlook for 2005. Romania's change of government is unlikely to impede its pace of European integration. Together with Bulgaria, Romania will sign the accession treaty to the EU in April. This national objective is likely to ease the tensions in the new Parliament, bitterly and narrowly divided between the government coalition and the opposition. Once this national goal is attained,

political parties both within and outside the coalition are likely to become more aggressive in pursuing their own interests. The government's fragile majority in the Parliament seems to indicate that some of the reform bills required for European integration may prove challenging to pass. The new president, Traian Basescu, has already invoked the possibility of elections in the event the Parliament does not pass his bills. If the prime minister resigns or forces a no-confidence vote, and the Parliament subsequently turns down two nominees in succession for this position, Basescu can constitutionally call for early elections. For now, such elections are desired more by Basescu, who is uncomfortable with a tight majority, than by the opposition, which is afraid it would fare even worse in the next elections than it did in the last ones.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	3.50						

As a result of the legislative and presidential elections in late 2004, Romania's new government now consists of a coalition including the Hungarian Democratic Union (HDU) and the former opposition Truth and Justice Alliance. The elections were considered somewhat irregular and the results disputed, but the change of power was smooth and confirmed Romania's overall commitment to democracy. The European Commission kept a very low profile during the campaign and elections, and the irregularities were corrected mostly through the efforts of domestic civil society, helped by attentive and accurate international media coverage.

Romania has changed little since the Constitution was revised in 2003. Following a major reorganization of the government in June 2003, further restructuring took place in March 2004. The chief innovations were the establishment of three ministers of state (effectively deputy prime ministers) responsible for coordinating the work of other ministries and the creation of a new institution, the Chancellery of the Prime Minister. The chancellery has assumed responsibility for departments that had been under the prime minister's direct authority, oversees internationally financed programs (except for those sponsored by the European Union [EU]), and monitors implementation of the EU *acquis communautaire*, Europe's compulsory body of legislation for new member states.

Minister of Justice Rodica Stanoiu, perceived at home and abroad as a conservative opposing reform, stepped down—a departure praised by the

European Parliament. However, she merely switched places with the main adviser on security to President Ion Iliescu, Ion Talpes, who became a deputy prime minister in charge of European integration, while Stanoiu took up his position at the executive. Talpes had formerly been head of the Romanian foreign secret service and made headlines for his association with Willem Matser, a NATO official accused of corruption. Talpes allegedly introduced Matser to a local businessman who owed significant back taxes to the state, hoping to forge a business partnership. Subsequently, Matser was sentenced by a court in Belgium on corruption charges, and Talpes ended up in the Romanian government. In July 2004, following the local elections, five ministers were also replaced. One of these, Deputy Transportation Minister Sergiu Sechelariu, had been previously accused of distributing infrastructure funds to mayors favored among Social-Democratic Party (SDP) clientele, most notably the deputy minister's brother, the former mayor of Bacau. It was not clear whether the deputy minister was discharged as the object of a civil society disclosure campaign or because his brother failed once again to secure this important city for the SDP in the local elections. In general, all of these dismissals were presented as resignations, and corruption was never suggested as a possible factor.

European Commission regular reports have frequently observed that the Romanian executive's tendency to legislate through emergency ordinances has reduced the transparency of the legislative process, limited adequate consultation on draft laws, and contributed to legislative instability. The October 2003 constitutional revisions redefined the conditions under which emergency ordinances may be used. However, 58 ordinances were adopted between February and June 2004 (compared with 65 during the same period in 2003). Moreover, a provision has been introduced in the Constitution whereby an emergency ordinance that has been tabled by the government, if not approved by the Parliament within 30 days, is deemed to have been adopted by the first chamber. As this report forecast a year ago, revisions to the Romanian Constitution were bound to remain on paper only.

The excuse that Romanian governments invoke when overriding the legislature is the unusual sluggishness and sloppiness of the Romanian Parliament. The efficiency of the Romanian Parliament did increase somewhat after the Constitution was amended. Now, when legislation is passed by one chamber, it is automatically adopted if the other chamber delays discussing it. But the quality of legislation did not improve under the pressure to legislate faster, though the new measure did help with legislation that is usually not debated, such as the *acquis communautaire*. On other laws, the Parliament simply faulted. In fall 2004, for instance, the chamber adopted a law requiring accreditation from the Academy of Science for pollsters and research agencies—as well as individuals, regardless of academic qualifications—undertaking political and social research. The law, promoted by the

authoritarian Greater Romania Party (GRP), received negative reactions from both the Senate and the government, and President Iliescu vetoed it at the request of pollsters.

This year marked Romania's first as a NATO member, and as a result, the secret services and military were occupied with the practical steps of new membership and largely avoided public attention. On the contrary, National Council for Screening the Securitate's Archives (CNSAS)—the civilian authority in charge of screening the archives of the Securitate (Ceausescu's secret service)—was again the object of many disputes in 2004. The CNSAS is politically appointed, and the current council was elected prior to the 2000 elections, when anti-Communists held the majority in the Parliament. In light of the new SDP government, SDP representatives on the CNSAS ceased going to work in 2003 to force their dismissal and thus the election of a new CNSAS body dominated by the political majority. However, the Parliament has not taken serious action to dismiss the current CNSAS, which still has more than a year remaining in its lawful term. The most significant obstacle to CNSAS activity comes not from the Parliament, but from the Romanian Information Service (RIS), the main secret service and direct heir to the Securitate, which is still the *de facto* owner of the archives owing to a self-serving interpretation of the law.

The RIS often denies information or provides truncated versions. Dissidents receive their files with many unessential details about their lives intact but lacking the surveillance from their years of dissident activity. If information is required on a suspected informant, and that individual has been an officer, the RIS will often inform the CNSAS that the individual was not registered as an informant. In case of doubt or political intervention, a vote is taken. For instance, the leader of the GRP, Vadim Tudor—whose Communist-era denunciations of fellow writers were published by the press—was cleared. As the vote was split between his legal representatives in the CNSAS and former dissidents, the president of the body, Gheorghe Onisoru, used the chair's right to cast two votes to clear Vadim. The decision drew public outrage, and one former dissident in the CNSAS stepped down in protest.

The parliamentary committee charged with security affairs has proved in every instance to have little authority. No one knows how deep the screening of secret services penetrated in order to prepare the country for NATO membership. In fact, as in previous NATO expansions, the business of cleansing secret services and the Army of former Communists was entrusted largely to Romania itself, with little or no checking from NATO.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
3.25	3.25	2.75	3.00	3.00	2.75	2.75	2.75

In 2004, Romania held its fifth round of free elections, both local (June) and general (November). The elections were disputed and free, but the electoral campaigns and overall political competition promoted a pro-government bias. The main contenders were the ruling SDP; the Justice and Truth Alliance (DA), which is composed of the opposition Democratic Party (PD) and the National Liberal Party (PNL); the Hungarians' Democratic Union; the Romanian Humanist Party (RHP), associated with the ruling party; and the GRP, a radical populist party. Domestic observers reported only minor irregularities in local elections. The DA won the largest number of votes in Bucharest and nearly all county capitals, but the SDP won most mayoral positions, predominantly in villages and small towns.

The general elections were far more ambiguous. Since they produced an unprecedented concentration of votes for the two main alliances (former Communist and anti-Communist) separated by only a few votes, it is suspected that fraud could have played a decisive role in influencing as much as 3–5 percent of the final results—the worst instance of electoral fraud in Romania in the past decade. The Institute for Marketing and Polls (IMAS) published an analysis of election day data showing significant correlations between invalid votes, or supplementary electoral lists, on one side and the vote for the SDP on the other. In other words, districts where outsiders showed up in large numbers to vote despite being registered elsewhere on permanent electoral lists (and therefore registered on supplementary lists at the polls) voted significantly above the national average for the SDP, according to the Web site www.imas.ro.

Domestic watchdog Pro-Democratia filed several complaints with the Central Electoral Bureau (BEC), claiming that voters from SDP strongholds were carried by bus from one voting district to another and also suspected of multiple voting. This was the first election when, instead of a stamp on their old paper IDs, voters received a sticker on their new plastic IDs after the ballot had been cast. However, these stickers could be easily removed, as journalists proved on TV talk shows, thus allowing multiple voting. The Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) stated that “while the democratic election process appears to be further consolidated in Romania, some procedural concerns have been raised regarding suspension of the use of voter cards. In the context of a closely contested election, this has the potential to affect public confidence.” Additionally, the OSCE/ODIHR assessment mission reported that it “did not receive any convincing information that explained the suspension of the use of voter cards for these elections. This, combined

with the possibility to vote in any polling station, has the potential to open the door for multiple voting.”

Despite civil society’s requests, the government refused to amend legislation to allow observers, opposition parties, and civil society to check electoral lists for instances of multiple voting. According to the law, no institution is empowered or compelled to investigate electoral fraud, which must be proven fully by claimants, and no institution has the power to declare elections invalid except county by county. As poor as the electoral law is, its interpretation is even worse. The OSCE recommendation that “any such alleged problems should be fully dealt with through the appropriate administrative and judicial processes” was clearly not followed, as the BEC claimed it does not have legal entitlement to investigate fraud and did not call on prosecutors to do so. After two days of public protest, the BEC granted opposition parties the right to compare supplementary lists with permanent lists and therefore check for multiple voting. But it was too late, as the electoral law requires that final election results be made official 48 hours after receiving results from the districts. By the deadline, the opposition results had not been received, let alone checked, and the election was declared valid with only 10 percent of the electoral lists received.

The 15 most highly reputed nongovernmental organizations (NGOs) in Romania asked on December 2 that the electoral process be suspended until all lists were handed over, multiple voters traced, and the counts of special-list votes repeated. The BEC ignored these requests. Newspapers documented many instances of multiple voting afterward, but a final count has yet to be computed. The new Romanian Parliament has vowed to create a commission to investigate the matter, but even if fraud is proven, the vote cannot be repeated under current electoral law. The prosecutor-general, traditionally appointed by the president, failed to take any meaningful action. Although video taken by the BBC and other journalists showed busloads of multiple voters, an incident that could have been addressed during the election, Prosecutor-General Ilie Botos declared on December 1 that all investigations would be conducted only *after* elections.

Official figures show that more than 10 percent of those who voted on November 28 did so on supplementary lists, either by claiming they were residents but not included in the permanent list (supplementary list 1) or by claiming to be in transit (supplementary list 2). Official figures show 11 million voters total, out of which 1.2 million were on supplementary lists (500,000 on list 1 and 700,000 on list 2). There was room for considerable confusion, as electoral lists were not updated to exclude about 1.5 million people who had died or immigrated in the last 10 years, according to pollster IMAS. Errors were also noted in the reporting of invalid votes, but the National Commission for Statistics claimed it had requested corrections from districts in ample time. For districts, this often meant that the original

records of results had to be retrieved and actually tampered with by presidents of local electoral bureaus in order to correct them. The SDP and the RHP actually led the DA with a little over half a million votes.

Nevertheless, the scandal that broke out showed that Romania has a vigorous print media and civil society. Despite the electronic media's restraint in covering allegations of fraud, the domestic press, international media, and civil society managed to spread the news that the elections had not been fair. The government was compelled to forbid supplementary lists for the second round. Despite enjoying an 8 percent advantage in the first round, Prime Minister Adrian Nastase lost the second round to challenger Traian Basescu, mayor of Bucharest. Basescu was then instrumental in facilitating the SDP's allies, the RHP and the HDU, to form an alliance with the DA, based on the DA's one-seat lead over the SDP (minus the RHP). By the end of 2004, Romania had a new government after a smooth transfer of power.

Table 1. Results of Elections 2004 in Romania

Parties	Senate		Chamber of Deputies		Presidential Elections	
	No. of Seats	%	No. of Seats	%	1st Round	2nd Round
SDP + RHU	57 (SDP 46) (RHU 11)	37.1	132 (SDP 113) (RHU 19)	36.6	40.9	48.8
DA	49	31.8	113	31.3	33.9	51.2
GRP	21	13.6	48	12.9	12.6	
HDU	10	6.2	21	6.2	5.1	
Total	137	*	314	*		

* The rest of the votes up to 100 percent represent minor candidates; these were redistributed to the parties that made the electoral thresholds, according to the Romanian proportional electoral system.

The electoral campaign and overall political competition in Romania were far from fair in 2004. The structural imbalance of the political system, with a great concentration of resources in the hands of successor Communist parties as opposed to the anti-Communist parties, showed more strongly in this electoral year than in previous ones. This means not only material resources, but also the power to adjust legislation and persuade state agencies to rule to the advantage of one group. For instance, President Ion Iliescu is still the most popular former Communist politician, even after three mandates (the Constitution sets a two-term limit); consequently, the electoral legislation was amended in 2004 so that he could run on the electoral list of the SDP "as an independent" (Law 373/2004, Article 5). He even campaigned for the SDP, although Article 84 of the Romanian Constitution states, "During his term of office, the president of Romania may not be a member of any political party, nor may he perform any public or private office." The

Romanian Constitutional Court, filled with former SDP ministers, turned a blind eye to this move.

Unlike in neighboring Hungary or Bulgaria, the Romanian Constitutional Court has never issued a significant ruling against the former Communist political establishment, despite strong partisanship in Romanian political life. Also, since Bucharest mayor Traian Basescu—the main presidential challenger to SDP candidate Adrian Nastase—has a reputation as a vigorous campaigner, the National Audiovisual Council (CNA), the broadcast regulator that is politically appointed according to party percentages in the Parliament, interpreted the electoral law to mean that the two main presidential candidates could not debate face-to-face in the first round of legislative elections. Instead of watching a debate between the two main presidential contenders, each garnering 35–40 percent at the polls, voters had to watch a succession of statements by more than 10 minor candidates. The CNA also heavily fined TV and radio stations that even marginally broke the abundant and often redundant regulations surrounding elections, so no TV producer dared defy them by broadcasting real debates. The head of the CNA, Ralu Filip, cited European legislation to support this unprecedented decision (specifically the directive Television Without Borders), although this legislation has no connection to elections whatsoever.

During the elections, the former Communist bloc SDP had three major advantages over the opposition alliance DA. The first was control over local and regional elites, especially in the least-developed regions. This allowed for the manipulation of local resources, especially in rural areas. Local elites have traditionally backed the SDP because the party's policies have always allowed them to control local resources. For instance, welfare support and various subsidies, access to public resources (such as wood), and vouchers for agriculture works are strictly controlled by local "gatekeeper" elites in Romania's rural areas. About 38 percent of Romanians live on agriculture, and over 80 percent of these are engaged in subsistence farming, the highest level among accession countries. Opposition parties do not maintain offices in these rural areas, while SDP offices are typically hosted in local government premises. Nearly all mayors are SDP affiliated in subsistence farming areas and are often the same people who enjoyed power during the Communist regime. Whole villages vote unanimously for the SDP from fear of losing the community's political links to essential resources.

The SDP's second major advantage over the opposition DA during the electoral period was its dominance over electronic media. This control was expressed through the overall media agenda and, more specifically, through the selection of independent opinion leaders featured on television. The three main TV channels, TVR 1, Antena 1, and ProTV—together accounting for about 60 percent of the national audience—are all closely aligned to the SDP. TVR 1, the public station, has a politically appointed board controlled by

the SDP. However, some journalists dissented during the June 2004 local elections and, after a few days of portraying the election results as a strong SDP victory, began to present a more balanced picture. As a result of this dissent, TVR 1's board received a negative vote in its annual review by the SDP-dominated Media Parliament Committee, which is legal ground to dismiss the station's entire board. As it happened, the vote in the plenum was postponed, and TVR 1 entered the national electoral campaign with this threat hanging over its management. The two private channels also had institutional biases. Antena 1 belongs to the head of the RHP, which ran as a junior electoral partner of the SDP. ProTV, the third network, owes significant taxes to the state. Adrian Sarbu, general manager of ProTV, has ties with Mircea Geoana, the SDP candidate for prime minister. The three channels favored the SDP by avoiding any discussion of corruption (the main electoral topic), refraining from any criticism of the government party, and screening independent opinion makers so that only those favorable to the SDP featured in their programming. Smaller channels were more evenhanded, but their reach is limited to only a few large cities.

The SDP's last major advantage over the DA was its influence over authorities responsible for regulating elections. The SDP used the CNA to maintain a positive image during the electoral period. The SDP also flooded the BEC, made up of judges, with complaints that the opposition was attempting to steal the elections and tried to pressure the BEC to intervene in censoring the anticorruption campaign of civil society on grounds that it was injuring the SDP more than other parties. The head of the BEC, Emil Ghergut, took a pro-SDP position by publicly criticizing the challenger candidate and then refused to resign when the media asked him to step down.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
3.75	3.75	3.00	3.00	3.00	2.75	2.50	2.25

In 2004, the most visible advances in Romania were made by the civil society sector, not as a result of any support from the government, but rather in a show of protest against it. In a sort of Romanian Watergate, transcripts of SDP government meetings leaked to the press reveal that the government views civil society as a menace. A plan was drawn up by the SDP to create a counter civil society, encouraging party activists to establish new NGOs to copy and combat already existing ones. Although Prime Minister Nastase claimed that the transcripts are not fully accurate, Deputy Prime Minister Adrian Severin admitted in a talk show on Realitatea TV that the portion where he and others discuss NGOs is real. The full transcripts were published by *Editura Zina*, and former minister of affairs Mircea Geoana was quoted

by the BBC World Service as acknowledging the transcripts were genuine.

In this environment, NGOs continued to play an important role in the democratization of Romania—more often by fighting the government than cooperating with it. Regrettably, cooperation with the government, on the rise in 2004, often meant supporting the government in multiplying the already numerous formal rules and regulations, few of which are implemented. For instance, while the legislation on policy transparency remains largely unimplemented, with law after law being produced as emergency ordinances, the government in cooperation with a client NGO spent huge sums on promoting the legislation in a confusing radio spot that failed precisely to inform citizens of their rights. Along the same lines, the government passed its electoral legislation for 2004 without respecting the legal terms of 30 days' disclosure and 10 days of public debate. Threatening to walk out and not observe elections, the main electoral watchdog NGO, Pro Democratia, forced the government to compromise on some minor points and revise the legislation. This conflict might have been avoided if debate had been allowed to take place—in the spirit of “sunshine” legislation—before the government moved to enact the legislation.

Challenging the government creates its own problems, but there is some evidence that it leads to more substantial results. For instance, in 2004, APADOR Helsinki Committee Romania, after fighting in court on the basis of a freedom of information act, managed to obtain final decisions against authorities that had denied information: the Ministry of Public Finance and the Office of the Prosecutor-General. In the first case, the information the authorities were required to release involved statistics on court fee waivers. In the second case, the information consisted of statistics on surveillance warrants issued by the Office of the Prosecutor-General between 1990 and 2002. However, several months after those decisions were delivered, the authorities in question had not yet complied with the court decision. APADOR decided to start enforcement proceedings provided for by the Law on Administrative Matters, which states that in the event a public authority/institution does not comply with a final court decision, the head of the authority can be brought to justice together with the authority itself and sanctioned with a civil fine per each day of delay.

APADOR filed court actions against the minister of public finance and the ministry, on the one hand, and against the prosecutor-general and the Office of the Prosecutor-General on the other, asking for the head of the institution to be fined and for civil damages to be paid by both the institution and its head. Following the proceedings against the minister of public finance, information was communicated to APADOR. After APADOR filed the court complaint against the prosecutor-general and the Office of the Prosecutor-General, the prosecutor-general (Tanase Joita) stepped down under public pressure; as a result, APADOR filed another complaint against

the newly appointed prosecutor-general, Ilie Botos, who also refused to release the information.

The Bucharest tribunal decided in favor of APADOR and fined the prosecutor-general 500 ROL (\$0.05) for each day of delay. At the same time, the prosecutor-general lodged an extraordinary appeal against the final decision ordering the Office of the Prosecutor-General to release the information. This extraordinary appeal was in the hands of the prosecutor-general, the only one entitled to lodge such an appeal by the Supreme Court of Justice (the prosecutor-general lost this right in the fall 2004 legislation revision). In several cases, the European Court of Human Rights held that the appeal in question was an infringement of the right to a fair trial. In this case, the prosecutor-general used his power to lodge the appeal to avoid complying with a final court decision. The proceedings are still pending, demonstrating that freedom of information statutes are observed only to the extent that an activist public is willing to push unresponsive authorities for their implementation. As a positive indicator, many other NGOs have recorded successes in their efforts to push for the implementation of transparency legislation.

The *2004 Regular Report on Romania's Progress Toward Accession* shows that the credibility and expertise of civil society has increased in recent years. Besides the technical sections on acquis implementation, the report draws on many reports by NGOs, from think tanks and media watchdogs to environment NGOs. Also, civil society in Romania in 2004 for the first time organized a year-long nationwide anticorruption campaign, building a successful and highly cohesive coalition, and received unprecedented recognition from nearly every major political actor. The Coalition for a Clean Parliament (CCP) was a culmination of all the individual NGO efforts in 2004 (it won the title for the most significant civil society campaign at the yearly Civil Society Awards). It also used the reference term *Romanian civil society* for the first time in public discourse and with Western media. Many domestic and international media outlets covered the coalition's activities, among them the BBC, Reuters, AP, *Le Monde*, the *Financial Times*, *Frankfurter Allgemeine Zeitung*, *Die Presse*, *The Economist*, and countless other European newspapers. Throughout this campaign, Romanian civil society demonstrated management, planning, and fundraising capacities, all at an unexpectedly high professional level for what was allegedly considered an inexperienced and grassroots civil society.

The CCP first established the criteria for what makes a candidate unfit for a "cleaner Parliament": (1) having shifted repeatedly from one political party to another in search of personal profit; (2) having been accused of corruption on the basis of published verifiable evidence; (3) having been exposed as an agent of the former Securitate, Ceausescu's secret service; (4) owning private firms with tax arrears to the state; (5) being unable to explain the difference between officially stated assets and revenues; (6) profiting from conflicts of

interest involving a public position; and so on. The CCP's second step was to discuss these criteria with the leadership of the political parties currently represented in the Parliament. The most important parties—the SDP, the DA, and the HDU—agreed on the criteria and further procedures the CCP had planned and also publicly announced their support for the campaign.

The CCP's third step was to gather information on candidates representing all of the abovementioned political parties. That was done through (1) collecting information released by the press; (2) researching the sites of several public authorities in charge of financial and commercial matters; and (3) verifying all collected information. The fourth step was to draw up lists of those candidates who would meet some or all of the criteria and, therefore, were believed by the CCP to be unfit to serve in the future Parliament. The resulting "blacklists" were sent to the political parties, which were asked to reexamine each case and to decide whether to withdraw or maintain the candidate. The CCP also offered to analyze each possible individual contestation. Step five consisted of political parties withdrawing a number of their initial candidates. Some of the contested candidates appealed to the CCP, which approved or rejected their applications and adjusted the blacklists accordingly. The last step was to release the final CCP lists, in the form of nearly 2 million flyers, distributed in most of the 41 districts of Romania, beginning at the village level.

The results of this process showed that many more disputed candidates belonged to the government party than the opposition. The SDP denounced the entire procedure after the final blacklists were published and encouraged their individual candidates to sue the coalition members in an emergency procedure asking courts to stop the distribution of flyers. In public statements and open letters, the RHP (and the TV station Antena 1), an SDP satellite, accused the CCP of crimes such as "conspiracy" and being "a bunch of criminals" and "civic terrorists." The SDP and the RHP also asked the main electoral authority, the BEC, to banish the CCP flyers. However, judges from both the ordinary court and the BEC ruled in favor of the CCP, and the attempt to use the judges to censor the CCP failed. It should be mentioned that, in the meantime, one of the most powerful trade unions, the Cartel ALFA, publicly stated its support for the CCP and its actions. However, in many counties and in Bucharest, faked lists were circulated in large quantities. Authors simply used the CCP list format, including the signatures of civic leaders, but replaced the names of candidates with those of members of the opposition. In this case, the lists were considered libelous by many. Although complaints were lodged against the distribution of faked flyers, the police did not intervene and allowed the fakes to circulate.

Local media and NGOs did their best to help the campaign, but as it turns out, civil society is weak in the poorest and most corrupt areas in Romania—namely, districts of subsistence farming. However, through the

joint efforts of students and grassroots organizations such as the Civic Alliance and Pro-Democrata, nearly 2 million flyers were distributed in every county of Romania. More than 2,000 people were involved as volunteers in this campaign, from students to union members. The estimates of illegal counter-flyers vary, but it seems there were at least as many.

For Romanian civil society to become stronger, however, structural changes are needed not only in the legislation, but also in the business community. Small- and medium-size businesses usually do not generate any extra profit for use toward sponsoring civil society causes and organization. On the one hand, the business environment is still difficult; on the other, the fiscal burden is considered such that firms prefer to spend rather than record profits that would be taxed. More important firms are often caught in the vicious cycle of trafficking influence and tax arrears. Few businesses are completely clear, as the practice of not paying tax arrears to the state or not repaying loans to state-owned banks is widespread, especially if one has political connections. Despite these difficulties, NGOs raise some money from private sources, but unless one can trust that a sponsor is not a potential criminal, not even better sponsorship legislation will increase the general reliance on private sources. Only substantial progress in cleaning the business environment can advance the cause of domestic sponsorship for Romanian civil society.

However, the new government has been rapidly improving the environment for civil society. First, the 2003 government ordinance regulating civil society finally arrived in line for parliamentary approval and was considerably improved by the new Parliament. According to the new ordinance, it is no longer compulsory to get approval from the government when setting up a new NGO. Also, equality among NGOs was reinstated, dispensing with the distinction between ordinary NGOs and “public utility” NGOs, a government-granted status that NGOs claimed was declared arbitrarily. Furthermore, a revision of the fiscal legislation allows citizens to grant up to 1 percent of their taxable income to an NGO of their choice. This fiscal reform will be enacted for the first time in 2005.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
4.25	4.00	3.50	3.50	3.50	3.75	3.75	4.00

Strained by its swift move toward EU accession, Romania throughout 2004 continued to display what has become the main feature of the Romanian political society—the distance between the “legal country” of formal regulations and the reality of actual conditions in Romania, a gap that at times seems to be increasing rather than decreasing. Under pressure from the EU, especially after one unfavorable report presented by European parliamentarian

Baroness Emma Nicholson in March 2004, some formal advances were made in the field of press freedom. In June 2004, the criminal code was amended to repeal the crime of “insult,” removing the possibility of a prison sentence for slander and aligning requirements on the burden of proof with those of the European Court of Human Rights.

On March 8, the CNA issued a decision asking television broadcasters to balance their coverage of the executive, the parliamentary majority, and the opposition—this after years of imbalanced coverage in favor of the SDP and Adrian Nastase, as noted by the Media Monitoring Agency, the main media watchdog in Bucharest. The Romanian Convent of Media Organizations adopted the Statute of the Journalist and the code of press conduct in July 2004 to address the continual complaints of politicians about irresponsible journalism. The Romanian legislation on free access to public information, adopted in 2001, continued to be an important mechanism promoting public accountability. Both NGOs and the media resorted successfully to this piece of legislation to obtain important information in the public interest. The print press, even the local media, often very weak financially, played a significant role in ensuring that citizens received relevant and balanced information to facilitate their participation in the November 2004 elections.

On the downside, however, systemic problems in the media environment that affect the country’s realization of freedom of expression grew only more obvious in 2004. Most electronic media in Romania are controlled by vested interests, and a small financial oligarchy captured most of the provincial print media as well. Public media, whose boards are politically appointed, are biased in favor of the government. A report by the internal Ethic Committee of Romanian Public Television is the first inside confirmation that complaints of censorship and bias from journalists are well-founded.

Challenges to media freedom can be divided roughly into three categories: acts of censorship, violence directed against journalists, and attempts to control media through ownership. In the first case, censorship and self-censorship by editors due to economic pressures remain serious concerns. Various regulations have only added to the problem. During the 2004 local elections, police were sent to the independent radio station Total to enforce the “no campaigning on election day” rule; a talk show guest had described her neighborhood in critical terms, which was interpreted as criticism of the sitting mayor. Additionally, an SDP deputy, Ion Olteanu, proposed a law regarding “the protection of a person’s private life, name, image, house, and correspondence.” A general media protest against this draft, seen by journalists as an attempt to prevent anticorruption investigations, managed temporarily to stall the project. Also, the broadcasting watchdog CNA banned a radio spot by the national daily *Evenimentul Zilei* on the grounds that it was “an indirectly negative electoral campaign.” The spot actually consisted of a number of headlines that covered different political scandals or

acts of corruption in which several politicians from the SDP were involved. The incident happened outside the official electoral campaign period.

On another occasion, *Evenimentul Zilei* published a classified internal regulation signed by the secretary-general of the government stating that all ministers and other central administration authorities, including companies under state authority, could sign advertising contracts only with the approval of the prime minister. As Romania has the largest state sector among accession countries, public enterprises account for a significant share of advertising, although public advertising represents a small percentage of the total advertising market. Some small newspapers without circulation rely heavily on public advertising, which is sometimes used openly to settle debts with private media. State monopolies with no competition and limited public contact, such as the Bucharest airport or the Constanta port authority, buy advertising space in favorite newspapers to help increase their revenues.

The former government used legal regulations to influence media reporting, but other less formal channels were used more heavily. Journalists in the public media from both radio and TV denounced political pressure and self-censorship of editors. Reports from the Media Monitoring Agency repeatedly showed that TV news is notably less critical of the government than is the written press. Political talk shows disappeared entirely or were pushed later than eleven o'clock at night, despite their status as public favorites. Political news was squeezed in at the end of newscasts and sensationalized into tabloid news. Consequently, the audience for news and current affairs, which led ratings in the late 1990s, has disintegrated. This is not a misguided programming strategy, but a concerted attempt by stations to cut their political costs, even if it means losing a significant share of their audience.

The government has tolerated the accumulation of significant tax arrears by a number of the largest media companies, including most major private TV stations, according to the November 2004 European Commission *Regular Report on Romania*. Stations have needed to be on good terms with the government, as many have been unable to settle these debts. An attempt by the government to solve the problem of tax arrears by offering payment plans to some of the companies during the fall 2004 electoral campaign was only marginally successful (just a few paid), so the new government had to coerce the remainder into settling their debts beginning in 2005. There are also credible reports of locally elected officials using public office to influence the editorial policy of local newspapers, radio stations, and TV stations.

Another frequent phenomenon preventing information from reaching the readers is the practice of tampering with the distribution of newspapers. When the dailies *Romania Libera* and *Evenimentul Zilei* published the famous SDP transcripts and the investigation weekly *Academia Catavencu* published the CCP's blacklists of morally unfit parliamentary candidates,

these issues either vanished from the market or reached subscribers without the essential pages.

Another major challenge to media freedom is violence directed against journalists. According to both domestic and foreign media watchdogs, such as Reporters Without Borders, violent threats and violence against journalists did not decrease in 2004 as compared with previous years, despite the government's pledge that police would prosecute these cases more diligently.

Many incidents involve authorities, who are themselves the main aggressors. In 2004, a photojournalist from *Evenimentul Zilei* was threatened by the prefect deputy of Timis County when the journalist tried to take a picture of him. And in Timisoara two journalists working for the weekly *Banateanul* were threatened aggressively and sequestered for taking pictures during an electoral visit to a school by the SDP candidate to Timisoara City Hall. In Bacau, the former SDP mayor there, Dumitru Sechelariu, threatened to kill a journalist from *Gazeta de Bacau* during a phone conversation.

The third major challenge to media freedom is excessive control through ownership. This category highlights essential limitations to media freedom in former Communist Europe. Informal links, rather than open threats, create a network of compliance around government actions. For instance, a few years ago some publishers, many of them with a Communist or Securitate past, formed the Romanian Press Club (RPC), a corporate media organization granted the authority to establish media protocols that would exclude newcomers with different ideas and generally keep journalists under control. One of these informal rules, often quoted in media circles in Bucharest, states that members of the RPC would not hire a journalist who resigns (or is ousted) from another media club as the result of a conflict with management. The president of the RPC published an editorial on press freedom in which he stated that only owners (not journalists) have the right to decide what the newspaper stands for.

Two RPC members with distinctive profiles are publishers Petre Mihai Bacanu—a former dissident from Ceausescu's times who had published the only attempt at a Romanian samizdat publication—and Cornel Nistorescu, one of the founders of the new Romanian free media. Nistorescu was popular among journalists thanks to his reputation for giving absolute freedom to the talented young editors and investigative reporters at *Evenimentul Zilei*, his daily. In 1990, Bacanu reinvented *Romania Libera*, a newspaper that resisted attacks by miners that same year to become the flagship of Romanian anti-Communism. However, both Bacanu and Nistorescu sold majority shares in their publications to foreign owners—*Evenimentul Zilei* to Bertelsmann and *Romania Libera* to Westdeutsche Allgemeine Zeitung (WAZ), both German conglomerates. Bertelsmann then sold *Evenimentul Zilei* to Ringier (a Swiss company), a transaction opposed by Nistorescu and one that looked doubtful for a time, as Ringier already owned the other two most widely distributed

Romanian dailies, a tabloid and a sports newspaper. However, the Romanian Competition Council, the regulating body in the press arena, gave its blessing to the transaction as long as the interests of Romanian media consumers would not be jeopardized.

Nevertheless, the peace between the new owners and the editorial staff did not last long. Despite the fact that both Nistorescu and Bacanu had contracts securing their final say over content, the new owners intervened at both newspapers to ask for important editorial changes. In both cases, they required more infotainment and less criticism of government, claim the two editors, supported by their staff. *Romania Libera* also claims to have evidence linking the former Romanian government with the foreign owners. Nistorescu stepped down, and WAZ finally sold *Romania Libera* to a Romanian investor. The scandal surrounding the two cases damaged the reputation of these two foreign investors. Ringier subsequently fired Nistorescu's deputy at *Evenimentul*, and most of the journalists quit in protest.

These incidents reveal structural problems in the environment in which the Romanian media operate. First, Romania has a political elite, especially among anti-Communists, which has not come to terms with the concept of media freedom. A note from the press office of Romanian minister of defense Iona Mircea Pascu reminded journalists to mind their own business, as life is short and health "precious." This kind of language is common from the government, as is the use of coercive influence. For instance, the president of the Chamber of Deputies, Valer Dorneanu, is quoted in the transcripts of an SDP governmental meeting as saying: "I keep wondering why do we continue to support all these press institutions...with the old tax breaks, with sponsoring, with advertising, while what we get in return is just some vague, individual reprieve—at best?..." And Serban Mihailescu, former secretary-general of the government, is quoted as saying: "We should use the method that worked so well with Antena 1. Before the program we should call and talk to them, because Adrian [Sarbu, the owner of ProTV] asks something from me every single day."

Second, readership is low and the quality of reporting mixed. It is considered acceptable for media outlets to participate in influence trading rather than make a profit out of accurate reporting. Editors claim with some justification that accurate information and objectivity sell poorly, so other than a few NGOs there is not a large, sophisticated readership that struggling newspapers can appeal to. Third, many positions of influence are still held by members from the old regime and their younger cronies. Evidence published by an *Evenimentul Zilei* investigative journalist based on files from the CNSAS makes the claim, for instance, that on a particular private TV broadcaster, the public television correspondent to Washington, the editor in charge of editorial campaigns, and another producer of campaign shows are all former Securitate informants.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	3.00						

Romania has a twofold structure of local government based on the French model, with mayors and local councils elected locally (the former directly, the latter on party lists by proportional system) and county prefects appointed by the central government. The 2003 revision of the Constitution was supposed to clarify the legal framework by specifying that local authorities are not subordinated to the centrally appointed prefects. It was followed by legislation on decentralization and the prefect institution, establishing the Law of the Corps of Prefects, in July 2004. In practice, however, prefects and the honorary heads of county councils have come to enjoy the largest influence at the local level. Local elections operate very well as vertical accountability mechanisms, and quite a few notoriously corrupt mayors lost their offices in June 2004. The two more remarkable cases were Dumitru Sechelariu, mayor of Bacau—who legislated a local transportation monopoly, then entrusted the company to his mother—and Gheorghe Funar, the nationalist mayor of Cluj, who was under investigation in a number of suspected cases of embezzlement. Like many other former Communist states after 1989, Romania has embraced the institutional philosophy of decentralization. Important steps were made in the early 1990s with the first laws concerning local governments and revenues; and in 1998–1999, new local finance legislation instituted for the first time in Romania a system of resource sharing based on automatic formulas, thus making the local budgetary process more autonomous, transparent, and predictable.

However, other developments lag behind. The Law on Local Public Administration is largely silent regarding the functions and responsibilities of local governments at various levels. Typically, it is the annual Law on the State Budget that defines implicitly these functions and responsibilities, shaping the structure of local government. New “mandates” are established by the central government and passed down without much preparation to local governments, which has led to a permanent state of semi-crisis at the local level.

The inconsistent definition of local government in Romania creates inefficiencies, paralysis, and space for political games at the local and county levels. There are disputes about the lines of subordination between mayors and councils, counties and localities, and local governments and the territorial offices of central government (that is, prefects and ministries). The problems become most visible in cases of political cohabitation, such as occurs when a mayor and local or county council majority come from different parties. This happens either as the result of elections or when councillors migrate from one political affiliation to another. In the case of Bucharest and Brasov,

the tension has escalated in recent years to a point where local government operations have become virtually paralyzed. This has happened in Romania because formal administrative institutions are weak; consequently, informal party committees make backroom decisions on major issues.

The status of the mayor (elected directly) vis-à-vis the council (elected by party list) and deputy mayor(s) (elected indirectly, by the council) is not clear. The mayor's office is not defined as a public institution in terms of responsibilities and legal authority, nor is it clearly legitimated within the local community. The definition of the mayor as "the head of local government" is not articulated in its list of functions, which becomes problematic in cases of cohabitation. In theory, the mayor delegates some functions to deputy mayors (elected by the council from among its members) and is then responsible for overseeing their performance. This can lead to unworkable arrangements. The council can pass functions to deputy mayors without the mayor's approval, in which case the mayor may not be able to control or discipline deputy mayors yet continues to bear responsibility for their actions.

Formally, mayors have no governing apparatus of their own, and their offices are under the auspices of the local councils. Paradoxically, the mayor has little say in deciding the structure and staff of the apparatus he works with, unless he is able to exert control by informal pressures. Quite the contrary: Recent years have shown that the council has the authority to strip the mayor of functions, altering radically the structure of the local government. For example, in Bucharest there were attempts to alter the legal status of the mayor's office; and in Brasov, the council created a Service for Public Patrimony (SPP) under a standing committee of the council, which took over the most important executive functions of the mayor's office, such as managing or privatizing local assets and contracting public services. In so doing, the SPP gained control of more than 50 percent of the local budget and began to act as a parallel city hall (180 employees versus 230 in city hall), with authority over local investment and development functions. In theory, the Romanian mayor is defined as "the head of local government" and is politically accountable to the community in this capacity; but in practice, a mayor does not have much more power than a city manager appointed by the council. This dilemma is less visible when there is party alignment on both sides and thus a basis for informal negotiations.

The local council's secretaries (top local civil servants) are appointed by prefects and report only to them, thus creating a link from local government through the prefect to the central government. This de facto subordination to the central government occurs in spite of a constitutional provision postulating that no such subordination should exist. There are cases where official contest for the position of secretary has been blocked for years. The secretaries are important at the local and county levels, since they can undermine in practice the actions of the local authority they are called to serve. For example, the

secretary can give legal clearance to decisions that are subsequently challenged in court by the prefect. In such situations, mayors are threatened with suspension when three such cases are initiated. However, no actions are taken against secretaries for failing to perform the legal screening function, which is in fact their main duty.

Prefects are constitutionally charged to control the legality of decisions made by local/county councils and mayors. But there is no proper mechanism to ensure the accountability of the prefect in this respect and no single precedent where prefects were held accountable for their actions or lack of action. Briefly, the prefects can choose not to initiate action against cases, without being held responsible for this selective enforcement of the law. Their relationship with the county councils is a clear case of institutional capture of the regulator by the regulated.

The history of fiscal decentralization in Romania can be summarized by saying that county councils have been allowed to “confiscate” most of the space for local autonomy created in recent years by the central government, and now they exert this autonomy at the expense of localities whenever a conflict between tiers of governance occurs. When distributing the equalization grants, deviations from the fiscal capacity formula are tolerated on a large scale. Therefore, no local council knows for sure what amount it will receive from the county council. The process typically involves significant individual “negotiation” between the local officials and the county council and also applies to other transfer funds, particularly those for investments. This overall dilemma is likewise enacted between counties and the central government. Rural communities, which are generally most in need, are the most likely to suffer from this erratic distribution of funds. The most important skill of rural mayors has become the ability to negotiate with the county council to secure the highest possible allocation.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.00

The Romanian judiciary continues to transition, with most institutions overhauled by legislative changes in 2004. The 2003 constitutional revision transformed the Supreme Court into the High Court of Appeals and Justice, providing its newly appointed members with lifelong tenure and the judiciary with separate and equal state power. In June 2004, the Law on the Superior Council of the Magistracy, Law on the Organization of the Judiciary, and Law on Magistrates were adopted, although the three-law package that entered into force on September 30 has not yet been implemented effectively. The Superior Council is to assume full responsibility for the recruitment,

career development, and sanction of judges and prosecutors. By the end of 2006, all cases should also be allocated to judges on a random basis by an automated system.

The minister of justice may no longer appoint judges directly or promote magistrates to higher courts, prosecutors' offices, or management positions in the Superior Council, which is a positive development in terms of creating an independent judiciary. The minister will continue to attend sessions of the two sections of the Superior Council, either with full voting rights or with the *de facto* ability to influence decisions. To be elected to the Superior Council, one needs to have served as a magistrate or prosecutor for a significant number of years; therefore, the first elected council is quite conservative. For instance, it elected as secretary and undersecretary magistrates with a history of cooperating in the Communist repression of the political opposition. Meanwhile, the government has changed and a minister has been appointed who has worked as a human rights lawyer for the Council of Europe. Beginning in 2005, all appointments and control powers will be in the hands of a conservative council, while a new progressive minister is in place who will be accountable to Brussels for fast progress in the reform of the judiciary—a paradoxical situation at best.

The Superior Council will work as a permanent institution, but the Ministry of Public Finance must endorse the council's operating budget and staffing proposals. The Superior Council does not have the right to make a budgetary proposal for the judicial system (other than those for its own use), but the Ministry of Justice is required to obtain the council's formal assent to its proposals in these other areas. The Romanian Alliance for European Justice (AJER), an NGO coalition, asked that members of the council give up their other positions in the judiciary and work on a full-time basis. A Freedom House audit ordered by the government found that 9 of the 15 members of the council are also executives in the judiciary, which raises doubts as to their ability to work effectively as an independent control body. The AJER and Freedom House audit of the government's anticorruption policies recommend that in the future, an incompatibility clause be introduced denying heads of courts the right to sit on the Superior Council unless they resign from their executive positions.

Following the 2003 constitutional revision, judges in the high court will be tenured for the first time. President Ion Iliescu nominated an old friend and official adviser as president of the court, a law professor who has never been a practicing judge but who taught principles of government in the old Communist school. The European Commission in its annual report criticized this appointment. Also, after much pressure from the World Bank and European Commission, the Chamber of Deputies decided to discontinue the right of the Office of the Prosecutor-General to make extraordinary appeals in high court sentences. However, as has happened in the civil courts, current

extraordinary appeals have not been suspended and will be judged.

Until these recent changes were enacted, the prosecutor-general had enjoyed for most of the period of transition exclusive authority to file extraordinary appeals against final judgments (habeas corpus, etc.) in both criminal and civil cases; these appeals were undertaken at the prosecutor-general's initiative or if required by the minister of justice. In civil cases, such powers were exercised inter alia where the courts had exceeded their jurisdiction. Between 1994 and 1996, this ground was used extensively by the prosecutor-general and the Supreme Court to return unlawfully nationalized houses to their owners; it was generally the prosecutor-general's contention that the courts did not have jurisdiction over such cases. Although the European Court of Human Rights found this procedure to be contrary to the right of access to justice and the right to peaceful enjoyment of possessions, the legal provision granting the prosecutor-general extraordinary appeal powers in civil matters endured in the civil procedure code until 2003 and in the criminal code until fall 2004, when it was finally dropped under pressure from the European Union. From January 1, 2001, through the end of 2004, such powers were extended to cases where the courts adopted wrong decisions by violating the law, which could be exclusively a matter of interpretation and/or law. The extraordinary appeal meant that the prosecutor-general could appeal final sentences handed down by the Supreme Court and have them retried by a new panel of judges. As cases were not distributed randomly, this left significant room for political intervention.

A 2004 referendum ordered by the Ministry of Justice found that a majority of judges had come under political pressure while exercising their official duties. The transcript of government party meetings previously made public contains infamous passages on the judiciary. Former minister of justice Rodica Stanoiu (who stepped down owing to pressure by civil society and European Union in March 2004) is quoted as saying how she screened investigations of corruption to spare SDP clients. Prime Minister Adrian Nastase is also on record as asking the privatization minister to provide evidence to convict opposition members, despite the minister's denial that records on previous governments can be found in his ministry. However, no investigation agency, including the anticorruption prosecutor, asked the government party to turn in original tapes of the Internet transcripts. The "Romanian Watergate" is hampered by the judiciary's incapacity to pursue independent investigation.

Access to justice is perceived as uneven by citizens, who overwhelmingly agree in surveys that some people are above the law. Courts struggle to improve their professionalism, yet the quality of judgments remains a problem, and errors made by lower courts continue to be discovered in approximately 30 percent of the civil judgments that go to appeal. The heavy workload of judges, their limited access to case law, a lack of information about new

legislation, poor circulation of information within the judicial system, and a lack of training and specialization explain these shortcomings.

The majority of cases overloading the courts are due to the confusing property restitution legislation. The Romanian government lost significant cases in the European Court of Human Rights in Strasbourg in 2004. The court ruled on property restitution, overturning the extraordinary appeals the government had made against the owners; it also ruled on press defamation, rehabilitating a journalist sentenced in Romania, and on treatment of prisoners. The authority of the court and steady pressure from the EU remain the chief factors promoting judiciary reform, as political will from the government remained insufficient in 2004. The home and justice affairs chapter was concluded with several conditions related to the judiciary, which if left unfulfilled could delay Romania's accession by a year.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	4.25	4.50	4.75	4.50	4.50	4.25

Romania rates high in state capture and administrative corruption, the two most frequent indicators used by the World Bank. A Gallup survey in fall 2004 showed that a majority of the population perceived corruption to be rising instead of decreasing. Such perceptions are fed by an increase in high-level corruption, as other surveys, such as the Romanian Barometer of Opinion, have shown that the practice of bribing has decreased, so petty corruption is decreasing over the years. The political situation in recent years has not encouraged an effective implementation of the National Anticorruption Strategy, adopted in 2002, as the SDP has intently pursued the deep politicization of the administration and every executive position (such as hospital directors, school principals, and so forth). While most administrative resources have been in the hands of one party in the service of political clientele (for instance, infrastructure funds went mostly to the counties of the transportation minister and deputy minister), the media and the judiciary have remained captured by oligarchic networks.

In 2004, the Romanian government made some effort to improve the regulatory framework of anticorruption. The country's first code of conduct for civil servants brought some clarification to the conflict of interest legislation by specifically defining public interest, personal interest, and the situations giving rise to conflict of interest. However, the code applies only to civil servants, leaving elected and appointed officials out of reach of these well-developed provisions; in addition, it favors civil servants higher in the hierarchy. The government also set up a "stimulation fund" for police. The fund represents 1 percent of proceeds from criminal activities and is supposed

to offset the low incomes of police, which have traditionally incentivized corruption.

Government Decision 438 enacted the ethical code for police, who are forbidden from accepting money, goods, or other favors in the line of duty. Nevertheless, the requirements for police are less demanding than those for civil servants. Law 67 on the election of representatives in local authorities also introduced the crime of “electoral bribe” into the penal legislation. It is defined as “the promise, offer, or giving of money, goods, or other advantages during the electoral campaign, to the aim of determining the elector to vote or not to vote a certain list of candidates or a certain candidate for the position of mayor and local councillor.” The regulation comes as a consequence of the violations reported during the referendum on the revised Constitution in 2003. However, enforcement of these provisions remains unlikely, and during local and general elections perks offered in exchange for political support were widespread practice. The Emergency Ordinance of April 24, 2004, amended previous provisions concerning assets control, demanding asset declarations by candidates for elective positions as well (such as the president, Parliament, local and county councils, and mayors). Declarations were useful for watchdogs, such as the CCP, which revealed scores of discrepancies between transparent income and declared wealth.

Like other countries in the region, Romania adopted various recipes from the global anticorruption arsenal. The government was asked to discuss the issue publicly, professions operating mostly by trafficking influence were encouraged to adopt codes of conduct, and a society already suffering from informal and insufficient law enforcement was pushed to adopt numerous new laws and regulations. On top of everything, a defective judiciary system was burdened with the task of cleaning up the rest of society. The National Anticorruption Prosecutor Office, the main anticorruption prosecuting agency, maintained the pattern of charging only political opponents, raising public skepticism. While 52 percent of Bulgarians in a 2003 Gallup poll perceived that the credibility of their government had improved compared with previous years, 53 percent of Romanians perceived it had decreased even further.

The CCP provides some evidence on high-ranking corruption, a variety that is rarely if ever prosecuted in the courts. On the first count, the CCP documented 143 cases of candidates from the government party who, in one form or another, had made use of their public position for private gain—either amassing fortunes clearly not in line with income declarations or switching from one political party to another to keep or receive some privilege. Many prefects, deputy prefects, and secretaries of the prefects’ offices can be found on the list, along with heads of county councils. SDP members cluster in a few famous businesses that thrive on public contracts and where many party members are shareholders. Under pressure from civil society, the SDP retired about 30 people from its electoral list. The coalition also dropped fill-in

candidates, so on the final count the SDP and the RHP had 95 candidates who were considered unsuitable. The other parties' numbers complete the picture. After the DA retired some candidates, 10 blacklisted candidates were left, together with 3 HDU candidates and 46 GRP members.

The map of Romania, as drawn by the CCP, is also telling. Parties tend to be cleaner in Bucharest, where grand fraud is usually practiced legally by skipping tenders or passing legislation to ease tax arrears of political clients. The picture is different in provincial Romania. Counties such as Arges, Dambovita, Giurgiu, Gorj, Ialomita, Dolj, Botosani, and Teleorman and the poorest subsistence farming counties in Oltenia, Muntenia, and Moldova represent almost all the top candidates on the CCP list. In other counties, such as Bihor or Iasi, practically all political parties are in the business network, and it is difficult to find *any* clean electoral list. At the other extreme, the more developed Arad or Sibiu counties in Transylvania have few names on the list, and all political parties tend to be cleaner there. From the hundreds of candidates screened, none declared a conflict in their conflict of interest statements, now compulsory by law in addition to statements on assets. Yet more than half own businesses in their own name or their wives and children's names. The list suggests that the main incentive to become a politician, at least with a governing party, is to be included in the business network. Among other perks, this affiliation protects politicians from the tax office, ensures at least a share from every public contract in the region, and guarantees that every public institution in the area will buy from one's private business—in short, that one gets a rent. Thus, Romania's development map and corruption map are correlated.

Fresh evidence of corruption starting at the top was indicated in the aforementioned government party transcripts. Nicolae Vacaroiu, an SDP top leader and president of the Senate, is quoted as having said: "We must find a way to dissipate this image of SDP as the only corrupt party.... I also talked to [Ionel] Blanculescu [minister of control], and I said, All right, I agree, you may expose one of ours in a press conference if you have five from GRP, four from PD, and two from PNL alongside him." And Florin Georgescu (minister of finance 1992–1996, PSD leader, and current deputy governor of the Central Bank) made the following remarks during the standing committee meeting of the PSD, October 20, 2003: "President, I beg you to talk to [Doru] Saguna [head of the audit court], on behalf of the party; he doesn't listen to me anymore. He should stop all those files and investigations. Only God knows how many telephone calls I have to make to his subordinates.... Especially, President, remember that tomorrow—tomorrow!—all these files leave from the audit court to the ordinary courts. And if a crazy auditor writes something on paper, that file is not going to stay at the audit court, where we have our people at the top, [where] I can make some telephone calls and have the case closed properly. No, it is going to reach...a territorial court among

divorces or petty thefts, and it will leak to the media instantly.”

The change in government at the end of 2004 brought some positive developments: the passage of a more exhaustive declaration of assets, opening of a string of official investigations regarding alleged corruption, and pursuit of businesses with tax arrears that previously enjoyed immunity from enforcement. But there is still a considerable way to go for Romania to make effective use of anticorruption instruments created in recent years. An audit by the Romanian Academic Society and Freedom House of the government anticorruption strategy resulted in a new strategy and action plan focusing on better coordination among prosecutors and control agencies and recommending that more administrative steps be taken against corrupt practices prior to enacting the judicial steps. An investigation into the SDP transcripts scandal was also initiated more than two months after the scandal broke. However, the investigations have been timid, and prosecutors do not dare openly defy well-known influential actors. Former prime minister Adrian Nastase managed to secure a position as chair of the Chamber of Deputies, despite losing the government. It would not be easy for a prosecutor to pursue an investigation against him, although he presided over all the meetings recorded in the SDP transcripts and made quite a few problematic statements. The SDP is certain to defend itself and its business cronies by claiming that a political campaign of harassment is being directed against it by an opposition party. Corruption is so politicized in Romania after the Ion Iliescu–dominated transition that any serious anticorruption campaign must risk damaging numerous major political figures of the former Communist establishment if it is to succeed.

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Russia

<i>Capital</i>	Moscow
<i>Population</i>	144,100,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$8,230
<i>Private sector as % of GDP</i>	70%
<i>Ethnic groups</i>	Russian (82 percent), Tatar (4 percent), Ukrainian (3 percent), other

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	3.50	3.50	4.00	4.25	4.50	4.75	5.50	6.00
Civil Society	3.75	4.00	3.75	4.00	4.00	4.25	4.50	4.75
Independent Media	3.75	4.25	4.75	5.25	5.50	5.50	5.75	6.00
Governance	4.00	4.50	4.50	5.00	5.25	5.00	5.25	n/a
National Democratic Governance	n/a	5.75						
Local Democratic Governance	n/a	5.75						
Judicial Framework and Independence*	4.00	4.25	4.25	4.50	4.75	4.50	4.75	5.25
Corruption	n/a	n/a	6.25	6.25	6.00	5.75	5.75	5.75
Democracy Score	3.80	4.10	4.58	4.88	5.00	4.96	5.25	5.61

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Since the collapse of Communism in 1991, Russia has traveled a torturous path, building democratic institutions that have remained extremely fragile. The violent assault on the Parliament in 1993 cast a long shadow over the future. Privatization facilitated extensive organized crime and corruption, handing over many of the country's most valuable assets to a greedy band of insiders. Previously vibrant broadcasters now transmit the state's approved message. Civil society groups that had hoped to influence public policy currently fend off attacks from the security services. The business community works assiduously to toe the Kremlin line. What opposition remains seems to do so only at the whim of the president. Yet for all of Vladimir Putin's power, he stands atop a craven bureaucracy, most of whose officials are more interested in personal gain than advancing the goals of the state.

In 2004, Putin's antidemocratic policies became more pronounced. In response to a wave of bloody terrorist attacks, culminating in the school siege at Beslan in September that left 330 civilians dead, the president accelerated his campaign to concentrate power in the Kremlin by revoking the population's right to elect governors directly. At the same time, Putin's associates expanded their efforts to bring Russia's lucrative energy sector under their personal control, destroying Yukos, one of Russia's largest and most transparent companies, in the process. Throughout the year, the Kremlin continued tightening the screws on media and civil society. Externally, Putin clumsily intervened in Ukraine's elections. Having just won a second four-year term himself, Putin has stated that he will step down in 2008, though many speculate that he will rewrite the Constitution to extend his stay in office.

National Democratic Governance. Terrorism and how to respond to it defined Russia's main challenges to national democratic governance in 2004. Attacks on the Moscow metro, Russian airplanes, and the school at Beslan undermined public confidence in the stability of the Russian governmental system. Putin responded with measures designed to increase his own power. *Russia's rating for national democratic governance is set at 5.75. Putin has no plan to address the separatist conflict in Chechnya beyond continued violence and no comprehensive policy for handling the challenges of terrorism. A further concentration of political and economic power offers little hope for providing realistic solutions.*

Electoral Process. In 2004, Putin won a second term as president in elections that international observers deemed unfair. The incumbent campaigned in a manner that prevented a broad public discussion of his record and policies. He benefited from a heavily biased media and effective efforts to sideline the opposition. Unrealistically high turnout and support for the president in some parts of the country suggested extensive vote manipulation. *Russia's rating for electoral process declines from 5.50 to 6.00 because of the many violations in the presidential elections, the weakening position of opposition parties in the country, and a new Law on Referendums that makes grassroots initiatives virtually impossible.*

Civil Society. The Russian state continued its crackdown on independent organizations this year. In his annual address to the legislature, Putin warned against groups that serve foreign funders by carrying out tasks that fail to meet the interests of Russian society. Though Russia's nongovernmental organizations had to operate in an atmosphere of fear, their numbers continued to grow as many bravely continued their activities. At the same time, the number of extremist racist groups continued to grow, as did attacks on dark-skinned Russian citizens and foreigners. *Russia's rating for civil society declines from 4.50 to 4.75 because of increased state attempts to control this sector of society and the growing climate of fear, as well as the continued development of extremist groups and the number of extremist attacks.*

Independent Media. The Russian state continues to control the country's three main federal television networks, a key source of information for most of the population and a heavy influence on many regional broadcasters. However, there is a lively variety of views in printed media and on the Internet, available to those with the time and resources to seek them out. Unfortunately, there is very little independent analysis, as most media outlets are controlled by big businesses or regional politicians. *Russia's rating for independent media drops from 5.75 to 6.00 because the Kremlin has extended its management of television broadcasts, while journalists face an increased threat of expensive libel cases and many reporters work in unsafe conditions.*

Local Democratic Governance. In 2004, Putin implemented plans that effectively abolish regional democratic governance in Russia. The president is focused on creating a "power vertical" that theoretically allows him to issue commands in the Kremlin that are subsequently implemented in Russia's far-flung localities. This system removed governors from public oversight and makes them accountable to federal, rather than regional and local, interests. *Russia's rating for local democratic governance is set at 5.75 because in 2004 the Putin Kremlin abolished gubernatorial elections. The reduced role for regional level public oversight exercised through the ballot box and basic principles of federalism were additional factors.*

Judicial Framework and Independence. Russia has made considerable advances in the judicial sphere in recent years, giving judges the responsibility for issuing warrants and introducing jury trials. However, high-profile trials, such as those concerning Yukos and the researcher Igor Sutyagin, prosecuted as a spy, have clearly been politicized. Moreover, the Supreme Court has frequently overturned “not guilty” rulings by juries, continuing a system that strongly favors prosecutors. *Russia’s rating for judicial framework and independence slips from 4.75 to 5.25. Although the courts are increasingly providing citizens with an opportunity to redress wrongs committed by the state, they were even more vulnerable in 2004 to manipulation by the state in key cases.*

Corruption. Although Russian politicians and the media talked about the problem frequently, officials did little to address it. Extensive corruption among law enforcement agencies in particular stymied any coherent response. Corruption had tragic consequences for Russia in 2004 as it facilitated numerous terrorist attacks on Russian territory through the exchange of access for payment. *Russia’s rating for corruption remains unchanged at 5.75 because the country and its political leaders seem to lack the political will to address the problem in a comprehensive manner.*

Outlook for 2005. The major concerns for the year ahead are uncertainty about state policies addressing potential terrorist attacks and sharpening social problems as economic growth slows. Russia’s response to terrorism in the capital and North Caucasus has cut heavily into political liberties. Russian leaders have also turned a deaf ear to the concerns of a large number of the country’s poor. Putin’s practice of dismantling democratic institutions and concentrating power in the Kremlin is building an increasingly inflexible system that will have greater difficulty responding to these challenges.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.75						

Although Russia formally elects its president, it lacks many features that are considered standard for a democratic government. Since its adoption in 1993, the Constitution has given excessive power to the executive. As events in 2004 demonstrated, the basic law provides vague guidance toward the guarantee of democratic rights. For example, it does not explicitly stipulate

that governors should be elected, a lacuna that allowed President Vladimir Putin to reverse a major right enjoyed by the general population since the mid-1990s. Following the terrorist attack on Beslan in September, Putin quickly put in place a new system in which he appoints regional executives, with the approval of the regional legislatures, rather than allowing the population to elect governors directly.

While the Russian Constitution calls for the separation of powers, this principle has not been respected in practice. The executive has continued to assume increasing power over the legislative and judicial branches. With the right to appoint governors, Putin now has even more power over the upper chamber of the national legislature since governors, in turn, appoint half of the upper chamber's membership. Additionally, current legislation gives Putin the power to disband regional legislatures under some conditions as well as more influence over judges.

The national Parliament is now firmly controlled by the Kremlin. Lobbying in the State Duma, the lower house, has declined since all legislative decisions are handled by the United Russia faction. The upper chamber's Federation Council has gained notoriety for quickly adopting all bills supported by the Kremlin, even those that go against regional interests, which the chamber theoretically represents. For example, in December 2004, Putin gained the power to choose Audit Chamber leaders. Previously, the Parliament had sole control over this investigative body.

Putin faced essentially no opposition in pursuing his policies in 2004 since no influential political groups or social movements came forward to block his moves. Despite this social passivity, there is evidence suggesting that public perceptions of Putin's policies are turning negative. In December 2004, 52 percent of the population believed that Russia was on the wrong path, while only 35 percent thought the country was heading in the right direction, according to polls conducted by the Yuri Levada Analytical Center, Russia's most respected independent public opinion polling agency. At the end of 2003, the numbers were reversed, with 51 percent believing that things were going well and 35 percent concerned about the country's direction. Additionally, the polling agency noted declining trust in key state institutions, including the government. Nevertheless, a September 1–15 Levada Center poll showed that the presidency remains by far the most trusted institution in Russia.

While the Kremlin was concentrating its political power, it also increased its grip on the most important sectors of the economy. On December 19, the Kremlin conducted an auction that transferred Yuganskneftegaz, the most valuable asset of oil giant Yukos, to the state-owned Rosneft. The nationalization of Yuganskneftegaz marked the demise of one of Russia's most powerful independent firms, just as the jailing of former Yukos leader Mikhail Khodorkovsky in October 2003 ended the firm's potential as a source of opposition. The Kremlin's claims that the action against Yukos

was an attack on a small group of oligarchs designed to benefit the population at large ring hollow since control of these assets will now simply shift to a different set of elites.

Beyond the case of Yukos, Putin's closest associates have taken important positions on the boards of key energy companies, making it possible for the Kremlin to assert control over these assets as well. Presidential chief of staff Dmitry Medvedev has long headed the board of Gazprom. In 2004, deputy presidential administration head Igor Sechin was named chairman of the board of directors at Rosneft, the beneficiary of the Yukos auction, and deputy presidential administration head Vladislav Surkov became board chairman of Transneftprodukt, the oil pipeline monopoly. Presidential foreign policy adviser Sergei Prikhodko became chairman of the board of TVEL, the primary nuclear fuel exporter. In other sectors, Viktor Ivanov, a high-ranking member of the president's staff, was appointed to the board of Aeroflot, and presidential aide Igor Shuvalov was appointed to the board of Russia's railroad monopoly, which was recently privatized.

These moves to ensure state control over the highest tier of the economy expose the limits of Putin's efforts to liberalize Russian markets. If the state-owned energy companies continue to subsidize fuel costs within Russia, Putin will have great difficulty overcoming European objections to Russia's eventual entry into the World Trade Organization.

The Beslan hostage-taking crisis posed serious questions about Russia's security. Putin has no plan to end his use of violence in Chechnya and refuses even to acknowledge that his policies there are feeding the terrorist response. The beginnings of a plan would, at a minimum, include negotiations with more moderate groups among the Chechen separatists. Past terrorist attacks have aimed at the Moscow subway, Russian aircraft, theater performances, open-air concerts, and apartment buildings in the early morning, when many residents are likely to be home. In the future, the terrorists could focus on critical elements of Russia's infrastructure, including its various nuclear facilities.

There is little public oversight for the military and security services. Although the Parliament formally started an investigation of the Beslan events, there is little expectation that it will deliver a comprehensive and independent-minded analysis. In fact, investigation head Aleksandr Torshin blamed local officials for failing to act decisively. By the end of 2004, Torshin had not yet interviewed Interior Minister Rashid Nurgaliev or Federal Security Service director Nikolay Patrushev to get an account of their actions during the crisis, a question frequently expressed by many Beslan residents. Likewise, since December 2002 the strong public support for a peaceful solution to the Chechen war has fallen on deaf ears, as reported by Levada Center poll data.

Putin's efforts to concentrate power are actually weakening the state. By eliminating all potential social oversight, Putin is creating a state bureaucracy

that is accountable to no one, not even himself. While ostensibly Putin seems to stand at the top of a power vertical, he has few levers to control the legions of bureaucrats below him. Corruption is a major problem, judging by the fact that many bureaucrats have more money to spend than their salaries can account for. These officials are clearly serving interests other than those of the state. The extent of this corruption places an incredible constraint on Putin's power. It also suggests that the system is not as stable as it seems. Further terrorist attacks, especially ones aimed at infrastructure, could also undermine current stability. Public perceptions of the situation are already starting to change. In mid-October, a Public Opinion Foundation poll showed that two thirds of respondents felt there is no longer any stability in Russian society.

Rather than seeking democratic controls over the state, Putin is effectively establishing broad networks of informers through which the Federal Security Service gathers information about society. The president apparently sees such a system as a replacement for a free media that would openly discuss the society's problems.

Since Russia has experienced strong economic growth over the last few years, it is possible that the country's leaders were able to deflect popular attention away from concerns about democracy. If this growth starts to slow, the leaders may face a population that is much more interested in securing basic democratic rights.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
3.50	3.50	4.00	4.25	4.50	4.75	5.50	6.00

Although Russia holds regular elections at the national level based on universal suffrage, domestic and international observers do not consider them to be fair. In the March 2004 presidential elections, incumbent Vladimir Putin won 71.31 percent of the vote but secured this victory by tilting the field strongly in his favor. Most major politicians did not compete, leaving Putin to fight second-tier opponents. Liberal Democratic Party leader Vladimir Zhirinovskiy delivered the most mocking response by running his bodyguard in his place. The Organization for Security and Cooperation in Europe (OSCE) reported that "the process overall did not adequately reflect principles necessary for a healthy democratic election."

Most important, Putin received an overwhelming 69 percent of the campaign coverage on the main television networks' news programs, claimed the Union of Journalists. Needless to say, almost all of this coverage was positive. Opponents received much less news coverage, and there was considerable negative reporting about their activities. The Central Electoral Commission did nothing to counteract this bias.

Although Russia's major television networks offered opportunities for the candidates to debate, Putin chose not to participate. The president's decision not to discuss his policies face-to-face with his opponents deprived voters of the opportunity to see how he would defend his choices against hostile questioning. Without Putin's participation, the debates merely brought together candidates with no chance of winning. First Channel and RTR broadcast these debates mainly early in the morning, when viewership was likely to be small.

In addition to using the state-controlled media to promote Putin's candidacy, the Kremlin lined up political machines run by the country's governors to ensure a solid vote for Putin. Several regions delivered "implausible turnout and result figures," noted OSCE analysis: Dagestan (turnout, 94.1 percent; share of votes for Putin, 94.6 percent), Mordovia (94.6 percent; 91.3 percent), Bashkortostan (89 percent; 91.8 percent), Ingushetia (96.2 percent; 98.2 percent), Tatarstan (83.2 percent; 86.5 percent), and Chechnya (94 percent; 92.3 percent). In other parts of Russia, turnout was much lower and in some places dipped below the mandatory 50 percent threshold for the country as a whole. Putin's vote share was much higher in the regions where turnout was the highest. In fact, these figures are so high and out of line with those of the rest of the country that it is obvious that regional leaders seeking favor with the president manipulated the vote to improve their chance of winning future concessions from the federal government. In most regions of Russia, the economy is heavily dependent on governors.

The Voice Association for the Protection of Voters' Rights reported cases where municipal workers were ordered to vote, sometimes for one particular candidate; members of the military were told to report the time they voted; and students faced the threat of lost housing if they did not vote. The association is headquartered in Moscow and is affiliated with the National Democratic Institute.

The presidential elections show that Putin was not willing to tolerate the existence of an opposition. Even though his victory was assured long before election day, his team worked hard to guarantee that no other candidate registered a significant protest vote, noted Transitions Online. As a result, Russia's political party system is in trouble. After the December 2003 State Duma elections, essentially no important parties represented the liberal end of the political spectrum. The two major parties that support this ideology, the Union of Right Forces (SPS) and Yabloko, have largely collapsed. Former presidential candidate and SPS leader Irina Khakamada set up a new party called Our Choice on November 1, hoping to unify liberal voters, but its initial prospects are not bright. On the other end of the spectrum, the Communist Party is growing increasingly weaker. Without a major overhaul of personnel and policies, it will continue to decline.

Given the Kremlin's crackdown on media, business, and nongovernmental organizations (NGOs), there are few opportunities for an opposition leader to emerge. Unfortunately, the opposition failed to capitalize even on the openings it did have. During 2004, it did not spell out an articulate alternative to Putin's policies that resonated with the population, nor did it effectively mobilize support.

Only parties set up by the Kremlin seem to be advancing. United Russia is not a party in the traditional sense, but a collection of powerful government officials that attracts new members who are interested in access to state resources. On October 27, the Federation Council approved revisions to the Law on the Russian Government that make it possible for government officials to be the leaders of political parties, further boosting United Russia's prospects.

Rodina also has strong Kremlin ties since the authorities set it up as a "constructive opposition" designed to take votes from the Left. Since it has evolved toward nationalist issues, however, Rodina has become more independent.

Putin used the shock of the Beslan attack to propose major changes in the way State Duma deputies are elected to the Parliament's lower house. Instead of the current method, in which voters choose half of their representatives by party list and half through single-member districts, Putin seeks to change the system so that all deputies are elected on the basis of party lists. Legislation was still under consideration on this issue at the beginning of 2005. Additionally, the Kremlin secured legislative approval to increase from 10,000 to 50,000 the number of members a party needs to register.

Moving to exclusive party list voting is expected to bring major benefits to the Kremlin. Under the old system, governors often controlled who was elected from single-member districts. Even though many governor-sponsored State Duma candidates ran under the United Russia label, their first loyalty was often to the governor and they represented regional interests in the lower house of the Parliament. The new system would break the connection between State Duma members and the regions. The political parties will be based in Moscow, making it easier for the Kremlin to influence whom they select for their party lists. Since the Kremlin already has extensive control over the current Duma, this reform seems designed to ensure that the Russian president is able to keep the Duma under his thumb.

Additionally, Russia adopted a new Law on Referendums on June 29. Even as it was being passed, critics complained loudly that the new rules would make it virtually impossible to force the state to hold referendums based on grassroots initiatives. The law's provisions stipulate that now only groups with registered representatives in 45 regions, each with at least 100 members, can initiate referendums. To do so, these groups must collect 2 million signatures, an unreasonable burden under Russian conditions.

Regional elections important to the Kremlin were often conducted undemocratically. After the killing of Russian-backed Chechen leader Akhmad

Kadyrov on May 9, the Kremlin secured the election of its candidate Alu Alkhanov in an illegitimate vote. Many of the Russian soldiers who were temporary residents in the region voted, and locals were cowed into backing the Kremlin candidate. The sham elections demonstrated Moscow's inability to bring the situation in Chechnya under control.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
3.75	4.00	3.75	4.00	4.00	4.25	4.50	4.75

Regarding civil society, this report is concerned primarily with the role that NGOs have played in overseeing state activities. Unfortunately, state attitudes toward civil society deteriorated over the course of 2004. Putin's annual Address to the Federal Assembly, which is usually viewed as a guide for action by state officials, set an adversarial tone between the state and independent groups. The president used threatening language in regard to NGOs whose goals he described as "obtaining funding from influential foreign or domestic foundations" or "servicing dubious group and commercial interests." Putin said that many Russian NGOs do not make an effort to address Russia's most pressing problems, including basic human rights violations, because they do not want to offend their sponsors. By casting doubt on the patriotism of these groups, Putin opened them to attacks by regional officials and tax collectors who did not support their activities.

Putin's speech created a climate of fear among regional NGOs, who interpreted the president's words as an implied warning. Soon after Putin's speech, masked men smashed equipment at the Kazan-based Tatarstan Human Rights Center, a group funded by Mikhail Khodorkovsky's Open Russia Foundation. Shortly before this incident, the center had accused local police of pressuring them because of their critical attitude toward Putin and the local law enforcement authorities, reported Radio Free Europe/Radio Liberty (RFE/RL). Other groups seeking to clean up Russia's notoriously corrupt police reported similar problems. Officers raided Mikhail Anshikov's Moscow-based Moe Pravo, set up in 2004 to help victims of police brutality, seizing documents, computers, and the group's cash box, reported the *Toronto Star*.

The Putin administration sought to promote NGOs that would cooperate more easily with the Kremlin. In June, for example, Foreign Minister Sergei Lavrov met with 48 NGOs that had gained a Kremlin seal of approval. Unlike previous conferences between officials and representatives of the NGO community, such as the 2001 Civic Forum, this meeting comprised a group of guests carefully screened to cull out prominent critical groups, such as Memorial, For Human Rights, and the Committee of Soldiers' Mothers.

Groups like Memorial, which have documented Russian military abuses in Chechnya, are under severe pressure from the state.

The most insidious case was Putin's post-Beslan proposal to set up a public chamber representing a pseudo-civil society to ostensibly oversee state actions. Once established, the body would include representatives of NGOs considered to be suitable for partnering with the authorities. In practice, the members of this body would have neither the leverage nor the incentive to hold the state accountable. "This is the real threat to Russian democracy," said Georgy Kunadze, Russia's deputy human rights ombudsman, in an article in *Izvestia*. Legislative consideration of Putin's proposed bill continued into 2005. Along similar lines, Putin dissolved the official Human Rights Commission in November and replaced it with the Council for Developing Civil Society Institutions and Human Rights, reported the *Moscow Times*. The new body will help coordinate top-down initiatives with NGOs but is not seen as a way for such groups to influence the government.

The government sought to complicate the ability of NGOs to raise money even further in 2004 with changes to the tax code. The amendments were approved in the first of three readings on August 5, but no action was taken subsequently, noted the Duma Web site. Currently, there is a list of 88 foreign organizations that can make tax-free grants, but the list has not been reviewed for more than two years. If the tax code amendments are adopted, there will be a state-approved list for domestic Russian grant makers as well. Organizations not on the list will not be able to give out tax-free grants, and recipients of such funds will have to pay 24 percent of this income in taxes. The bill gives no guidance on how to compose and update the list, meaning bureaucrats will have extensive leeway. The amendments also ban foreign citizens from making grants. The International Center for Noncommercial Law described the amendments as creating serious obstacles for Russian and foreign grant makers, reported *Izvestia*.

In another effort to gain control of NGOs through their fund-raising, Putin issued a presidential decree on September 27 providing state funding to Russian human rights organizations and creating an International Human Rights Center that will defend the rights of Russian citizens abroad. Yuri Samodurov, head of the Sakharov Museum, described the measure as a return to the "Soviet system of quasi-public organizations." As in other areas, the Kremlin will spend money to set up organizations that are essentially loyal to it, while using such groups to crowd out truly independent organizations.

Not all of the problems with civil society are caused by the state. In many cases, civil society groups have failed to grab the attention of citizens. As with all NGOs, Russian groups sometimes advocate inappropriate programs, deliver services inefficiently, and pursue projects that are based more on ideological preferences than the needs of citizens. Some groups are more interested in pursuing Western grants than dealing with locally defined issues. Likewise, groups

based in Moscow and St. Petersburg do not always see eye to eye with groups based in the regions.

Despite such problems, the NGO community continued to expand. In 2004, there were more than 70 active economic policy institutions in Russia with annual budgets of US\$50,000. Like most think tanks around the world, these groups often have trouble exerting a real influence on policy, such as changing legislation or facilitating the adoption of new economic programs. Financing is a big problem for such groups. Russian think tanks do not have endowments, but accepting support from the government could endanger their independence.

Despite the growing number of organizations, the human rights movement is in “crisis,” says Svetlana Gannushkina, head of Civic Assistance and co-chairwoman of Memorial, as reported by *Novaya Gazeta*. Currently, human rights groups can help individuals, but the groups’ daily work does not affect the nationwide situation, “which is getting worse and worse” with the spread of corruption and xenophobia.

With the rising number of terrorist attacks, Russia has witnessed an increase in skinheads targeting dark-skinned foreigners. On February 9, a group of young men killed a nine-year-old Tajik girl walking home with her family in St. Petersburg. In the same city in June, neo-Nazis shot and killed ethnographer Nikolai Girenko, an expert on the country’s extremists, founder of the Group for the Rights of Ethnic Minorities, and an adviser in 15 Russian ethnic hate-crime trials who worked hard to jail violent extremists, reported *Time Europe*.

Racially motivated attacks increased after the Beslan hostage crisis. Between 20 and 30 victims die each year from such assaults, which are increasing at an annual rate of 30 percent, according to a report by the Moscow Bureau on Human Rights, a branch of the Washington-based Union of Councils for Jews in the Former Soviet Union. There are an estimated 50 neo-Nazi groups in Russia, and the number of skinheads rose from 30,000 to 50,000 in the last two years, claimed Alexander Tarasov of the Moscow-based Feniks think tank. Tarasov noted that many new skinhead incidents are being reported from cities across Russia.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
3.75	4.25	4.75	5.25	5.50	5.50	5.75	6.00

Russian media are losing the limited freedom they once enjoyed. During the 1990s, NTV news broadcasts were relatively free to criticize the government, though they remained under the control of powerful business groups. Since Putin came to power at the beginning of 2000, this situation has deteriorated dramatically. Now, the state maintains extensive control over electronic media, where most of the population gets its information. In contrast, there is relative freedom and a wide variety of views in print media and on the Internet.

Because of Putin's crackdown on the three major television networks, Freedom House currently rates Russia's media as "Not Free." Kremlin chief of staff Dmitry Medvedev holds Friday meetings with the heads of the state-owned broadcasters to determine how the news will be covered, notes an OSCE report. Events that show the state in a bad light are conveniently ignored. Russia's main broadcasters, for example, spent little time reporting on the campaign against Yukos, discord in the cabinet, the grief of Beslan families, or the incompetence of the country's law enforcement agencies, reported Masha Lipman in *The Washington Post*. The list of forbidden topics continues to grow and now includes any favorable views of the Orange revolution in Ukraine.

During the course of 2004, the government continued its crackdown on NTV, Russia's most independent national broadcaster. During the summer, it yanked the last two independent talk shows from the air, Leonid Parfenov's *Namedni* and Savik Shuster's *Svoboda Slova*. The latter was the only remaining political show on Russian television that was broadcast live. Other talk shows use a tape delay, making it possible to edit out any spontaneous criticism of the government.

NTV's state-controlled managers are filling the station's leadership with reliable administrators, such as Vladimir Kulistikov, who told *The New York Times*, "If I were not loyal to Putin, I would not work here." In July, Tamara Gavrilova, who studied with Putin, became NTV's first deputy general director. The same month, Putin signed a decree making Oleg Dobrodeev general director of the All-Russia State Television and Radio Company (VGTRK). Dobrodeev previously led NTV, but owner Vladimir Gusinsky fired him for being insufficiently critical of the government, according to the New York University School of Law's East European Constitutional Review. As part of the reorganization, Russia's second channel (RTR), the Culture network, and VGTRK's regional stations lost their status as financially and administratively independent units and became subdivisions of the holding company.

The state's most powerful weapon against journalists is its ability to open legal cases against them, according to Oleg Panfilov of the Center for Journalism in Extreme Situations. Coverage of the ongoing war in Chechnya is a particularly sore point. In July, the Ministry of the Interior took over the job of issuing permits for journalists to travel to the separatist republic. Previously, the presidential administration controlled this access but was criticized because many journalists went there without permission. Authorities often blame journalists for the country's problems—for instance, provoking a banking crisis during the summer or the controversy surrounding the government's unpopular decision to convert in-kind benefits, such as free access to public transportation, to cash payments of lesser value.

The state made it extremely difficult for the media to cover the hostage crisis in Beslan in September. In a comprehensive report on the incident,

the OSCE noted that the government did not provide timely and truthful information about how many people were taken hostage, the number of hostage takers, who they were, or what their demands were. The state's behavior in the critical days of the siege created a triple credibility gap among government, media, and citizens, the OSCE noted. The authorities, for example, repeatedly said that there were 354 hostages when in fact there were approximately 1,200.

The three main television broadcasters did not provide accurate and timely information during the crisis, though Internet and print media did offer more comprehensive coverage. Television media had few interviews with the families of the hostages and were slow to report the public's fury at the government.

Additionally, the state apparently detained and harassed several journalists, making it difficult for them to do their work. *Novaya Gazeta's* Anna Politkovskaya may have been poisoned on a flight to Rostov-na-Donu. Radio Liberty's Andrei Babitsky was detained at Vnukovo airport on September 2 en route to Mineralnyi vodi. Georgian Television journalist Nana Lezhava was arrested after covering the Beslan crisis and then claimed to be drugged during interrogation.

In the aftermath of the crisis, Profmedia, the media branch of magnate Sergei Potanin's business empire and owner of *Izvestia*, fired editor Raf Shakirov for publishing large pictures of wounded children on the first and last pages of the newspaper on September 4. An *Izvestia* staffer said that Shakirov had to leave after the paper received an angry call from the Kremlin, claiming that the paper's coverage was too emotional, reported the *Moscow Times*.

At least one journalist was killed as a result of his work in 2004, according to the Moscow-based Center for Journalism in Extreme Situations. Reuters photographer Adlan Khasanov was killed in the bombing of Kremlin-sponsored Chechen leader Akhmad Kadyrov on May 9. Additionally, at the end of 2004 the investigation continued into the murder of Paul Klebnikov, an American journalist working as editor of the Russian edition of *Forbes* who was killed July 9 as he was leaving his office. After erroneously blaming the case on two Chechens and then withdrawing the accusations, the authorities arrested another Chechen in November, linking the murder to Klebnikov's book on Khozh-Akmed Nukhaev, who had provided funding to Chechen fighters, as reported in *New York* magazine. Three journalists disappeared or were kidnapped during the year, while many others were physically attacked or faced other forms of intimidation. Reporters Without Borders noted that Russia led all post-Soviet countries for attacks on journalists in 2004.

Print media and the Internet continue to publish a variety of opinions, so critical voices do persist and people with time and money can find them, as noted in a *Moscow Times* "Context" piece. However, these sources of information reach only a limited elite. Circulation of critical publications usually

does not exceed 100,000 in a country of nearly 145 million. The critical press overall does not exceed more than 1 million copies, whereas television reaches into 98 percent of Russia's households, stated Masha Gessen, deputy editor of the Moscow weekly *Bolshoy Gorod*. Ekho Moskvyy radio station broadcasts the kind of political discussion banned from television, but the number of people who hear it is shrinking as regional editors are becoming increasingly nervous and cities pull out of its network. REN TV also broadcasts critical news but has fewer resources than other national networks, though its reach throughout the regions is substantial.

Even print media have many problems. Most newspapers are controlled by the oligarchs or governors who subsidize them. Journalists take money to write positive articles about companies that sponsor them or negative ones about their competitors. Such practices are extremely hard to measure because they can involve the entire newspaper or broadcaster, a department within the outlet, or an individual reporter. Only a handful of the country's 7,500 existing newspaper, TV, and radio outlets categorically refuse to take these bribes, according to Aleksei Pankin, editor of the media industry journal *Sreda*, reported *Newsweek*. Companies can also pay to block the publication of any negative information. Because the advertising market is relatively small, there are almost no independently financed newspapers.

Print media also face large libel cases that threaten their coverage. On October 20, the Moscow Arbitrazh Court ordered *Kommersant* to pay Alfa Bank 321 million rubles (US\$11.7 million) for a July 7 article it deemed "libelous." The judgment is believed to be the largest that Russian courts have imposed on a media outlet, according to RFE/RL. *Kommersant* general director Aleksei Vasiliev charged that some of the business elite are trying to score points with the Kremlin by harassing the independent media. *Kommersant* has been owned since 1999 by Boris Berezovsky, the once powerful oligarch who is now in exile in London. State Duma Information Policy Committee deputy chairman Boris Reznik said that the size of the judgment was an attempt to destroy the frequently critical newspaper. While *Kommersant* may be able to pay the fee from Berezovsky's deep pockets, other independent newspapers would not have such backing. *Novaya Gazeta* faced the previous largest libel conviction of US\$1.5 million, but the ruling was subsequently overturned.

Internet expansion is a potential bright spot for the Russian media. The number of households connected to the Internet has grown by one third every year, and the revenue of service providers increases by 25 percent annually, as reported in *Kommersant* from data provided by the Ministry of Communication and Information Technologies. More than 8 million households in Russia are expected to be Internet users by the end of 2004, or about 8–10 percent of the population, up from 2 percent in 2000. The gap between the capital cities of Moscow and St. Petersburg and the regions is decreasing but

remains large. Estimates suggest that 24–40 percent of residents in these cities use the Internet, as noted by RAND analyst D.J. Peterson, speaking at the Kennan Institute. Moreover, the number of domestic broadband subscribers is increasing.

The Russian segment of the Internet is growing bigger and more interesting. Runet, named for Russia's .ru Web suffix, has over 200,000 registered domain names, according to *RIA Novosti*. But such figures pale in comparison with those from other developed countries such as Germany, which has 7 million, for example. Additionally, Russia lags behind Peru, Egypt, and Sri Lanka in terms of openness to the Internet, reported the Economist Intelligence Unit. This study examined the number of dial-up and cable connections per capita, the overall business environment, and the rate at which consumers and businesses take advantage of the Internet. So far, the Internet is having little impact on the political system and civil society because the state is making much more active use of its potential than NGOs, according to Peterson.

A new bill on media under consideration by the State Duma has provoked a discussion about imposing more controls over Internet publications, but Russia did not adopt such legislation in 2004. However, a Krasnoyarsk court sentenced Andrei Skovorodnikov, leader of the local National Bolshevik Party, to six months' corrective labor for creating a Web site that insulted Putin. In Ingushetia, the authorities shut the last local Internet café in October.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.75						

Putin used the opportunity of the Beslan terrorist attack to introduce changes that dramatically reduced the autonomous power of Russia's regional governments. By ending direct gubernatorial elections, the president's measures replaced federal institutions with those more closely resembling a unitary state.

Since 1996, Russia has elected its governors through direct popular elections. In 2004, Putin scrapped this system and replaced it with one under which the Russian president will appoint governors who are then confirmed by regional legislatures. However, if the legislature rejects the president's choice three times in a row, the president can disband the legislature, call new elections, and appoint an interim governor until a new legislature is elected to approve him. Additionally, Putin now has the power to fire governors at his discretion.

Under the new system, citizens will no longer have the ability to choose their regional leaders. Rather, the presidential chief of staff, working with the president's seven regional envoys, will prepare a list of at least two candidates. The new governors will not serve or be accountable to regional interests.

Instead, as has already been seen in the behavior of current governors maneuvering for reappointment, they will seek to curry favor with the Kremlin and those close to it. If Putin moves forward with plans to drastically cut the number of regions, he could soon be appointing a small number of officials who will handle regional affairs.

The outgoing system in which governors were directly elected functioned badly. The vast majority of governors were corrupt, ruling their regions as tyrants for their personal benefit and that of their closest allies. In most cases, governors were able to win reelection by manipulating the local media and otherwise pressuring voters to support them. However, in some cases when a governor failed to live up to his responsibilities, voters were able to turn him out of office and replace him with an opposition candidate. In 2004, for example, voters removed incumbent leaders in Ryazan, Arkhangelsk, Altai Krai, and Pskov. Thus, the old system had some form of public accountability, even if it was applied imperfectly.

Another problem with Putin's proposal is that the Kremlin will appoint leaders of the nonethnic Russian republics. The consequences of this change are unpredictable in regions like Tatarstan and Bashkortostan, which have sought to reduce federal interference in their affairs. Above all, the Kremlin prizes stability in these regions. Outside of keeping current leaders in place, it is hard to see how the Kremlin will be able to appoint leaders who will be acceptable to the local population. To date, the Kremlin's choices have not been encouraging. In 2002, the Kremlin forced Ingushetia's leader, Ruslan Aushev, to resign and replaced him with Murat Zyazikov, who, like Putin, had a long background in the Federal Security Service. Under Zyazikov's leadership, the situation in the republic has deteriorated rapidly. At the same time, Aushev was the only regional leader to take decisive action in Beslan, saving the lives of 26 of the hostages.

Putin cynically justified his regional power grab by claiming that the new system would help protect the country from terrorist attacks. Most observers, however, could find no links between appointing governors and defeating terrorists, given that the changes in regional leadership are expected to be implemented through 2009 while Russia's need for protection against terrorism is immediate.

In fact, Putin's reform may fuel further Islamic fundamentalism. Putin, the head of a secular but Orthodox-leaning state, will appoint the leaders of Russia's numerous Islamic regions. As governors become essentially puppets of the Kremlin, a new impetus arises to support Islamism as a unifying ideology for the political opposition. The gradual absorption of Islamic sentiments and rhetoric by local ruling elites would be cut short, since it is unlikely the Kremlin will appoint such spokespeople as governors.

Russians were nearly evenly divided in their reactions to the cancellation of direct gubernatorial elections, according to a Levada Center poll. In a late

September survey, 44 percent supported the idea, 42 percent opposed it, and 14 percent found it difficult to answer. However, the opponents of this plan had no opportunity to make their opinions known since the Kremlin controlled the political process so tightly. The cancellation of gubernatorial elections makes it hard for subnational democracy to develop in the future and is a dramatic setback for Russian democracy in general. Voting for governors had given the Russian electorate the potential to develop a democratic culture. Appointing governors effectively removes that opportunity.

While the cancellation of gubernatorial elections is a radical break with recent Russian practice, it follows a trend that Putin developed during his first term. In order to deal with the abuses perpetrated by Russia's governors, Putin has always planned to concentrate power at the federal level, and he has been eroding regional power since coming to office. While some forms of centralization were necessary in the wake of Yeltsin's chaotic policies of decentralization—such as ensuring that regional and local governments obey federal laws—Putin has essentially sought a monopoly on power, leaving little to the discretion of subfederal leaders. An alternative approach to centralizing power in order to rein in the governors might have been to give additional power to the mayors. With greater autonomy from the governors, mayors could have worked to check gubernatorial power from below.

During the course of his tenure, Putin has shifted resources from the regional to the federal level. The federal government controls almost all of the important tax revenues and keeps regions on a short leash by making them dependent on federal subsidies. Such a system has worked in recent years because high oil prices allowed the federal government to take a larger share of Russia's income without forcing the decline of revenue in the regions. If Russia's oil income drops, tensions between federal and regional governments will increase dramatically as they fight over a shrinking pool of resources.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.00	4.25	4.25	4.50	4.75	4.50	4.75	5.25

The Russian Constitution broadly outlines basic freedoms for citizens, and in recent years the government has made progress in improving certain features of the judicial system. Russia has built additional courts, raised salaries for judges, transferred the ability to issue warrants to judges, and established jury trials for serious crimes across the country. On August 20, Putin signed into law a bill providing state protection to crime victims, witnesses, and others involved in criminal cases. The law provides for new homes, jobs, and identities. Despite these advances, serious problems remain that call into question the independence and fairness of the judicial branch.

Russia is having “great difficulty” in fulfilling the standards to which it was bound by the European Convention on Human Rights, according to Sabine Leutheusser-Schnarrenberger, special rapporteur for the legal affairs and human rights committee of the Council of Europe (COE). When Russia joined the COE in 1997, it committed itself to implement the European Convention on Human Rights but has failed to apply some of its provisions, including placing all prisons under control of the Ministry of Justice.

The system still favors prosecutors and the government, which can exert heavy pressure on the judges. Judges often feel that they have little protection from violent assault or assassination. Most are overworked and underpaid. Under such conditions, many judges are quitting, leaving 5,000 vacancies on the bench, reports *The Wall Street Journal*. Unfortunately, Putin’s administration has failed to fill these vacancies quickly.

Several high-profile cases have done considerable damage to the reputation of the overall judicial system. Most independent observers view the prosecution of Yukos head Mikhail Khodorkovsky as a politically motivated retaliation for his publicly announced political ambitions. A guilty verdict is widely anticipated in the trial, which has dragged on for more than a year, while many others who may have committed the same kinds of crimes Khodorkovsky is accused of do not face prosecution.

Likewise, the courts were frequently used to remove candidates who were unpalatable to the Kremlin in a variety of regional elections. For example, longtime Bryansk governor Yuri Lodkin suffered this fate in December, as did the mayors of Pskov and Volgograd who sought to compete with the governor.

Trials against independent analysts have shaken the academic community. In April, a 12-member jury found researcher Igor Sutyagin guilty of treason and espionage for selling information about nuclear submarines and missile warning systems to a British company that procurators allege was a CIA front. The Supreme Court upheld a 15-year sentence on August 17, and Sutyagin is currently appealing to the European Court of Human Rights. Sutyagin says that he was using open sources to gather the information in his reports, and Amnesty International declared him a political prisoner. Sutyagin’s lawyers have pointed out that one of the jurors in the case failed to reveal his past employment working in the security services in Poland.

Additionally, in June the Supreme Court reinstated an espionage case against Siberian physicist Valentin Danilov, who six months earlier had been acquitted by a jury on charges of selling secret satellite technology to a company in China. Despite already having been found innocent, Danilov had to undergo a new trial, demonstrating that Russia has not eliminated double jeopardy as promised. In the second trial, the jury found Danilov guilty, and in November the judge sentenced him to 14 years in prison. The newspaper *Moscow News* charged that the Federal Security Service (FSB) is interested not

in protecting state secrets, but in using that issue to carry out repressions.

The Danilov case reflects a larger trend in which the Supreme Court frequently overturns jury acquittals. The higher court overturns half of the jury acquittals it hears on appeal, lawyers told *The New York Times*. “Not guilty” verdicts are delivered in about 15 percent of jury trials, a great improvement on the nearly 100 percent conviction rate of the recent past before juries were introduced, according to RFE/RL *Russian Political Weekly*.

Other problems remain as well. Selection of jurors is not always impartial, argues Mara Polyakova, director of the Independent Legal Expertise Council. The 2002 legal reforms were supposed to end the accepted custom of judges giving procurators additional time to improve their cases, but this continues. Additionally, the practice of secret trials is spreading, allowing procurators to fudge cases by introducing secret materials that in fact are not relevant.

Constitutional Court chairman Valerii Zorkin brought extensive publicity to another problem when he told *Izvestia* that research had demonstrated judges were vulnerable to corruption by businesses and hand decisions to the highest bidder. Zorkin asserted that the practice was widespread. The Supreme Court challenged the validity of Zorkin’s assertions, but he responded that it did not make sense to deny the obvious. Getting at the truth is a difficult matter: no judges were convicted of taking bribes between 2001 and September 2004. Such figures suggest that either all judges are honest or they know how to protect themselves.

While the extent of corruption is unknowable, the public has a very negative view of the courts, according to an October Public Opinion Foundation poll reported in *Vremya Novostei*. A large majority of the population considers the courts to be ineffective, unjust, and completely corrupt. But some argue that such public perceptions are not grounded in reality. Ordinary citizens win 71 percent of their cases when they sue representatives of the authorities at various levels, according to Yuri Sidorenko, chairman of the Russian Federation Council of Judges, reported *Izvestia*. More people are using the courts and winning. Alexei Andreev, a resident of the town of Cheboksary, successfully sued the giant AvtoVAZ for selling him a defective car, according to *RIA Novosti*. Since February 2003, ordinary Russians can challenge all presidential decrees in the Supreme Court. With the annual number of cases jumping from 1 million to 6 million in recent years, courts are certainly much more in demand.

Over 2004, the Putin team stepped up executive branch pressure on the courts. Federation Council Speaker Sergei Mironov proposed transferring to the president the right to appoint and fire the general director of the Supreme Court’s Judicial Department, a body responsible for the administration of the courts. The Supreme Court chairman now appoints the director, with the advice and consent of the head of the Russian Judicial Council, who is

a member of the Supreme Court and has little independence in practice.

Additionally, Mironov proposed reorganizing the Supreme Qualification Collegium, the only official body in the country that can hire and fire judges. The collegium appoints judges to the Supreme Court and Supreme Arbitrazh Court. It currently has 29 members, 18 elected by judges through secret ballot every four years, 10 appointed by the Federation Council, and 1 appointed by the president. Mironov suggested cutting the collegium's membership to 21 people. Ten would be nominated by the president and confirmed by the Federation Council, 10 nominated by the Speaker of the Federation Council and approved by the members, and 1 appointed by the president. Mironov's proposal allowed the president to fire his representatives on the collegium with the collegium's consent and gave the Federation Council the right to fire its public representatives. The bill violated the Lisbon Convention, which Russia signed in 1998, since the judiciary would not be guaranteed at least 50 percent of the seats in the collegium, reported the *Moscow Times*. Ultimately, the All-Russian Congress of Judges rejected Mironov's proposal in December, which forced Putin to back away from it. Additionally, the judges insisted that Putin raise the mandatory retirement age for all judges from 65 to 70, a change that should be adopted in 2005. In December 2001, Putin had replaced the life appointments for judges with mandatory retirement at age 65.

The executive branch can also exert pressure on the courts through chief judges. They are appointed for six years, and their reappointment depends in part on a review by the presidential administration. Many players are involved in this process and can block the appointment of a judge. The chief judges often decide which judge will hear sensitive cases and habitually assign these to reliable (or "politically mature") judges who will make the appropriate decision.

The extent of this pressure became apparent in the case of former Moscow City Court judge Olga Kudeshkina. According to the *Moscow Times*, Kudeshkina lost her job after refusing to obey orders from her chief judge, who served as a conduit from the executive branch. In the well-publicized case of Pavel Zaitsev, a police investigator who started looking into customs fraud by people with connections to the FSB, Kudeshkina was ordered to find Zaitsev guilty of abusing his office but refused to follow instructions. Kudeshkina was fired from the high-profile case and then removed from the court when she spoke about the matter publicly. At the end of 2004, the *Moscow Times* also reported that another Moscow judge, Alexander Melikov, was fired for, as he claimed, not delivering a sufficient number of convictions.

Beyond the courts, there were also clear problems with the police. From December 10 to December 14, law enforcement agents in the city of Blagoveshchensk, Bashkortostan, went on a rampage, detaining and beating approximately 1,000 young men in the city of 30,000. The local authorities

actively blocked efforts by the victims to assign blame for the incident, but human rights groups continued to conduct their own investigations.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.25	6.25	6.00	5.75	5.75	5.75

In 2004, Transparency International ranked Russia 90 out of 146 countries for its perceived level of corruption. All parties, from Putin down, acknowledge the problem, and the media have devoted numerous articles to it. Corruption pervades every aspect of Russian life, from small-business administration to the health care and education systems. Corruption was a considerable problem in the czarist and Soviet periods. During the Yeltsin era, crooked privatization deals created considerable ambiguity in the public mind about whether it makes sense now to protect property rights or to try to correct some of the abuses of the past. Much of the public feels the problem is so extensive that little can be done to counteract it, thus breeding widespread apathy. Official “anticorruption” campaigns are usually designed to serve the interests of one or another group seeking to use this issue to discredit political enemies.

Corruption had tragic consequences for Russia in 2004. In the August bombings that brought down two planes, killing 90 people, and the Beslan school attack, corruption made it possible for the terrorists to carry out their dark deeds. The bombers entered the aircraft just prior to takeoff by buying tickets from a scalper and paying a US\$30 bribe to an airline official. Additionally, some of the terrorists told the Beslan hostages that they had paid bribes to bring their two trucks into the school compound. By the end of the year, five police officers were facing charges of negligence connected with the attack.

The Russian government has not enacted an effective anticorruption policy. Russia signed the UN Convention Against Corruption (2003) and the COE’s Criminal Law Convention on Corruption (1999), but it has not ratified these documents or brought its national legislation into compliance with them, notes *RIA Novosti*. Putin’s attacks on civil society and the media, combined with his efforts to concentrate more power in the executive branch, have only exacerbated the problem. The bureaucracy grows stronger as institutions capable of overseeing it grow weaker.

Putin’s plan to appoint governors will certainly increase corruption. Under that system, a small number of officials in the presidential administration will decide in effect who rules each region. With essentially no public oversight, these individuals will be vulnerable to political pressure and bribes as different interests seek to gain control over property and resources managed by Russia’s governors.

Supreme Court data show that some 15,000 people are convicted of corruption-related crimes every year, but these figures by no means reflect the true state of affairs. Official anticorruption campaigns target low-level officials rather than those at the top. One of the few high-level officials tried was State Statistics Committee head Yuri Yurkov, who received 4.5 years for bribery and embezzlement in February, reported the *Moscow Times*. The higher the official, the harder it is to investigate corruption, since large bribes go through intermediaries, according to Colonel Sergei Manakhov, acting chief of the Ministry of the Interior's Investigative Committee. Corruption is deeply embedded in the system, since it is nearly impossible to start a business without the support of an official, according to *Moscow News*.

Police have little incentive to go after major offenders. Since police performance is judged by the number of cases solved, most officers prefer to prosecute minor offenders. Officers purposely withhold information on major cases to lower the crime rate in their precincts and improve the appearance of their own performance. Lower-level officers observe the corrupt actions of their superiors and inevitably mimic their practices.

The campaign against corruption is also undermined by the government's use of corruption charges as a political tactic against its opponents. In particular, the federal government has used accusations of corruption against regional officials, arresting many of them over the course of the year for taking bribes. Most see this selective campaign as part of the Kremlin's broader crackdown on regional authorities. Additionally, the State Duma Commission on Counteracting Corruption lost the ability to carry out its own investigations and is therefore no longer as powerful as it once was. Now its main purpose is to review draft laws for corruption loopholes, according to Boris Demidov, an expert at Moscow's Legal Resource Center.

In April, Putin raised the salaries of high-ranking officials as part of his campaign against corruption, with federal ministers receiving US\$3,000 per month, approximately five times their previous salary. However, a study by Indem released in May showed that this approach had little impact, reported *Nezavisimaya Gazeta*. Since the contracts that officials deal with are still much larger than their salaries, the raises have not provided enough of an incentive to stop their taking bribes. Such measures as raising salaries would be effective only as part of a comprehensive strategy to root out graft at all levels of the bureaucracy.

Progress is unlikely in the area of administrative reform since Putin reassigned the head of this project, Dmitrii Kozak, to deal with the North Caucasus. The recently adopted Law on State Service once again requires bureaucrats to be more transparent about their personal finances. Russia has been trying to implement this type of administrative reform since the mid-1990s, but with little success. A better plan would be to cut staff and raise the salaries of remaining employees in an effort to increase efficiency.

Currently, many officials are leaving federal employ simply to start working for regional governments, so the overall size of the bureaucracy is not shrinking.

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Serbia and Montenegro

With an Addendum on Kosovo

Capital Belgrade

Population 10,700,000

GDP/capita (PPP 2002 US\$) n/a

Private sector as % of GDP 50%

Ethnic groups Serb (63%), Albanian (17%), Montenegrin (5%),
Hungarian (3%), other (12%)

Nations in Transit Ratings and Averaged Scores

	Serbia		Montenegro		Kosovo	
	2004	2005	2004	2005	2004	2005
Electoral Process	3.50	3.25	3.50	3.25	5.25	4.75
Civil Society	2.75	2.75	2.75	2.50	4.25	4.00
Independent Media	3.50	3.25	3.25	3.25	5.50	5.50
Governance	4.00	n/a	4.00	n/a	6.00	n/a
National Democratic Governance	n/a	4.00	n/a	4.50	n/a	5.75
Local Democratic Governance	n/a	3.75	n/a	3.50	n/a	5.50
Judicial Framework and Independence*	4.25	4.25	4.25	4.25	6.00	5.75
Corruption	5.00	5.00	5.25	5.25	6.00	6.00
Democracy Score	3.83	3.75	3.83	3.79	5.50	5.32

	Yugoslavia					
	1997	1998	1999	2001	2002	2003
Electoral Process	n/a	5.00	5.50	4.75	3.75	3.75
Civil Society	n/a	5.00	5.25	4.00	3.00	2.75
Independent Media	n/a	4.50	5.75	4.50	3.50	3.25
Governance	n/a	5.00	5.50	5.25	4.25	4.25
Constitutional, Legislative, and Judicial Framework	n/a	5.00	5.75	5.50	4.25	4.25
Corruption	n/a	n/a	6.25	6.25	5.25	5.00
Democracy Score	n/a	4.90	5.67	5.04	4.00	3.88

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Serbia and Montenegro were parts of the Socialist Federal Republic of Yugoslavia (SFRY), a multinational federation comprising 6 republics and approximately 40 ethnic communities. The SFRY broke apart in 1991, and Serbia and Montenegro came to form the new Federal Republic of Yugoslavia (FRY) in 1992. During the 1990s, Serbia was under the authoritarian rule of Slobodan Milosevic, who is on trial at the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague for genocide, war crimes, and explicit abuses of human rights committed in Croatia, Bosnia and Herzegovina, and Kosovo between 1991 and 1999. Montenegro escaped Milosevic's influence in 1998 when it started to direct its own course toward economic liberalization, the establishment of democracy, and full independence.

In September 2000, a united opposition consisting of 18 parties known as the Democratic Opposition of Serbia (DOS) defeated Milosovic in parliamentary elections and removed him from office. Serbia's first post-Milosevic government, inaugurated in January 2001, quickly initiated reforms aimed at building democratic and market institutions. Although many of these reforms were successful and held great promise for Serbia's future, the murder of Prime Minister Zoran Djindjic in March 2003 and subsequent events led to a deceleration and even a stalling of reforms, thus highlighting ongoing weaknesses in Serbia's democratic institutions. The question remains whether future governments will be committed to pursuing democratic reforms.

Today, Serbia and Montenegro belong to the State Union of Serbia and Montenegro, which replaced the FRY in March 2003 and was intended to accelerate the integration of Serbia and Montenegro into the European Union (EU). However, the confederal character of the state union's joint institutions has given preference to priorities of the individual member states and has allowed them to block decisions deemed contrary to their interests. This, in turn, has resulted in poor governance and transformed the joint state into an obstacle to—rather than a vehicle for—integration. The state union is kept alive exclusively through pressure from the EU, which brokered the deal to create it in 2002.

On March 3, 2004, a coalition of four political parties formed a new government, and Vojislav Kostunica became prime minister. Overall, the Kostunica government has had varying degrees of success in continuing

with the reforms initiated by the Djindjic government between 2001 and 2003. On the one hand, the government has vowed to strengthen the rule of law, relieved pressure on the media, and harmonized some legislation with European standards. In 2004, it also pushed through long-awaited amendments to Serbia's electoral legislation that finally allowed for the election of a president after three consecutive failures. On the other hand, in 2004 the government failed to create a consensus for passing a new Constitution. In addition, it weakened relations with the United States and the EU over its reluctance to cooperate with the ICTY and contributed little to resolving problems related to Kosovo and its future status. The government has also been unsuccessful in fighting corruption, giving in to the vested interests of tycoons from the Milosevic era. Transformation of Serbia's economy has stalled as well, owing to the Kostunica government's fear of the social costs of restructuring, particularly the likelihood of mass layoffs.

By mid-2004, the ruling coalition in Serbia had slipped measurably in the polls. As a result, Dragan Marsicanin, the government's candidate for the presidential elections in June, garnered less than half the support received by the four parties in the December 2003 parliamentary election. Voters unequivocally favored candidate Boris Tadic, whose Democratic Party led the government of Serbia from 2001 to 2003 under Zoran Djindjic. The Democratic Party also had a strong showing in local elections held in September 2004. Overall, the party's success demonstrated that the majority of Serbia's active electorate is willing to pursue more dynamic economic and political reforms. Nevertheless, the Serbian Radical Party, the Milosevic ally that opposes democracy and open markets, remains one of the two most popular parties in Serbia. Its commitment to reversing reforms constitutes a palpable threat to the stability of democracy in Serbia.

In 2004, the government of Montenegro focused its efforts on undermining the state union's joint institutions with Serbia and laying the groundwork for a 2006 referendum on independence. The pursuit of economic and legal reforms was less of a priority. In October 2004, the opposition's boycott of the Parliament, which had aimed since 2003 to weaken the government of Prime Minister Milo Djukanovic, foundered when the Socialist People Party, the largest oppositional party, broke ranks and returned to the Parliament. In 2004, the Montenegrin government remained under the constant watch of nongovernmental organizations (NGOs), which now appear to be more influential than the opposition political parties. Like Serbia's government, Montenegro's governing authority showed little or no progress during the year in fighting organized crime and high-level corruption for fear of endangering its vested interests.

National Democratic Governance. The state union became almost entirely dysfunctional and irrelevant in 2004 owing to the continued usurpation of

its decision-making powers by the republic-level governments of Serbia and Montenegro. During the year, for example, the Montenegrin government announced that it would avoid its constitutional obligations and not hold direct elections for the assembly of the state union in 2005. Creation of the Joint Court of Serbia & Montenegro, which is tasked with matters of constitutional law, has still not been completed. Government ministers and deputies at the state level remain answerable to their member states rather than the public. The joint military, for its part, lacks democratic oversight.

Although there is broad consensus about the creation of democracy in Serbia, the Serbian Radical Party, one of the two largest oppositional parties, remains more focused on nationalist and extreme political rhetoric and policies than on serious reform efforts. Although the minority government inaugurated in March 2004 is weak, it creates a reasonable balance of power between the government and the Parliament that was not present in the 2001–2003 period. In general, the constitutional mechanism of the dual executive causes instability, because the president, while having no formal policy prerogatives, often takes issue with the government on specific points. By not disclosing secret files from the Communist era, the government has demonstrated an inability to reform the state security service, which was implicated in the 2003 assassination of Zoran Djindjic.

Despite the opposition boycott, the Montenegrin Parliament and government worked without interruption in 2004. In October, the boycott collapsed and the Socialist People Party returned to the Parliament. Although the opposition does not support independence for Montenegro, the Socialist People Party now appears willing to accept the outcome of a referendum on independence scheduled for spring 2006. Montenegro's judiciary, although formally independent, is subject to government influence. While it avoids cases that could harm state officials, it is quick to fine oppositional leaders for libeling incumbents. The ruling Democratic Party of Socialists, which is a direct successor to the pre-1989 Montenegrin Communist Party, appears to be unable to control factions within the state security service that resist reforms and use their position for political purposes.

While there is public support for democratic principles in Serbia, not all major political parties seem to be endorsing it equally as the only legitimate form of polity. Powers are balanced between the Parliament and the executive, and ongoing reforms have strengthened the independence of the judiciary. However, the police refuse to disclose secret files from the Communist era, and the government has failed thus far to reform the secret service. Security services, including the military, interior, and secret services, are not under democratic oversight. Serbia's new rating for national democratic governance is set at 4.00.

Although support among the population and politicians for democratic principles in Montenegro is strong, there is no consensus among the state's major political parties about independence. Agreement will be possible only after a

referendum on independence in 2006. The government has substantial influence over the Parliament and the judiciary. Likewise, the Montenegrin secret police are dominated by the ruling party, which continues to block its reform. Montenegro's new rating for national democratic governance is set at 4.50.

Electoral Process. In 2004, the Parliament removed Serbia's voter turnout requirement and finally made possible the first election of Serbia's president since 1998. The Parliament also removed the 5 percent electoral threshold for ethnic minority parties. The new Law on Financing Political Parties, which made the process by which parties receive and manage their funds more transparent, became effective on January 1, 2004, but it was largely not adhered to during the June 2004 presidential elections. In its electoral report, the Organization for Security and Cooperation in Europe praised the electoral process, assessing that elections in Serbia are generally held in agreement with democratic and European standards. Economic themes and corruption are becoming more dominant in local electoral campaigns. The 2004 presidential and local elections indicated a slump in the government's popularity and an increase in popularity of the pro-reform Democratic Party. However, the 2004 elections also bolstered the morale of the Serbian Radical Party, which is still one of the most popular parties in the country.

In 2004, Montenegro held local elections in three municipalities. The parties campaigned less on local and more on national issues such as independence and corruption. The campaign was followed by increased political activity from top party leaders and national incumbents. The elections' mixed results showed that the electorate is fairly divided between the government coalition parties (which favor independence) and the opposition (which favors joint state with Serbia), with a slight bend toward the former. Electoral legislation and practice in Montenegro in 2004 accorded with European standards.

Serbia's electoral process rating improves from 3.50 to 3.25 owing to the positive development in both electoral legislation and electoral process, which is seen in the removal of the turnout requirement for presidential elections and the 5 percent electoral threshold for ethnic minority parties in Serbia.

Montenegro's electoral process rating improves from 3.50 to 3.25 owing to the conduct of local elections in agreement with European standards.

Civil Society. Despite expectations, the Serbian government failed again in 2004 to adopt legislation defining the status of NGOs. The old legislation (from the 1980s and 1990s) is restrictive and unfavorable to the development of the civil sector. For example, NGOs are not allowed to form or operate if they are not registered with the police. NGOs are also forbidden to take up any economic activity for self-support and are liable for taxes. After the cooperation between the government and the civil sector in 2001, the impact

of Serbian civil society on the government's public policy vanished entirely in 2004. The government supports civil society actors in budgetary matters, but this alone is insufficient for the comprehensive development of the civil sector. Substantial funds for NGOs are provided by international donors. Throughout 2004, the media regularly followed the civil sector's activities, and several NGO leaders went on TV to discuss political issues; unfortunately, the increase in public stature that resulted from their appearances did little to influence the government to change its attitude. In Serbia, the public remains less supportive and more suspicious of NGOs than in Montenegro.

In Montenegro, since the passage of important legislation in 1999, civil society has enjoyed a more lax, more liberal environment for its development. The Montenegrin NGO sector is much smaller than Serbia's but appears to be more vibrant. In 2004, several NGOs managed to persuade the government to consider NGO proposals in fighting corruption and protecting the environment. The most active NGOs in Montenegro are those dealing with public issues and public policy. Their existence is dependent primarily on foreign donations, although the government also allocates substantial funds from the state budget. Throughout 2004, Montenegrin NGOs enjoyed more public support for advocacy efforts than did their counterparts in Serbia.

Serbia's civil society rating remains unchanged at 2.75 owing to the failure of the government to improve regulation of the civic sector.

Montenegro's civil society rating improved from 2.75 to 2.50 given the civil sector's growing activism and the government's receptivity to advocacy efforts.

Independent Media. In Serbia, the most important development in 2004 was that the new government stopped harassing and interfering with the editorial practices of private media. This improvement ended the government's custom of applying informal pressure on editors, a policy that had lingered even after the state of emergency was lifted in 2003. This change affected the majority of print and electronic media, which are privately owned. In 2004, the Serbian government maintained control of public media, notably television, which has high public influence. In November, the Parliament adopted the Law on Public Accessibility to Information and appointed a commissioner to disclose information about government work that is of public relevance. However, the law remains unclear about what information is relevant and who decides that question. Additionally, the appointed commissioner was not provided an office, so in practice there is no place where one can submit a request. The quality of the Serbian press deteriorated in 2004 thanks to the increasing popularity of tabloids, which often run fabricated stories and promote hate speech. Journalists continued to be sued by politicians for libel. In response to the increase of fabricated stories, the minister of justice said in 2004 that the government intended to make libel a criminal offense, but the topic was not pursued further by year's end.

Journalists are able to form professional associations. Serbian society enjoys free access to the Internet.

In Montenegro, print media are either pro-government or pro-opposition. The only independent daily is *Vijesti*. Montenegrin national television is not formally under the government's influence, but it openly favors independence from the state union, which has been the major plank in the government's platform since 1998. Montenegrin police did not resolve the May 2004 murder of Dusko Jovanovic, editor in chief of the daily *Dan*. Jovanovic is believed to have been murdered for harshly criticizing the government and secret service. The inability to resolve his murder created an atmosphere of fear in the media community in Montenegro and the belief that practicing free journalism can be very dangerous.

Serbia's independent media rating improves slightly from 3.50 to 3.25, reflecting a return to the rating prior to the state of emergency now that the government has stopped interfering with the editorial policy of private media and passed legislation aimed at providing free access to information. However, in practice access to information is still denied, legal protections for press freedom are unsecured, and legal penalties for "irresponsible" journalism—whether justifiable or not in terms of journalistic ethics—remain common practice.

Montenegro's independent media rating remains 3.25 owing to the unresolved murder of Dan editor in chief Dusko Jovanovic and a lack of achievements that otherwise would benefit the sector.

Local Democratic Governance. The new Law on Local Governance in Serbia was adopted in 2002. The legislation failed to entirely harmonize local governance legislation with the 1985 European Charter of Local Self-Governance. The law increased the number of original prerogatives of local authorities but failed to grant substantial fiscal autonomy to local legislatures. Local authorities are able to collect fees to provide utilities (water, garbage collection, and so forth), but the lack of fiscal autonomy prevents them from providing other types of services (such as street repairing or public lighting). Serbian municipalities are allowed only to share in taxes levied at their administrative territory. Municipalities were not returned property that the state took from them in 1996. Local leaders exercise their power independently, especially now that the new law ensures legal protection from national government interference. However, the principle of the dual executive at the local level causes clashes between directly elected presidents and executive councils elected by assemblies, thus bringing about stalemates in a number of municipalities after the September 2004 local elections.

The Montenegrin Law on Local Self-Governance was adopted in July 2003. It gave substantial financial autonomy to local authorities and established a coherent governance structure at the local level. Presidents are elected directly, but their prerogatives are clearly demarcated from those of local

assemblies, which facilitates good governance at the local level. The national government, however, interfered with the work of local authorities in the municipalities of Budva and Niksic (where the opposition was in charge) by blocking the municipalities' bank accounts. Municipalities are allowed to hold property, and Montenegrin municipalities can levy their own taxes for providing local services.

Serbia's new rating for local democratic governance is set at 3.75 because the lack of fiscal autonomy at the local level prevents towns and cities from enhancing the quality of existing services and providing new ones. Governance in a number of municipalities is undermined by poor legal solutions that confuse the relationship between the mayor and the assembly's executive council.

In Montenegrin municipalities, executives function without interruption owing to easier relationships with local assemblies. Montenegrin legislation is more liberal and provides higher autonomy for local authorities. However, given the government's occasional interference with local authorities' funds, Montenegro's new rating for local democratic governance is set at 3.50.

Judicial Framework and Independence. In 2004, the new government of Serbia amended several laws pertaining to the judiciary, with the aim of strengthening the independence of judges and harmonizing litigation procedures with European standards. The government failed to protect the rights of ethnic minorities after the escalation of ethnic tensions in Vojvodina in the beginning of the year. The Serbian judiciary in 2004 took up only one war crimes case, while the Kostunica government struggled to avoid cooperating with the ICTY by refusing to hand over war crimes suspects and proposing the voluntary surrender of the suspects.

Despite formal independence, the Montenegrin judiciary seems to be under the influence of the Montenegrin government. For example, it has failed to solve the highly publicized woman-trafficking affair, which dates to 2002 and implicates several state officials in corruption. At the same time, however, Montenegrin courts have demonstrated their efficiency in fining oppositional leaders for libeling incumbents.

Serbia's judicial framework and independence rating remains at 4.25 because the Serbian judiciary is still unable to deal with war crimes, cases yet made progress in harmonizing the judicial system with European standards.

For influence of the government on the judiciary and the inability of the judiciary to solve the woman-trafficking affair, Montenegro's rating remains at 4.25.

Corruption. Both the Serbian and Montenegrin governments showed no progress in fighting corruption in 2004. The new Serbian government did not try to investigate the three big corruption scandals from 2003: the sugar

affair, the Janjusevic-Kolesar affair, and the Sartid affair. Each of these implicated former or current government officials and were substantiated by reports made by the Council for the Fight Against Corruption. The government ignored these reports, which is indicative of its powerlessness and lack of will to tackle vested interests both in the government and among tycoons who seek to retain economic monopolies.

The Montenegrin government did not make the privatization of large companies more transparent in 2004. Indeed, it was accused of rigging the privatization procedure for the aluminum factory in Podgorica. In addition, Prime Minister Milo Djukanovic is still suspected of having been involved in cigarette smuggling, and one Italian magistrate announced that he might reopen the case.

Because of the Serbian government's lack of will to fight corruption, Serbia's rating remains 5.00.

Montenegro's rating remains unchanged at 5.25 owing to the nontransparent privatization process.

Outlook for 2005. The future of the state union, which was created in 2003 under much arm-twisting from the EU, seems uncertain. It depends on the outcome of the referendum on independence that will be held in Montenegro in spring of 2006, as permitted by the 2003 Constitutional Charter. In the meantime, the so-called twin track, which created the possibility in 2004 for Serbia and Montenegro to pursue EU membership separately and enjoys the support of the European Commission, will enable both Serbia and Montenegro to pursue integration at their own pace. Once the twin track system is in place in 2005, EU assessments of Serbia and Montenegro will no longer focus on the economic harmonization of the two states. In the case of Serbia, for example, the EU focus will be on cooperation with the ICTY.

In 2005, the Serbian government is expected to undertake a restructuring of the public sector, implement new bankruptcy procedures, enliven the privatization that stalled in 2004, restructure state finances, and reduce public spending. Much courage and political determination will be required to tackle these objectives, because serious restructuring of the economy will threaten vested interests. If the Kostunica government remains unwilling to cooperate fully with the ICTY, this will hold back Serbia's progress toward negotiations on the Stability and Accession Agreement with the EU. Serbia will likely try to patch up relations with the United States and the EU by urging war crimes suspects to give themselves up to the ICTY. Serbia could also face early elections in 2005, since the two most popular parties (the Democratic Party and the Serbian Radical Party) are not in the government. The Serbian Radical Party will remain a threat to democracy and a market economy. However, since the parties that removed Milosevic and set the country on the path of reform in 2000 grew aware of the necessity to create a coalition, it is expected that some

reformist-oriented coalition will remain in office after these elections.

The Montenegrin government's major goal for 2005 and 2006 is to split from Serbia and achieve independence. It is expected to avoid direct elections for the state union's assembly (which is mandated by the Constitutional Charter for spring 2005) in favor of a referendum on independence. The future of the Djukanovic government seems to be entirely dependent on the outcome of the referendum. Its ability to succeed in this agenda could bring about instability in the region but could also contribute to a quickening of the pace at which Serbia and Montenegro approach the European integration process. Much will also depend on whether the twin track system will enable the countries to move toward the EU faster separately than jointly.

MAIN REPORT

National Democratic Governance

Serbia	2004	2005	Montenegro	2004	2005
	n/a	4.00		n/a	4.50

From 1998 to 2003, the Federal Republic of Yugoslavia (FRY) was largely ungovernable. To remedy this situation, the European Union (EU) brokered the so-called Belgrade Agreement on Principles, which called for the establishment of the joint State Union of Serbia and Montenegro. Both sides approved the document on March 14, 2002. The EU pressed for the agreement, desiring a single international partner and fearing that the disintegration of the FRY could lead to instability and fragmentation in Macedonia and Bosnia as well. The EU was also reluctant to address the issue of Kosovo's future status. With the Belgrade agreement in place, the State Union of Serbia and Montenegro would be able to start negotiations on accession to the EU.

The Belgrade agreement called for the state union to ensure unhampered movement of goods, labor, and capital between Serbia and Montenegro via a common customs and trade policy. Monetary and fiscal policy, however, remained the responsibility of the two individual states. The agreement considered the governments of Serbia and Montenegro, not the institutions of the state union, to be responsible for policy implementation.

On February 4, 2003, the Yugoslav Parliament adopted the Constitutional Charter, which established the state union. As such, the FRY, created in 1992, formally ceased to exist. The Constitutional Charter called for the creation of a one-chamber Parliament comprising 126 deputies (91 from Serbia, 35 from Montenegro) who are elected indirectly by delegations that reflect the makeup of each state's Parliament. It also called for a state union president elected by

the joint Parliament. The president, in turn, heads the Council of Ministers, which consists of ministers of foreign affairs, defense, human and minority rights, external economic relations, and domestic economic relations.

Governance at the state union level was troubled from the outset, and conditions continued to worsen in 2004. At the heart of the problem is the fact that the institutions of the joint state are more concerned with harmonizing the two governments' separate policies than engaging in genuine policy making. Likewise, decision making at the state union level is entirely dependent on the decisions of the member states, and no decision—even within the five areas under each state's prerogative—can be made unless the two respective governments endorse it. Although the state union was established to facilitate a faster accession process for Serbia and Montenegro, its confederal manner of decision making has actually turned the state union into one of the biggest obstacles to EU integration.

Accepting this reality, the European Council of Ministers decided at a meeting in September 2004 to endorse the so-called twin track arrangement to ensure the integration of Serbia and Montenegro with the EU. According to this solution, the Serbian and Montenegrin governments are not required to harmonize their trade and tariffs policies. Instead, both are free to pursue their own policies toward EU accession. The twin track approach removed the dilemma of confederal decision making by rendering the state union even more irrelevant.

In 2004, the functioning of the state union was deliberately obstructed by the Montenegrin government. Although the Belgrade agreement mandated direct elections for the joint parliamentary assembly in 2005, the ruling Montenegrin coalition announced in 2004 that it would not participate. In its view, these elections would strengthen the federal character of the state union. Instead, the Montenegrin government proposed to hold a referendum on independence in 2005. To further undermine the functioning of the joint state, the ruling majority in the Montenegrin Parliament also refused in November 2004 to pass the Law on Elections for the Assembly of the State Union.

The Army of the State Union of Serbia and Montenegro is fully exempt from democratic and parliamentary oversight, specifically in budgetary matters. After several years of requesting lump sums from the Ministry of Finance, the Ministry of Defense now submits a more detailed breakdown, which still falls short of specifying each particular item in the budget. The army is one of the most nontransparent and untouchable institutions in the country, and its constitutional obligations are virtually impossible to enforce. The military court was abolished by the 2003 constitutional reform of the state union, and legislation on the implementation of the Constitutional Charter mandated that military courts be closed by the end of 2003, with all cases transferred to civil courts. Yet the military courts have resisted dissolution

and continued to exist throughout 2004.

The unclear status of the military court and prosecution system affected the investigation of two soldiers murdered in military barracks while on guard on October 5, 2004. The military commission announced after one day of investigating that one soldier had killed the other and then committed suicide, thus requesting no further investigation despite evidence suggesting the soldiers had been murdered by a third party. The Council of Ministers appointed a civil commission to reinvestigate the case, and after one month the commission found that a third party was “most likely involved.” The case was closed when no clear suspects were identified and seems to have been dropped.

* * *

Serbia continues to be governed under the 1990 Constitution adopted by Slobodan Milosevic. The Constitution established a semipresidential system with a directly elected president modeled after the French presidency under Charles de Gaulle. According to the Constitution, the Serbian president is the supreme commander of the Serbian armed forces (which currently do not exist), has the right to dismiss the Parliament, and enjoys various foreign policy prerogatives. As a result, presidents frequently take issue with the government in a number of policy matters, which more often than not undermines overall governance. (For example, shortly after the inauguration in 2004, the president set up the Citizen Assistance Center with the aim to hear and decide on people’s appeals, a role not mandated in the Constitution.)

The Democratic Opposition of Serbia (DOS), which overthrew Milosevic in October 2000, made the electoral promise to adopt a new Constitution within one year. Changing Serbia’s Constitution is a difficult process, requiring a two-thirds majority in the Parliament and a majority of the electorate to endorse the amendments in a referendum. Though the DOS coalition controlled two thirds of the Parliament in 2001, a new Constitution failed to be accepted, prompting the Kostunica government to put forward a draft of a new Constitution in 2004 in order to rebuild the constitutional consensus. The government’s draft is more or less a replica of the 1990 Constitution. It preserves the existing government structure, maintains the country’s low level of decentralization, and defines Serbia as the state of Serbs and ethnic minorities living within its territory. The reform of the Constitution remained deadlocked at the close of 2004.

The first post-Milosevic government (2001–2003), elected by over 50 percent of voters, was composed of 17 political parties but essentially led by Zoran Djindjic’s Democratic Party (DS). After the murder of Premier Djindjic in March 2003, the new premier, Zoran Zivkovic, was unable to maintain harmony among the 17 parties, and the government foundered in October 2003 after Social Democracy (a small party with 10 seats in the Parliament) withdrew its support. The second post-Milosevic government, formed in

March 2004, is a minority government composed of 4 parties. It is under constant threat of collapse because the Socialist Party of Serbia, still formally headed by Slobodan Milosevic, supports it from the opposition. To survive, the government made potentially damaging promises to the Socialist Party of Serbia, such as not extraditing alleged war criminals. As a direct result, the government has been under constant pressure from coalition partners G17 Plus and the Serbian Renewal Movement (SPO) to fulfill the country's obligations to the International Crime Tribunal for the Former Yugoslavia (ICTY) at The Hague.

In the beginning of 2004, Serbia showed increasing signs of state capture. For example, after failing to secure a place in government from Premier Vojislav Kostunica, Bogoljub Karic—a wedding musician turned tycoon from the Milosevic era—formed his own movement, Force of Serbia, to promote his business interests. The leading government parties Democratic Party of Serbia (DSS) and G17 Plus appear to be the most permeable to the influence of tycoons. The DSS put up businessman Zoran Drakulic as a candidate for the mayor of Belgrade in September 2004. Businessmen Vuk Hamovic and Vojin Lazarevic financed the DSS electoral campaign of the government-sponsored candidate Dragan Marsicanin and later managed to block the restructuring of large public enterprises (electricity and oil refining), keeping their monopolistic ties intact.

The government failed to resist the influence from management of two companies: C Market (a supermarket chain) and Knjaz Milos (a mineral water bottler), which pressured the government to stall foreign takeovers of these two large companies. (Both were partly privatized in the 1990s.) The government attempted to arrange the sale of Knjaz Milos to the preferred investor (Danone of France) and pressured the Security Exchange Commission, an independent body in charge of takeover bids, to reject the bid of another investor (FPP Balkan Ltd. of the Cayman Islands). Worth 55 million euro (US\$66.5 million), the transaction was completed only when the government withdrew from the process. The commercial court, a body known for acceding to government influence, is stalling the takeover of C Market after the Slovenian supermarket chain Mercator expressed interest.

As a minority coalition, the Kostunica government is dependent on the Parliament and has to negotiate with deputies for every piece of legislation. This creates a reasonable balance between the government and the Parliament, as opposed to the 2001–2003 period, when both the Parliament and the government were controlled by the DS. The most acute problem is the absence of reform in the state security sector. The security service has functioned in the same manner since the beginning of Yugoslavia and was a hotbed for profiteering and organized crime during the Milosevic era. Its major purpose has been political. During the Milosevic regime, the service was used to penetrate the opposition, defame or eliminate political adversar-

ies, and secure unhampered business for a newly created class of tycoons. In the mid-1990s, the service set up the Unit for Special Operation (informally called the Red Berets). The unit was composed of fighters and criminals who fought the Croat and Bosnian armies and plundered civilian homes in Croatia and Bosnia from 1991 to 1995. The unit protected the newly developed business interests of organized crime, chiefly smuggling oil, narcotics, and cigarettes.

The Milosevic government encouraged and tolerated this practice and ultimately transformed the unit into a death squad deployed against the regime's political adversaries. In 2000, Red Berets organized the killing of Ivan Stambolic, former president of Serbia, and in 1999 it attempted to kill Vuk Draskovic, oppositional leader from the 1990s. The unit is allegedly responsible for a number of other murders during the 1990s.

After the October 2000 regime change, evidence indicates that Red Beret leadership worked with the Zemun gang, which is allegedly linked to the killing of Djindjic, to continue lucrative, crime-related businesses. Although the state security service at this time was formally under the control of the first post-Milosevic government, attempts to reform the service failed. The government appointed a new head in 2001 but under pressure from the Red Berets removed him and appointed yet another head in 2002, whose deputy served as a mole for the Red Berets and the Zemun gang. In early 2003, the government appointed a special prosecutor for organized crime, and the Parliament passed related legislation. As a swift response, Prime Minister Djindjic was assassinated on March 12, 2003, an act allegedly organized by the Red Berets and the Zemun gang with assistance from members of the state security service and judiciary.

After the Djindjic assassination, the government disbanded the Red Berets and commenced Operation Saber to dismantle the Zemun gang. Yet the state security service remained more or less intact. After the Kostunica government took office in 2004, the service remained outside the scope of reforms. Kostunica's DSS monopolized both the Ministry of the Interior and the secret service. The latter is still being used as a political tool to defame opponents by leaking information from secret files to tabloid newspapers or to monitor elections. It is unclear whether the current head, Radomir Bulatovic, is powerless to reform the service or deliberately stalling reform. One critical step in the reform of the service would be to disclose secret files from the Communist era, which would expose the activities of numerous individuals still working in the service.

* * *

Beginning in 2003, Montenegrin governance was threatened by an opposition boycott of the Parliament over the decision of public broadcaster TV Montenegro to end live broadcasts of legislative sessions. By October 2004, this strategy crumbled, and the largest oppositional party, the Socialist People

Party, returned to the Parliament. Currently, the opposition is in disarray and appears to be fighting from within more than opposing the ruling coalition. The fate of the Milo Djukanovic government seems to hang entirely on the referendum on independence scheduled for 2006.

With the opposition out of the Parliament for most of 2004, the ruling coalition dominated and the Parliament worked without interruption. The judiciary in Montenegro also appears to be heavily influenced by the government, operating through informal ties among relatives and friends who are able to obstruct or facilitate the judicial process. The woman-trafficking affair, which began in 2002, offers evidence to support this statement.

As in Serbia, the state security service is unreformed in Montenegro. Deputies of the Democratic Party of Socialists (DPS), the dominant partner in the ruling coalition, have complained publicly that a faction of the secret service is out of control and functions on its own, and the issue was being debated in the Parliament by the end of 2004. While the DPS claimed the service should remain under the control of the government, the Social Democratic Party (SDP), the minor partner in the government, wanted to put the service under a parliamentary board's supervision. The debate ended suddenly without explanation.

Electoral Process

Serbia	2004	2005	Montenegro	2004	2005
	3.50	3.25		3.50	3.25

The DOS coalition that removed the Milosevic regime in October 2000 collapsed in November 2003. The largest party to come out of this coalition was the DS and after the presidential and local election in 2004, the Democratic Party emerged as the strongest party in Serbia. The current government is composed of the DSS, G17 Plus, the SPO, and New Serbia. All are regarded as democratic and committed to economic and legal reforms as well as European integration.

Two large parties typically considered part of the Milosevic regime are the Serbian Radical Party and the Socialist Party of Serbia. Both continue to embrace extreme ethnic nationalism and are substantively opposed to a market economy, democratic practices, and European integration. In addition, electoral lists for the 2003 campaigns of both parties were headed by two ICTY indictees—Vojislav Seselj and Slobodan Milosevic.

In 2002 and 2003, Serbia failed three times to elect a president. After Milan Milutinovic's mandate expired in January 2003, the position was taken by the chairwoman of the Parliament, Natasa Micic, who extended her mandate for another year. The electoral threshold for the presidency was unreasonably high: Over 50 percent of the electorate must cast a ballot for the election to

be valid. The Djindjic and Zivkovic governments (2001–2003), by deliberately maintaining the turnout requirement, made it next to impossible to elect a new president, thereby securing their governments' power. These successive electoral failures damaged public confidence in elections and political participation and engendered a strong sense of electoral fatigue among voters.

On February 24, 2004, the Parliament removed the turnout requirement, and a new president, Boris Tadic, was elected on June 28, 2004. Turnout was nearly 50 percent. Tadic's contender Tomislav Nikolic, from the Serbian Radical Party (formally headed by Vojislav Seselj, who is currently facing war crimes charges at The Hague), attempted to reimpose the issue of endangered Serbian national interests by insisting on the territorial integrity of Kosovo (implying that Kosovo is a part of Serbia) and refusing to cooperate with the ICTY. In contrast, Boris Tadic, now DS leader, pointed out the need for cooperation among political forces in Serbia and between Serbs and major international actors. Corruption was also a campaign issue. Tadic managed to distance himself from the corruption scandals that plagued the Democratic Party from 2001 to 2003, which is one of the major reasons for his win.

Table 1. Official Serbian Presidential Election Results, June 2004

CANDIDATES	First Round (6/13)		Second Round (6/28)	
	In Votes	In %	In Votes	In %
Boris Tadic				
Democratic Party (DS)	852,230	27.3	1,681,528	53.24
Tomislav Nikolic				
Serbian Radical Party (SRS)	939,695	30.1	1,434,068	45.40
Bogoljub Karic				
Power of Serbia (PSS)	602,342	19.3	-	-
Dragan Marsicanin				
Democratic Party of Serbia (DSS)	413,935	13.3	-	-
Ivica Dacic				
Socialist Party of Serbia (SPS)	112,405	3.6	-	-
TOTAL	3,117,339	93.6	3,115,596	98.64

Source: Serb Republic's electoral commission. (There were 15 candidates in total.)

Tadic beat Nikolic in the runoff by 8 percent. However, Tadic fared worse than Nikolic in the first round and needed the support of other democratic forces (notably Kostunica's DSS) to achieve the second-round victory. The final results indicate that pro-reform and pro-democracy support against the old regime parties is still strong, but the gap is narrowing (table 2). The most likely reason is voter dissatisfaction with the slowness or absence of change. At the same time, with the apathy that occurred after the regime change in October 2000, the electorate that supported the old regime parties seems to be growing active again.

Table 2. Electorate Supporting the Democratic Forces and the Old Regime Parties

YEAR	REFORM FORCES	OLD REGIME	RATIO
September 2000	2.4	2.0	1.2
December 2000	2.4	1.2	2.0
September 2002	2.1	1.1	1.9
December 2003	2.0	1.4	1.4
June 2004	1.7	1.4	1.2

Columns 2 and 3 are rounded to millions of votes.

The 2000 parliamentary electoral law set the electoral threshold at 5 percent, which was a major reason no ethnic minority party was elected to the Parliament in the December 2003 elections. The new Parliament amended the law in February 2004 by scrapping the threshold for ethnic minorities. The Organization for Security and Cooperation in Europe (OSCE) stated in its report that the “presidential elections held in Republic of Serbia on June 13, 2004, were conducted largely in agreement with OSCE and Council of Europe’s standards of democratic elections.” Local elections were observed by Council of Europe and European Commission delegations to Serbia, who noted only that voting booths did not provide for complete voter privacy.

Legislation on the financing of political parties adopted by the Serbian Parliament in July 2003 became effective on January 1, 2004. The law enables political parties to tap budget resources for electoral campaigns and regular operations (the latter entitlement is 0.15 percent of the total budget of the Republic of Serbia, which in 2004 was approximately 8.7 billion euro [US\$10.8 billion]). Each party receives an amount proportional to its parliamentary representation. The law aimed at limiting the influence of private donations on the work of political parties by encouraging members to pay smaller dues rather than having a few wealthy members sponsor the party. Individual members can contribute up to 10 times the average monthly wage in Serbia, whereas legal entities (such as businesses) can give up to 100 times the average wage (which in 2004 was approximately 200 euro [US\$242]). Donations from foreign countries, organizations, anonymous persons, public sector firms or firms possessed by the state, humanitarian organizations, religious communities, importers, exporters, and so on are forbidden.

* * *

Parliamentary elections in Montenegro were last held in 2002. The ruling coalition was composed of the DPS and the SDP, which secured 47.9 percent of the vote and 39 seats (out of 78). The coalition is led by Milo Djukanovic, former Communist apparatchik and leader of the DPS since 1989.

The Montenegrin party scene is divided into two camps. One is dominated by the DPS and the SDP, both of which seek to dismantle the State Union of Serbia and Montenegro and split off from Serbia. The second camp is led by the Socialist People Party, which does not support independence.

The issue of independence has dominated Montenegrin politics since 1998, and the majority of voters in favor see Milo Djukanovic and his party as the true representatives of Montenegrin sovereignty. According to the survey made by the Center for Democracy and Human Rights (CEDEM) in June 2004, the two parties that make up the government still enjoy the largest support. The DPS is the most popular party in Montenegro with 23.3 percent, and its coalition partner holds 4 percent. This government coalition has attracted voters because it insists on the independence of Montenegro. According to another poll made by CEDEM in December 2004, 41.5 percent of the respondents are for independence, whereas 35.2 percent are against it (8.7 percent did not vote, and 14.6 percent are undecided).

Most of the parties that make up the second camp are pro-Serbian, favoring the survival of the state union and stronger relations between Serbia and Montenegro. This camp is dominated by the Socialist People Party, which splintered from the DPS in 1998 and holds 10.3 percent of voters. The Group for Changes (GZP)—a nongovernmental organization (NGO) but potentially a significant actor in the next elections—holds 10.1 percent of voters. Currently, the GZP belongs to no camp but would most likely join a coalition with the DPS in the future. Abstaining and undecided voters represent 19.3 percent and 9.9 percent, respectively. These large percentages probably reflect increasing public disappointment with politics and politicians in Montenegro.

Civil Society

Serbia	2004	2005	Montenegro	2004	2005
	2.75	2.75		2.75	2.50

In the 1990s, various NGOs in Serbia were treated particularly harshly by the Milosevic government. Those involved in public policy were declared menaces to society, accused of terrorist activity, and harassed by the police. Several NGOs (Otpor, G17 Plus, the Center for Free Elections and Democracy [CESiD] and many others) played a significant role in overthrowing the Milosevic regime in 2000. Although there is no official record on the number of NGOs in Serbia, the Belgrade-based Center for the Development of the Nonprofit Sector estimates the total at around 25,000. Only about 3,000 are considered active, with approximately half focused on civic activism. Most NGOs are located in Belgrade (35 percent), Vojvodina (25 percent), south Serbia (10 percent), and central Serbia (8 percent). The most dominant NGOs are those that engage in a range of activities (12 percent) or social problems (12 percent), education and research (12 percent), humanitarian work (9 percent), the environment (9 percent), and local development (8 percent).

NGOs are still regulated by laws from the socialist era such as the Law on Civic Associations of the Socialist Federative Republic of Yugoslavia from

1990 and the Law on Social and Civic Association from 1982. One of the main weaknesses of such laws are the provisions that open the registration process to political influence by indirectly giving power to the executive administration and police to accept or reject applications from NGOs. NGO registration is obligatory, and organizations must be founded by a minimum of 10 persons, which is too demanding and runs contrary to the spirit of Article 11 of the 1950 European Convention of Human Rights. To remedy the situation, the Center for the Development of the Nonprofit Sector drafted the Law on Associations in 2002. The Ministries of Justice and Local Self-Government failed to forward the draft to the Parliament in 2002 and 2003. The Kostunica government appeared to have completely forgotten this legislation in 2004.

NGOs are forbidden to engage in economic activity for self-support. The Serbian Law on Income Tax (2001) does not provide tax exemptions for individual grants to NGOs. The Serbian Law on Corporate Tax (2001) allows corporations to deduct up to 3.5 percent of income for “medical, educational, scientific, humanitarian, religious, environmental protection, and sports purposes.” (The same solution is provided in Montenegro’s Law on Corporate Tax. In addition, Montenegrins may deduct up to 3 percent of their taxable income for the same purposes.) Corporations in Serbia may deduct 1.5 percent for cultural purposes. The law does not list other charitable options, such as human rights advancement, consumer protection, support for democratic development and free market institutions, and anticorruption efforts, because corporations are not encouraged to support NGOs engaged in areas critical to democratic development.

Cooperation between the government and the civic sector began to develop in 2001–2002, when NGOs and think tanks were included in formulating new economic policies, reforming the system of public administration, and commenting on other policy priorities in the post-Milosevic period. In 2003, the direct influence of NGOs and think tanks on the government shrank, as the political consensus among those who ousted Milosevic began to collapse. This trend continued in 2004, with cooperation seeming to vanish completely after Kostunica’s government took power in March.

The inauguration of the Kostunica government also encouraged some unreformed state institutions to revert to the harassment of individuals and groups that existed prior to 2000. For example, in March 2004 the Helsinki Committee for Human Rights released a book by journalist Vladan Vlakovic on the abuse of power in the military. The military court confiscated the complete printing of the book, detained Vlakovic, and prepared to try him on charges that the book disclosed top state and military secrets. Despite the provocative title, *Military Secret*, the book was merely a content analysis of accessible public information about the army’s involvement in politics

and its harassment of the oppositional leaders during the 1990s. Vljakovic was later released.

One rather unusual form of civic activism has been the self-organization of individuals whose property was confiscated by the Communist regime in 1945. The Milosevic regime, which in some ways was an extension of the Communist regime, had no intention of rectifying this injustice. Surprisingly, though, none of the post-Milosevic governments has mustered the political will to take on the issue, either. Civil society has thus stepped in to try to fill the void. The Restitution Network and the People Initiative collected 15,000 signatures to put up the Law on Restitution and the draft law Against Temporary Disposal of Confiscated Property in 1945 for parliamentary debate. The Serbian Parliament, however, refused to consider the proposal. After appealing to the Constitutional Court and exhausting all legal means in Serbia, the two NGOs pressed charges against the State Union of Serbia and Montenegro with the European Court of Human Rights. The Serbian government has promised several times since 2001 to pass a denationalization act but had failed to do so by the end of 2004.

The most visible NGOs in Serbia deal with public policy, political and electoral processes, and protection of human and ethnic minority rights. One of the most active NGOs in Serbia is CESiD, which focuses on election monitoring and was instrumental in ensuring the victory of the opposition against the Milosevic regime in September 2000.

The most active groups tend to be those that receive funds from abroad and thus have sufficient resources to support their activities. The government also sponsors NGOs from the budget. The bulk of government funds goes to the Serbian Academy of Science, religious communities, and sports organizations, which leaves only a small pool for civic activism. A rare example of an NGO financed with private funds from domestic donors is Nasa Srbija, which provides for children who lost their parents in the 1991–1999 wars. Another example is the Karic Foundation, a humanitarian group sponsored by the Karic brothers, whose wealth is estimated at over US\$1 billion.

Most current foreign donors are EU- and U.S.-sponsored organizations and foundations that fund humanitarian and health work and, to a lesser degree, democracy development, human rights, media, conflict resolution, and gender equality programs. Yet the decline in these resources is beginning to affect the work of NGOs. CESiD, for example, observed the June 2004 presidential elections but because of a lack of resources could not observe local elections in September. The decline in resources will make some NGOs change their status and activities, and others will have to shut down. For instance, CESiD started organizing roundtables (as a cheaper form of activism) where citizens could meet their local representatives in

order to be better informed for local elections. European Movement in Serbia was campaigning actively during the local elections under the slogan “Think globally, act locally.” Several NGOs campaigned with the slogan “Get out and vote!”

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Whereas the Djindjic government paid lip service to trade unions and dismissed workers, the Kostunica government has pandered to the largest trade unions: Nezavisnost (250,000 members), the Alliance of Independent Trade Unions (588,000 members), and the Association of Free and Independent Trade Unions (60,000 members). In his inaugural speech on March 3, 2000, Premier Kostunica stated that the government’s aim was to restructure public enterprises without layoffs. In September, the government announced amendments to the existing labor legislation (adopted in 2001) that would make conditions for layoffs more difficult and enable workers to participate in company profit sharing.

Although both trade unions attract a great number of workers, most of the social and labor protests in 2004 were not organized by either one. The social protests in 2004 were mainly fragmented, taking place in smaller companies facing bankruptcy and privatization. The largest labor protest was organized by the miners of the Bor mine, who held the highway from Belgrade to Nis for 24 hours under a blockade, fearing the government might shut down the mine. The government quickly gave in and endorsed a generous financial package to appease protesters.

Several larger protests in 2004 were a consequence of unresolved restructuring of firms privatized in 2002 and 2003. The new owners attempted illegally to enlarge their share in the total ownership stock, refused to fulfill obligations from the contract, or dismissed workers against contract provisions. This caused worker protests, which in turn prompted the new owners to deploy private guards for protection. The guards beat workers, causing the Alliance of Independent Trade Unions to announce that it would organize armed squads to fight back.

* * *

The public in Montenegro is receptive to NGO activism. By the end of 2002, the total number of NGOs rose to almost 2,000 in Montenegro. NGOs are registered with the Registry on NGOs, a body established by the 1999 Law on Nongovernmental Organizations. It is estimated that about 10 percent of registered NGOs are active. Approximately 500 people are officially employed by NGOs. Most NGOs in Montenegro are involved in culture, art, education, socio-humanitarian activism, ecological matters, and the development of civil society and human rights. About 60 percent of NGOs are located in the wider region of Podgorica, Montenegro’s capital.

Most Montenegrin NGOs are financially dependent on foreign donors. Domestic support is minimal, amounting to 0.08 percent of the Montenegrin

gross domestic product in 2002. Article 26 of the 1999 Law on Nongovernmental Organizations obliged the government of Montenegro to financially support the NGO sector. In 2000–2002, support was between 300,000 and 350,000 euro (US\$422,700) a year. In 2001, the government failed to execute this budget provision; in 2002, it simply transferred the amount to political parties for their electoral campaigns.

The Montenegrin civil sector has increasing influence on public policy and state administration. In 2004, for example, a network of NGOs reacted to the adoption of conflict of interest legislation. Environmental NGOs conducted a public campaign calling for the law to allow incumbents to keep their positions in public enterprises (Article 15). Bowing to public demand fomented by NGOs, President Filip Vujanovic refused to sign the bill and sent it back to the Parliament. The Parliament passed it on the second reading and declared it a law in June, but the decision marks the first time in Montenegro that a politician returned a bill at the urging of NGOs.

In mid-2004, the government of Montenegro signed a contract with the government of the Serb Republic of Bosnia-Herzegovina to dam the Tara River in order to build the Buk-Bijela hydroelectric plant. NGOs organized a petition to block the law on building the plant and presented signatures to the Parliament. After several parliamentary parties supported the petition, the Montenegrin Parliament agreed to put the project on hold and invited international experts to conduct a special feasibility study and environmental impact assessment for the proposed plant. The final decision on the hydroelectric plant will be taken sometime in 2005. Such tangible policy interventions by NGO lobbying could not have occurred in Serbia in 2004.

Less successful were several Albanian NGOs from the municipality of Rozaje that launched an initiative in 2004 to advocate the creation of subnational regions. Constitutionally, Montenegro has no regions, whereas Serbia has 29. According to the initiative, Montenegro would be divided into 19 regions, of which 3 would be Albanian. The claim was backed by the so-called Albanian National Army in Montenegro, which threatened to blow up important buildings in Podgorica if the government failed to support the plan. Although NGOs claimed that the proposed plan followed European trends of regionalization, practically all political parties (including the two Albanian parties in Montenegro) rebuffed the demand, after which the initiative died off.

Independent Media

Serbia	2004	2005	Montenegro	2004	2005
	3.50	3.25		3.25	3.25

The Milosevic government was known for openly harassing the media. In 1998, the Serbian Parliament passed the Law on Information, which intro-

duced draconian fines for media that criticized the government. Although this law was scrapped after the Djindjic government took office in January 2001, the harassment of media did not end. The Djindjic government formed the Bureau for Information, headed by Vladimir Popovic Beba, which pressured media to adhere to the government's line. The bureau's operations climaxed during the state of emergency in March and April 2003, when Beba and the minister of culture held closed meetings with the editors of the most influential print and electronic media, instructing them how to cover the events surrounding Djindjic's assassination. Unfortunately, the harassment persisted even after the state of emergency was lifted in 2003.

When the new government took office in March 2004, it put an end to making veiled threats and placing pressure (political and other forms) on editors of independent, privately owned media. The cessation of harassment—the most significant change for independent media in 2004—affected most of Serbia's media, the majority of which are privately owned. The government has maintained state influence over public radio and television and appointed Aleksandar Tijanic as general manager of Radio Televizija Srbije (RTS), the national broadcaster covering all of Serbia. Tijanic—minister of information under the Milosevic government in 1996, Kostunica's adviser in 2001–2003, and mastermind of the Dragan Marsicanin (DSS) campaign for the June 2004 presidential elections—has worked to keep the public broadcaster's profile relatively unbiased. His leadership has advanced the quality of broadcasting in terms of both production values and content. Yet the government refuses to allow RTS to achieve financial independence, keeping it under budget financing that amounted to 45 million euro in 2003 and approximately 33 million euro (US\$39.8 million) in 2004.

The media sphere in Serbia is regulated by the following laws: Law on Broadcasting, Law on Public Informing (not to be confused with the previously mentioned Law on Accessibility of Public Information), and Law on Telecommunications. The Law on Public Informing, adopted on April 22, 2003, specifies a new set of protections for freedom of speech and the media. The only restrictions allowed are on broadcasts or publications that call for the violent destruction of the constitutional order, endanger the territorial integrity of the country, propagate war or hate speech, or advocate any type of social discrimination. The law meets international standards for the protection of media freedom.

The 2002 Law on Broadcasting provided for the Broadcasting Agency, a body tasked with issuing licenses and monitoring the content of media outlets, although license issuance has not yet been implemented. The agency has a three-member council as its supreme body. Owing to election irregularities in 2003, two council members left and had not yet been replaced by the end of 2004. Although its major task is the issuance of broadcasting licenses, the council had issued no licenses by the end of 2004. It is currently estimated

that approximately 1,300 electronic media outlets are operating without licenses. Among these, RTS 1, RTS 2, BK TV, TV Pink, and TV B92 anticipate receiving licenses to broadcast nationwide. Many see the council's inactivity as the state's strategy for controlling broadcast media, which have a larger public impact than print media.

In November 2004, the Serbian Parliament adopted the Law on Accessibility of Public Information. State officials are now required to disclose any information of public relevance if requested by citizens or media, but it remains unclear what exactly the public has the right to know and who will define what information is publicly relevant. The enforcement of this act will be further complicated by the fact that Serbia has an outdated and relatively inapplicable system that allows the government to arbitrarily decide which information is considered classified. The Law on Accessibility of Public Information specifies five cases where access to information can be denied. The vaguest provision states that the right to information can be denied "if its disclosure weakens the ability of the state to control the economy or makes it difficult for the state to accomplish justified economic interests."

Other indicators suggest that allowing free access to information is government lip service more than a committed effort to establish democratic practice. The Parliament elected Rodoljub Sabic, a politician from the Social Democratic Party (SDP) as the commissioner tasked to decide on the disclosure of information issue. A number of NGOs protested this appointment, claiming that a politician should not run such an office because he can easily be influenced by the government and that the appointment significantly lowers the state's credibility on the access to information issue. The commissioner, on the other hand, complained that by the end of 2004, the government had done nothing to help him establish the office. There was no location where citizens could request information or be received, and the commissioner had to pay for the position's official seal out of his own pocket.

Like the Djindjic and Zivkovic governments before it, the Kostunica government has not yet resolved outstanding legal cases from the Milosevic era related to the killings of journalists. Slavko Curuvija, owner of *The European* and founding father of tabloid journalism in Serbia, was killed in April 1999. According to the secret report titled *Curan*, which was leaked to the press in 2001, the secret service followed Curuvija 16 hours prior to the execution. The secret police were suspected of having organized the murder, but the post-Milosevic police appear to be holding up the investigation. Something similar is happening with the case of Milan Pantic, a journalist from the city of Jagodina who investigated organized crime and corruption at the local level. He was gunned down on June 11, 2001. The police managed to compose a composite drawing of the killer but failed to solve the case.

The 2004 report of the Independent Association of Serbian Journalists stated that around 300 journalists face charges before domestic courts,

mainly for libel and inflicting emotional distress. The bulk of the charges were brought by individuals, not by the state prosecution or ministers, as had been the practice under Milosevic. The journalists found guilty were fined 1,300–2,600 euro (US\$1,570–US\$3,141) The daily *Politika* was fined 4,300 euro (US\$5,197) for defaming Aleksandar Tijanic during the state of emergency in 2003 when Tijanic, current general manager of RTS, filed suit against the paper.

The fact that Serbian journalists are frequently in court is indicative of the poor quality of the press, which more often than not deals with the private lives of public personalities rather than public policy issues. This tendency was corroborated in a study by a team of lawyers employed by Media Center, an organization set up by the OSCE in 1994 to support free media. Released in 2004, the study was based on a two-month content analysis of daily newspapers and tabloids. Among 172 surveyed articles, 55 percent contained libel, 6 percent insult, and 10 percent other misdemeanors. The study concluded that the high proportion of libel articles were a consequence of unprofessional and careless attitudes among journalists and editors.

This type of “journalism” has become the norm in tabloids, whose popularity has skyrocketed in recent years and further undermined journalistic professionalism in Serbia. The most popular among them is the daily *Kurir*, which prints around 450,000 copies, now beating the former lead daily, *Vecernje Novosti*, with its circulation of 250,000 copies. Dailies such as *Kurir*, *Nacional* (printing 45,000 a day), *Balkan*, and *Glas Javnosti* base their popularity on cheap prices, bombastic headings, and fabricated stories.

Tabloids are increasingly engaged in promoting hate speech to boost their popularity and sell more copies. For example, in December 2004 the tabloid *Nacional* ran an article on the Croat ethnic origins of public persons. The article defamed Milko Stimac (president of the Security Exchange Commission), Aleksandar Sostar (president of the national water polo team), Ivana Dulic (minister of agriculture in the current government), and Branka Prpa (head of the National Historic Archives) by referring to their Croatian ethnic origin. The message was clear, although not stated explicitly: Why do we need Croats in such important positions? Although hate speech is subject to prosecution according to the 2003 Law on Public Informing (Article 17), the government and public prosecutor tolerate this practice.

The Law on Broadcasting forbids the involvement of one media outlet owner in the ownership structure of another outlet. BK TV and TV Pink are the two largest private TV channels and have a tremendous impact on the Serbian public. BK TV is owned by Bogoljub Karic, and TV Pink is owned by Zeljko Mitrovic. Both gained fabulous wealth as media barons under the patronage of the Milosevic regime. The most dominant foreign owner is Westdeutsche Allgemeine Zeitung (WAZ) of Germany. WAZ seeks to enlarge its share in Serbian newspaper production and already has a stake in the daily *Politika*

(printing around 100,000 copies a day), 58 percent of the daily *Dnevnik*, and 50 percent of the Montenegrin daily *Vijesti*. In 2004, WAZ expressed interest in buying out the majority stake in the daily *Vecernje Novosti*.

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TV Montenegro, a public broadcaster that covers the whole of Montenegro, is a public enterprise in the republic's hands. The state finances the work of RTV CG from the budget. For 2004, it allocated 1.6 million euro (US\$1.93 million), whereas for 2005 it is planning to provide 1.3 million euro (US\$1.57 million). RTV CG clearly supports the government's line on independence and most of the government's policies as well. Yet the TV broadcaster has recently opened up to other views and the opposition after the 2003 scandal, when the opposition—decrying RTV CG as biased for stopping its live broadcasts of parliamentary sessions—left the Parliament.

According to the Law on Radio and TV of Montenegro passed in 2002, RTV CG has set up the Council of TV Montenegro, a body made up of 10 independent media experts who decide on the program content of the public broadcaster. During their mandate, these media experts are banned from performing any other public duty and from working for or holding an interest in the public broadcaster. Members of the council are elected by the Montenegrin Parliament but are nominated by various groups, including the University of Montenegro, the Montenegrin Academy of Science, theaters, museums, the Institute for Media, professional journalists associations, and NGOs.

Montenegro also has local TV public channels, but they receive little in the way of financial support from local governments. For example, the municipality of Niksic is planning no financial support for TV Niksic in 2005 (although the municipal budget projection for that year will be increased to 400,000 euro [US\$483,261]), claiming there are other things that need to be financed. Local radio stations are supported by the Montenegrin Broadcasting Agency. But financial help from the agency amounts to some 40,000 euro (US\$48,312) on average per month for each of 13 public local radio stations.

Montenegro has a variety of printed dailies serving a population of more than 600,000. The most popular newspapers are *Pobjeda*, *Vijesti*, and *Dan*. Financed by the Parliament, *Pobjeda* supports the Djukanovic government. *Dan* backs the oppositional Socialist People Party. Openly biased reporting lessens the quality of print media. *Vijesti*, an independent newspaper owned by WAZ, appears to be the only daily that takes an impartial approach to covering the news. Although Montenegro itself prints no tabloids, a greater number of them are coming from Serbia to be sold in Montenegro, which predictably lowers the quality of the Montenegro print media space.

Besides two public channels controlled by the state, Montenegro has few private TV outlets. TV In runs mostly entertainment shows but has some

political programming that is considered to be supportive of the Djukanovic party. TV Montena is the most independent TV broadcaster, whereas TV Elmag appears to be a carbon copy of the Serbian TV Pink, engaged in the promotion of popular culture with poor political coverage.

The most significant media event of 2004 in Montenegro took place on May 27, 2004, when Dusko Jovanovic, chief and editor of the daily *Dan*, was gunned down. The police immediately began an investigation, offering 1 million euro (US\$1.2 million) for information on the murder. The minister of the interior promised he would step down if the killers were not caught (but he failed to specify a deadline). Many believe that the investigation was conducted in a hurry and that the person detained in 2004 and sentenced is not directly responsible for the crime. Public opinion seems to be that the person arrested for the murder of Jovanovic has no clear motive.

Dan, one of the most popular dailies in Montenegro, was known for its sharp criticism of the government and the secret service. The courts consider the case solved because someone was sentenced. The public disagrees and considers the case unresolved. The Montenegrin opposition immediately accused the government and state security service of having organized the killing. Another version says that Jovanovic was killed by a secret service faction that is now under no one's control. Although the government denied involvement, the fact that the killing was not solved six months after it took place created an atmosphere of fear among journalists and the belief that the practice of free journalism in Montenegro can be highly dangerous.

Local Democratic Governance

Serbia	2004	2005	Montenegro	2004	2005
	n/a	3.75		n/a	3.50

Serbia is a centralized country. The chief aim of the new Law on Local Governance, adopted in 2002, is to decentralize Serbia's governing system by way of harmonizing it with the 1985 European Charter of Local Self-Government. The new law increased the number of prerogatives of local government from 13 to 35 but did not provide substantial fiscal autonomy for municipalities. The law established three types of municipality funds: original, loaned, and additional.

Serbia has 29 regions and 169 municipalities. Regions are purely administrative units with no governance prerogatives whatsoever. Judging by the various drafts of the Serbian Constitution that have been released so far, the upcoming constitutional reform in Serbia will almost certainly preserve the substance of the country's current administrative structure.

The Constitution and legislation grant Vojvodina, in the north of Serbia, its own parliament and executive council but no courts. It can decide on a

number of matters (education and culture, for instance) but has no authority to pursue economic, fiscal, trade, monetary, social, or privatization policy independent from Belgrade. Neither Vojvodina nor municipalities are entitled to autonomously collect taxes, tap financial markets, issue municipal bonds, possess property, or provide incentives for investments.

Since 1999, Kosovo, a disputed area to the south of Serbia, has been an international protectorate of the United Nations and NATO, thereby revoking any of Serbia's executive prerogatives over the territory.

The absence of more substantial fiscal autonomy leaves municipalities dependent on the state budget and the government. Local legislation is not entirely harmonized with the 1985 European Charter of Local Self-Government where it states: "Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers." Cities and municipalities are allowed to share in revenues collected from product and service sales tax, income tax on self-owned businesses, leasing, real estate, and games of lottery winnings in the amount of 8 percent (if these taxes are collected in their administrative territory). Municipalities may levy fees from citizens for the use of public assets, such as forests and forest land, grazing and agricultural land, and the construction of roads. Yet these revenues are paid into the state budget first and then transferred to municipalities. No municipality is allowed to manage its own budget account. This lack of fiscal autonomy prevents municipalities from expanding services (for street repairs and public lighting, for example) and enhancing existing ones. The 2002 local self-governance reform also failed to return property that the state had taken from municipalities in 1996. In its sixth report released in December 2004, the Council of Europe states that the system of local self-governance is in need of comprehensive reform.

Under the old legislation, the state had the right to dismiss the municipal assembly and introduce stopgap measures if it is found that local self-government bodies "severely violate common interests." For example, in Novi Pazar, the municipal assembly was dismissed in 1996 and the town placed under the state's coercive administration until 2000. The 2002 law postulated only two reasons to justify the dismissal of the municipal assembly and introduction of forced administration: if the municipality "fails to convene for over three months" or "fails to adopt the charter or budget within the period specified by law."

Legislation for local elections adopted in 2003 imposes unreasonably high obstacles to local electoral processes. One of the greatest is the signature collection requirement for mayoral candidates in large cities, which is set at 3 percent of the city's electorate. In the case of Belgrade, a city of 1.4 million eligible voters, individuals are required to collect 42,000 signatures to be considered valid candidates. (By extreme contrast, candidates for Ser-

bian president are valid with only 10,000 signatures, or about 0.15 percent of the country's total electorate of 6.5 million.) The requirement not only proved time-consuming, but prompted some candidates to falsify signatures in Novi Sad and Belgrade, which in Novi Sad led to the disqualification of some candidates in the 2004 local elections.

Local elections in Serbia were held on September 19 and October 3, 2004. The DS is currently the strongest party in Serbia, followed by the Serbian Radical Party. The democratic candidate beat the radical candidate in Belgrade (50.3 percent to 48.3 percent) but lost to the radical candidate in Novi Sad (49.1 percent to 49.9 percent). The Democratic Party and coalition parties won presidencies in 25 municipalities, while the Serbian Radical Party won in 19 (table 3). Local elections were not held in Kosovo, which is exempt from the judicial and executive sovereignty of the Serbian government.

Table 3. Number of Mayors or Municipality Presidents Won at Local Elections in Serbia, September and October 2004

POLITICAL PARTY	# OF MAYORS OR MUNICIPALITY PRESIDENTS
Group of Independent Citizens	23
Democratic Party (DS)	22
Democratic Party in coalitions with Hungarian parties	3
Serbian Radical Party (SRS)	19
Socialist Party of Serbia (SPS)	12
Democratic Party of Serbia (DSS)	10
Other parties	9
G17 Plus	5
Coalition of Smaller Parties	5
New Serbia (NS)	5
Socialist Party of Serbia in coalitions	4
Force of Serbia (PSS)	3

The Assembly of Vojvodina also amended its electoral rules shortly before the September 19 local elections, changing the electoral system and number of electoral units. According to the new rules, 60 deputies are elected in a two-round system, with another 60 elected by a proportional system. The whole of Vojvodina has been redesigned into one single electoral unit with a 5 percent electoral threshold—or about 30,000 votes—which does not apply to ethnic minority parties. (Ethnic minorities must pass a so-called natural threshold of 1.7 percent, or between 12,000 and 18,000 votes.) Also, ethnic minority parties need collect only about 3,000 signatures to validate their candidates, which is half of what other parties are required to collect.

Although the Serbian Radical Party won the greatest number of seats in the Assembly of Vojvodina, the majority went to the new governing coalition

comprising the Democratic Party, the Alliance of Vojvodina Hungarians, the Coalition for Vojvodina, and Bogoljub Karic's Force of Serbia (table 4).

Table 4. Selected Results for the Assembly of Vojvodina after the September 2004 Provincial Election

NAME OF THE PARTY	# OF SEATS
Democratic Party (DS)	34
Alliance of Vojvodina Hungarians	11
Coalition for Vojvodina	7
Force of Serbia (PSS)	7
Serbian Radical Party (SRS)	36
Socialist Party of Serbia (SPS)	7
Democratic Party of Serbia (DSS)	7
G17 Plus	2

According to the 2002 legislation, local government bodies are the municipal assembly, president of the municipality and municipal council, and the city assembly. The assembly is elected for a four-year term and should have between 19 and 75 deputies. The assembly must convene at least once every three months. Should the assembly fail to convene during that period, the government of the Republic of Serbia has the right to dismiss it.

The Office of the President of the Municipality is a newly created executive institution that is directly elected for a four-year term. Cities with legal status (there are only four of them) have mayors. Other cities are municipalities and have presidents of municipalities. Municipal presidents share their executive prerogatives "to directly implement and ensure the implementation of decisions and other by-laws of the municipal assembly" with the municipal council, which is elected by the local assembly. As can be seen, the new local legislation established a dual executive system similar to that found at the state level. Municipal councils are intended to assist presidents in their work. Yet mayors have no influence over the selection or removal of members of the council. The principle of a dual executive has already created obstacles in the functioning of local bodies where assembly deputies and the president do not come from the same party. In the city of Nis, for example, the mayor, who ran as an independent candidate, resisted cooperating with the assembly-appointed council; predictably, this stalled local governance.

* * *

Montenegro is divided into 21 municipalities, with no regions or provinces. A recent demand for the regionalization of Montenegro came from several Albanian NGOs that proposed the creation of 19 regions, 3 of which would contain Albanian majorities. The demand was quickly rebuffed by the government and all political parties, including the Albanian parties.

New legislation on local self-governance in Montenegro was adopted in summer 2003. The law gives more substantial autonomy to local administration, allowing local municipalities to possess property, collect revenues, and decide how to expend them. Each municipality directly elects the president, who forms the cabinet and pursues municipal policy.

Local governance is not always stable thanks to party infighting. For example, in the municipalities of Budva and Niksic, the two mayors (both from the Liberal Alliance Party) resigned in 2004, most likely because of internal strife in the party. The Liberal Alliance Party was unable to put forth new candidates for the mayoral positions, which have been temporarily filled by coalition partner Socialist People Party, although this move runs counter to the coalition agreement signed before the previous local elections.

Governance in Budva and Niksic has experienced another obstacle in the form of state government interference. The government claimed that the municipalities had not fulfilled their financial obligations to the national administration and blocked their bank accounts with Montenegro Banka, thus making it impossible for the local governments to function and pay salaries to local officials. (The Montenegrin state has the majority stake in Montenegro Banka.)

In August 2004, local elections were held in the municipalities of Tivat, Zabljak, and Herceg Novi. The DPS won the assembly and mayors of Zabljak and Tivat and the assembly in Herceg Novi, whereas the Socialist People Party, the largest oppositional party, won the mayor of Herceg Novi. Interestingly, the chief issues in the Montenegrin local elections were national in nature. Independence and corruption dominated public discourse at all levels. These themes attracted top party leaders, who more than ever before were engaged in the local elections. The overall results from these elections suggest a fairly equal division of the electorate between the two dominant political camps in Montenegro. Local assemblies and their executive councils were formed shortly after the election without obstacles. According to international observers, the local elections were conducted in line with European electoral standards.

Judicial Framework and Independence

Serbia	2004	2005	Montenegro	2004	2005
	4.25	4.25		4.25	4.25

The only court at the state union level is the Court of Serbia and Montenegro, made up of eight judges (four from each member state) who are appointed for six-year terms. The court has administrative, constitutional, and first-instance prerogatives, and its rulings are obligatory without the right to appeal. Article 46 of the Constitutional Charter is explicit in stating that the court

settles disputes between member states and decides whether the constitutions and laws of member states agree with the charter and laws adopted by the union-level assembly. Therefore, the court is in charge of ensuring the implementation of direct elections as obliged by the 2003 Constitutional Charter, something the Montenegrin government and the president of Serbia and Montenegro, Svetozar Marovic, have announced they will not call for. The court was constituted by the end of 2004 (after a one-year delay), but it is equipped with neither administrative staff nor office space in Podgorica, where it is supposed to be located.

The judicial system of Serbia consists of communal, county, and commercial courts, the Serbian Supreme Court, and the Serbian Constitutional Court. The province of Vojvodina has no judicial system. Kosovo has a judicial system entirely detached from the Republic of Serbia. Serbian courts are in charge of criminal, civil, and administrative cases, and the system of commercial courts handles trade and economic disputes as well as bankruptcy and privatization deals.

In an attempt to strengthen the independence of judges and courts, the 2001 judicial reform in Serbia established two new bodies, the High Council of the Judiciary and the Grand Personal Council. The reform also introduced a court of appeals and an administrative court, which are to be set up by 2007.

The judiciary appears to be operating more independently than in the 1990s and the 2001–2003 period, with noticeably less pressure from the government. Yet it is still rather slow, inefficient, and overloaded. For example, the average time required to shut down a business, a procedure handled by commercial courts, is 7.2 years. Judges require training to keep up with recent European judiciary practices, especially with regard to the protection of human and ethnic rights. Although judges earn a higher wage than the average citizen (average wage at the end of 2004 was around 200 euro per month [US\$241]), they are underpaid, which opens the door for arbitrary decision making, abuses, and corruption.

After the 2000 regime change, Serbian authorities significantly modified the policy toward ethnic minorities. The federal Parliament adopted the Law on Protection of Rights and Freedoms of Ethnic Minorities (aka the Law on Minorities) in February 2002. The act defines ethnic minorities as “any group of citizens that is representative in number, has strong and long-lasting ties with [Serbia and Montenegro], and has some peculiarities such as language, culture, national or ethnic belonging, origin, or confession by which it differs from the majority of citizens and whose members care to jointly maintain their identity, culture, tradition, language, and religion.”

The most important institution introduced by the Law on Minorities is the Federal Council for National Minorities, which, along with a second tier of national councils, represents ethnic minorities before the state administra-

tion in the areas of education, language, and culture. Primarily advisory in nature, the council has little authority to formulate or pursue policies that are important to minority cultures. The Serbian government has set up the National Council for Ethnic Minorities, which was largely inactive in 2004. By the end of 2004, 11 national councils had been established.

Despite the stated goal to develop institutional safeguards for ethnic minorities, the government has not always ensured real protection for them. The local branch of the Helsinki Committee for Human Rights published a report in 2004 on human and ethnic minority rights under the title *In Conflict with Ethnic Identity*. The committee criticized the government for neglecting the rights of ethnic minorities in 2003 and 2004. In a separate report, the Helsinki Committee for Human Rights referred to 294 ethnic conflicts since the beginning of 2004, most occurring in the province of Vojvodina. Some cases included physical force, but most were verbal mistreatment (hate speech and insults) as well as destruction of the tombs and graves of members of ethnic minorities. As a result, one Hungarian family from Subotica left Serbia and asked for asylum in Hungary. (Vojvodina is a multicultural province comprising about 40 ethnic groups. The most dominant are Serbs at 1.3 million, while the largest ethnic minority is Hungarian with 14.28 percent, or approximately 300,000.)

Late in 2004, when the government had delayed reacting for several months to the ethnic conflicts in Vojvodina, the issue became internationalized. The Hungarian government pushed the EU Parliament to consider the issue, and the Parliament as well as the Parliamentary Assembly of the Council of Europe officially rebuffed the Serbian government for failing to protect ethnic rights, notably those of Hungarians. Half a year after the first events took place, the Serbian police claim to have resolved around 70 cases related to the conflicts.

However, the Serbian police failed to act on March 17, 2004, when a violent interethnic conflict between Kosovar Albanians and Serbs spilled over into Serbia. In response to the violent events in Kosovo—which erupted when rumor spread that three Albanian children who drowned in the Ibar River allegedly had been chased by a group of Serbs with a dog—several thousand Serbs took to the streets, plundered and demolished the Belgrade mosque, and burned down the mosque in the city of Nis. Some observers believe the police may have deliberately tolerated the demolition by not reacting until a couple of hours after the mosques had been destroyed. The Belgrade police had not taken up the investigation on this matter by the end of 2004.

Roma are the most disadvantaged and poorest ethnic group in Serbian society and are typically discriminated against in education, employment, and many other areas. Roma are also frequently forbidden access to public places. In 2004, the Serbian Supreme Court reconfirmed its 2000 decision against racial and ethnic discrimination. The decision embraces a testing method

used to prove the existence of ethnic discrimination by the Humanitarian Law Center in 2000. The center had sent 12 persons (6 Roma, 6 non-Roma) to the swimming pool in Krsmanovaca in the city of Sabac. The doorkeeper banned 3 Roma from entering the pool because of their ethnicity. Referring to Article 26 of the International Pact of Civic and Political Freedoms, the Supreme Court upheld that the management of the swimming pool must issue a public apology, which set a precedent for future similar cases.

The judicial reform that began in 2001 was continued in 2004. These efforts include reducing the role of the Parliament and government in selecting, appointing, and removing judges by giving more prerogatives to the two new bodies—the Grand Personal Council and the High Council of the Judiciary. The former is an independent and expert body that nominates judges and court presidents, and the latter is tasked with ascertaining grounds for their removal. The formal appointment and removal of judges and court presidents is reserved for the Serbian Parliament.

In 2004, the Kostunica government proposed amendments to several other laws pertaining to the judiciary. The Parliament abolished Article 15b of the Law on the Fight Against Organized Crime, which implied that preventive police detention could last up to 24 hours without a court warrant. The amendment to the penal code states that for offenses that might result in a punishment of 40 years' imprisonment, detention can last for one to four years. If suspects are not found guilty within four years, they are to be released. The Parliament also adopted a new Law on Litigation. The act is harmonized with EU standards and is supposed to maximally reduce the amount of time people spend litigating in courts. The Parliament amended the Law on Judges by introducing a supervisory board within the Constitutional Court tasked with internal control over the work of judges. The supervisory board can launch a procedure to remove judges before the Grand Personal Council, which decides on their removal.

In 2003, the government set up two separate departments for war crimes and organized crime as part of the Belgrade local court. The department for organized crime in 2003 took up the following cases: the 2003 killing of Zoran Djindjic (for which over 40 people have been charged); the 2000 killing of Ivan Stambolic (Serbian president removed by Milosevic in 1988); 16 people arrested for drug dealing during an unspecified period; and the October 1999 attempt on the life of Vuk Draskovic, one of the main oppositional leaders at the time. The department for war crimes has been less active. So far, on March 9, 2004, it took up the Ovcar case, where 17 people are charged with murdering 192 Croat civilians in 1991 in an agricultural field near the city of Vukovar. These killings are the second largest mass crime after the 1995 Srebrenica massacre that took place in Bosnia. The trial has progressed well, most likely because the indicted are low-ranking soldiers. (The three high-level Serbian officers responsible for the crime are currently awaiting trial at the ICTY.)

Although the court's separate departments for organized crime and war crimes were intended to ensure faster trials, the most significant case among them, the Djindjic murder trial, started to drag its feet in 2004. The trial is frequently interrupted because lawyers for the defense often leak uncorroborated information to the public, breaking the process by creating confusion. The defense and some people from the administration want to declare a mistrial.

One of the most significant issues in Serbian politics in 2004 was the government's cooperation with the Hague-based ICTY. However, this cooperation faltered in 2001 under Djindjic and ultimately ground to a halt in October 2003 (under the Zivkovic government) when Carla del Ponte, the chief ICTY prosecutor, presented four new indictments and demanded that Serbia hand over the four generals cited for their involvement in war crimes in Kosovo in 1999. Under Vojislav Kostunica, who has been known for rebuking the ICTY even before assuming the premiership in March 2004, the government has been struggling to avoid cooperation with the tribunal by refusing to extradite. The Serbian government has argued loudly that most war crimes suspects should face trials at home rather than be sent to The Hague. However, since its inauguration in March 2004, the Kostunica government has done nothing to encourage local prosecutors to indict suspects, domestic police to arrest them, or local courts to try them.

The Serbian judiciary is neither willing nor able to deal with war crimes mainly because the dominant public opinion in Serbia still does not endorse the view that Serbs, in general, can be held accountable for committing war crimes. For example, a public opinion survey by the Ministry of Human and Ethnic Minority Rights in July 2004 showed that 62 percent of respondents believed that the four Serbian generals wanted for war crimes in Kosovo in 1999 are innocent (in addition, almost half consider the generals to be heroes) and should not be sent to The Hague, whereas only 4 percent believed they were fully responsible, and 23 percent thought they were responsible to a degree.

* * *

Montenegro's judicial system is similar to Serbia's: inefficient, slow, and under government influence. The courts in Montenegro still have no budgets, and judges are underpaid, which makes them subject to political influence, bribery, and other types of corruption. At the moment, approximately 65,000 cases are waiting to be processed by the Montenegrin courts.

The Montenegrin judiciary failed to solve the woman-trafficking affair that began in 2002 when a woman from Moldova, brought into Montenegro for purposes of sex, accused several officials from the government and the judiciary of sexual harassment. The state prosecutor dropped the case in June 2003, claiming that "there were no elements for further investigation." Several NGOs, led by Safe House, urged the new state prosecutor, Vesna Medenica,

to reopen the case. Medenica removed her deputy, Zoran Piperovic, for his personal involvement in the affair but was unable to reopen the case because the key witness, the Moldovan woman, was taken out of the country by the OSCE mission, which later remained silent about the woman's whereabouts. Many believe that several state officials were involved in the affair, but because of family and other ties between the politicians and the judiciary, it was never established who was responsible.

In contrast, the Montenegrin judiciary was rather efficient when Premier Djukanovic pressed charges against Miodrag Zivkovic, leader of the Liberal Alliance Party, for libel. The prosecutor acted promptly, and the local court quickly found Zivkovic guilty and fined him 8,000 euro (US\$9,659). Another example of political influence in the judicial system is the case of Danilo Vukovic, editor of the daily *Dan*. In September 2004, he was fined 14,000 euro (US\$16,903) for libeling Premier Djukanovic.

According to the new Montenegrin penal code put into force in April 2004, libel is no longer considered a criminal offense and is sanctioned only by a fine. There are proposals that the new Serbian penal code, which is supposed to be adopted sometime in 2005, should penalize minor libel with a fine but regard serious libel as a criminal act.

Corruption

Serbia	2004	2005	Montenegro	2004	2005
	5.00	5.00		5.25	5.25

Corruption in Serbia was the project of the government under Milosevic. Practically the whole state apparatus was corrupt, and some institutions, such as the state security service, were designed to support corruption along with organized crime. After the regime change, the level of corruption declined, but post-Milosevic governments have not done much to eliminate corruption. By the end of 2004, the government had still not adopted the national strategy for the fight against corruption worked out by the Council for the Fight Against Corruption.

In the 2004 annual report by Transparency International, among 146 countries surveyed, the State Union of Serbia and Montenegro is ranked 97th along with 6 other countries. (The state union's position improved from last year, when it ranked 106th.) The Corruption Perceptions Index for Serbia is 2.7. (The index ranks countries in terms of the degree to which corruption is perceived to exist among public officials and politicians. The best-ranked country has an index of 9.7.) Another investigation of corruption in the state union was undertaken by the World Bank and the European Bank for Reconstruction and Development. Their joint study, published in 2004, examines the level of corruption in 26 transitional countries and distinguishes

between small and big corruption. (The former exists at the level of public administration, hospitals, or schools, and the latter affects the highest official levels.) In small corruption, the State Union of Serbia and Montenegro ranks 10th, whereas in big corruption it ranks 21st.

During 2003, the first post-Milosevic government was under constant attack by the opposition (notably the Serbian Radical Party, the DSS, and G17 Plus) for being involved in corruption. Some of the most infamous cases in 2003 were the sugar affair (the reexport of sugar into EU countries), the case of Sartid (a rigged sale of a steel factory), and the Janjusevic-Kolesar affair (a money-laundering case that implicated two government officials). Although the DSS and G17 Plus, the two most dominant parties in the Kostunica government, ran their 2003 electoral campaign promising to fight corruption, the government did little to resolve the above-mentioned cases in 2004.

Indeed, the Kostunica government showed little interest in reacting to warning reports published by the Anticorruption Council. The council was set up in 2002 with the goal of informing the government on large-scale corruption cases inside and outside the state administration. In 2002 and 2003, this council received no funding from the government, causing many to accuse the Djindjic government of paying lip service to the council's demands. (Eight members left the council in 2002 and 2003.) The Kostunica government, in contrast, provided 136,000 euro (US\$161,905) in 2004 and is planning to give another 183,000 euro (US\$217,857) in 2005 for the work of the council. Yet the government ignored the four reports released by the council in 2004 (two on the 2003 sugar affair, a report on corruption in privatization, and a report on the sale of Sartid).

In December 2004, the council released a report on the Nacionalna Stedionica (NS), a private bank founded in 2001. This bank received the privileged right to pay off 84 percent of the state debt from the 1980s in the amount of 4.5 billion euro (US\$5.35 billion). The job was transferred to the NS without a public tender by the National Bank of Yugoslavia, led at the time by Mladjan Dinkic, the current minister of finance in the Kostunica government. Moreover, the National Bank provided free office space for the NS. The report shows that the NS was involved in numerous dubious financial transactions with Evroaksis Bank, where a large stake is held by businessman Vuk Hamovic, campaign sponsor of Kostunica's party. The government, however, did not act in response to these reports, thus leaving open the question of corruption.

Three years after announcing it, the Serbian Parliament in April 2004 finally enacted the Law on Conflict of Interest. According to this legislation, conflict of interest is defined as "the conflict of public and private interest when an incumbent has a private interest that can affect the performance of some public role." The law applies to all government and administrative officials but does not apply to the judiciary and prosecution. The law forbids incumbents

while performing public duty to be part of a company's management or board of directors in which the state has a stake. Officials are obliged to report their personal financial statements 15 days after they take office as well as 15 days after they step down. However, the law fell short of imposing legal sanctions on violators: If an incumbent breaks the law, the board shall merely publicly reprimand the official. To decide on conflicts of interest, the law sets up the Republic Board, a nine-member independent body elected by the Serbian Supreme Court, the Parliament, and the Law Chamber (an association of lawyers). The board was constituted with a seven-month delay but was not given office space, and it remained inactive by the end of 2004.

* * *

In Montenegro, the structure of corruption is similar to that in Serbia. The widespread nature of corruption in Montenegro is reflected in data from 1998 to 2003, where 1,065 criminal cases, according to official data, contained charges for abuse of official positions or bribery. No data were available for 2004. Yet the Montenegrin government has still not adopted the national strategy for the fight against corruption. In 2004, the Montenegrin Parliament passed a number of laws that indirectly reduce corruption, including the Law on Public Procurement, the criminal code, the Law on Money Laundering, and the Law on the Public Prosecutor.

After two years of hesitating, the Parliament adopted the Law on Conflict of Interest in June 2001. Article 15 allows public officials to join boards of companies in which the state has a stake. Some NGOs criticized the Montenegrin Parliament for accepting this solution because it runs contrary to the idea of eliminating conflict of interest. The Parliament, however, remained insensitive to this unified call and made no changes.

The Law on Conflict of Interest requires high-ranking state officials to report their assets before taking office, but provisions for implementing and monitoring these requirements are poorly detailed in the legislation. The government has set up several independent bodies in its efforts to reduce corruption: the State Revision Institute, the Unit for the Fight Against Organized Crime, the Commission for Observing the Privatization Process, and the Office of the Ombudsman. The most active has been the Commission for Public Procurement, which has ruled in a number of appeals, and the Agency for Fighting Money Laundering, which in September 2004 managed to block a huge money transfer from another country.

In Montenegro, corruption for the most part relates to a privatization process that is largely nontransparent. The Group for Changes, an NGO with an undisguised interest in becoming a political party, objected to the sale of Jugopetrol to the Greek energy consortium Hellenic Petroleum. The Group for Changes claims that the sale was nontransparent and corrupt. In addition, the consulting firm that advised the government's agency of privatization received a fee in the amount of 3 million euro (US\$3.57 million), which the

Group for Changes claimed was unreasonably high. The Group for Changes also criticized the sale of Kombinat Aluminijum Podgorica, the largest industrial facility in Montenegro, again pointing to the sale's lack of transparency. Chief among the objections was that the government sidestepped a public tender and negotiated the sale directly, with only one bidder. The price and name of the bidder were still being kept secret by the end of 2004.

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KOSOVO

BACKGROUND

The 1974 Constitution of the Socialist Federal Republic of Yugoslavia provided Kosovo with dual status as an autonomous province of Serbia and a constituent part of the federation with the same rights as a full-fledged republic. Soon after the forceful abolition of Kosovo's autonomy by the Parliament of Serbia in March 1989, an apartheid system was established in which Belgrade extended privileges to Kosovar Serbs but excluded Kosovar Albanians from the public sector and systematically repressed them. In response, on July 2, 1990, Kosovo's Parliament proclaimed the territory's independence. The Democratic League of Kosovo (LDK), a popular movement seeking independence through peaceful means, created a government in exile and established a parallel system of education and health care supported by an unofficial 3 percent tax system. The two systems coexisted in relative peace through a status quo that lasted for nearly a decade.

However, as early as 1993, a group of political activists opposing the LDK's pacifist philosophy established the first cells of the insurgent Kosovo Liberation Army (KLA). Serbian military attacks against civilians in February and March 1998 helped the KLA grow from a 300-man insurgency into a 20,000-to-30,000-guerrilla force. Despite efforts by the international community to establish a negotiation process, Belgrade intensified its military campaign in the towns and villages where the KLA had taken shelter.

Alarmed by the execution of more than 40 unarmed civilians in the village of Racak in January 1999, the so-called Contact Group, consisting of the United States, the United Kingdom, Russia, Germany, France, and Italy, organized talks in Rambouillet and arbitrated a deal in which international military forces would safeguard Kosovo's autonomy within Yugoslavia during an interim period, until a permanent solution on the territory's status could be negotiated.

When Belgrade rejected the deal and continued its attacks on Kosovar civilians, NATO launched an air campaign against Serbian forces on March 24, 1999. Nevertheless, during NATO's 76-day air campaign, Serbian forces continued their violence against Kosovar Albanians, killing 12,000, abducting close to 2,600 (according to International Committee of the Red Cross figures), and forcing nearly 1 million out of the region. On June 10, 1999, the UN Security Council approved Resolution 1244, establishing the UN Interim Administration Mission in Kosovo (UNMIK). Headed by the special representative of the secretary-general (SRSG), the UNMIK was tasked with creating substantial autonomy for Kosovo within Yugoslavia until the territory's status could be resolved. Yugoslav armed forces were ordered to withdraw from Kosovo, and a NATO-led peacekeeping coalition known as the Kosovo Force, or KFOR, stepped in.

Before the deployment of the UNMIK was completed, the Kosovo provisional government, led by former KLA political leader Hashim Thaci, established itself at central and municipal levels and filled a vacuum left by the withdrawing Serbian administration. Through intense international pressure, the KLA was eventually transformed into a civilian emergency organization named the Kosovo Protection Corps (KPC).

Between June and December 1999, thousands of Kosovar Serbs fled Kosovo, fearing retaliation from returning Kosovar Albanians. Those Serbs who remained in Kosovo were subject to systematic attacks and intimidation, which eventually forced them to leave the territory or to concentrate in Serb-dominated enclaves protected by the KFOR. According to the International Committee of the Red Cross, around 900 Serbs, Roma, and other minorities are reported to have been killed or gone missing from January 1999 to April 2001.

In early 2000, the UNMIK invited all Kosovar political factions to participate in the Joint Interim Administration Structure, a quasi-governmental body tasked with administering Kosovo's internal affairs until the election of a parliament. For its part, the work of the UNMIK was divided into four pillars: civil administration, humanitarian emergency response, institution building and elections, and economic reconstruction and development. The Constitutional Framework for the Provisional Institutions of Self-Government (PISG) provided Kosovo substantial autonomy and delineated the powers to be exercised by the UNMIK and Kosovar institutions.

The international community has spent more than US\$2 billion in reconstruction, economic development, and institution building since 1999. As a result, Kosovo today has a functioning government, its own budget, a banking system, local police, a judiciary, free and fair elections, and other elements of a democratic society. Although the UNMIK retains powers such as foreign affairs, justice, police, and fiscal policy, Kosovars are taking increasing responsibility in the administration of their own affairs.

The year 2004 was marked by an outbreak of ethnic violence on March 17–18 that threatened to undo four years of postconflict development. Although the fighting was quickly halted, the incident forced the international community to rethink its policy toward Kosovo. In particular, the decision was made to accelerate the transfer of powers to Kosovo institutions in the run-up to final status discussions and thereby give domestic authorities more direct responsibility for improving the status of minorities.

Since then, the Kosovo government has assumed direct responsibility for the return of displaced Serbs, local governance, and energy and fiscal policies. A decentralization process calling for the establishment of more local-level governmental units, including in Serb-dominated areas, was begun as well. This is seen as a test of Kosovo institutions to implement policies that ensure equal rights and equitable welfare for all people of Kosovo.

Ultimately, the pace of determining Kosovo's final status will depend largely on the country's attainment of predetermined standards in a range of areas, including the treatment of Kosovo Serbs, the return of displaced persons, and the continuation of a dialogue with Belgrade. Also included in the standards are government decentralization, respect for the rule of law, protection of property rights, creation of market economy conditions, and the transformation of the KPC into a truly civilian emergency organization. While Kosovo is expected to meet certain basic standards by mid-2005, the year 2004 ended with two primary obstacles still in place: Kosovo's final status uncertainty, which sets the dynamics of the current relations with Serbia, and the status of its economic development. These two aspects represent serious sources of tension that continue to affect the political situation in Kosovo.

National Democratic Governance

2004 / n/a 2005 / 5.75: *Kosovo's new rating for national democratic governance is set at 5.75. Although there is broad consensus about the establishment of democracy in Kosovo, the events of 2004 showed that Kosovo remains a post-conflict country with a fragile societal structure to support democratic developments when challenged by conflict-related issues. In particular, high interethnic tensions continue to test the foundations of the governmental system established by the UNMIK. This in turn highlights the lack of sustainable UN policies in Kosovo and the need for the timely resolution of its final status. The eruption*

of interethnic violence in March 2004 highlighted this institutional fragility and sounded an alarm for both Kosovar and international authorities. Quick restoration of law and order, prosecution of those responsible for the violence, and the preservation of a Kosovar-international consensus about the pursuit of the standards were the main issues of the agenda throughout 2004. Also noteworthy were steps taken by the UNMIK in the last quarter of 2004 to accelerate the pace of governmental reforms and the transfer of responsibilities to the PISG.

In the past five years, the structure of governance in Kosovo has developed into two parallel tracks based on a democratic model. UN Security Council Resolution 1244 mandated that the UNMIK create substantial self-governing autonomy for Kosovo until its final status is resolved. This principle created the basis for the existence of dual government structures, with power divided between the UNMIK and the PISG. On one side is the UNMIK, vested with powers attributable to the sovereign state and thus filling in for the suspension of Belgrade's sovereignty; and on the other is the PISG, with the power to administrate policy issues such as education, health care, local governance, public administration, and the environment.

The UNMIK supervises the security services, justice system, foreign affairs, fiscal policies, privatization, minority rights, and administration of public property. In justice, policing, customs, and other areas, the UNMIK transferred its executive powers to the lower levels of government but retained decision-making powers and political responsibility; in the areas of fiscal policy, privatization, and local governance, the PISG was included in the consultation process, with the UNMIK reserving final decision making. The UNMIK is both a peacekeeping and an administration mission with a provisional character until Kosovo's final status is decided. In the security field, the NATO-led peacekeeping force KFOR acts as an independent structure responsible only to NATO.

Kosovars have generally accepted this international administration, and their participation in the democratic process is comparable to that in neighboring countries. However, Kosovo's unresolved final status has been a source of tension between Albanian and Serb ethnic communities as well as between Kosovars and the UNMIK. The international community's only public position on Kosovo's final status—as stated during a Contact Group meeting in New York in September 2004—is that there can be no return to Belgrade jurisdiction over Kosovo. Belgrade and Serbs remain steadfast in their position that Kosovo is part of Serbia, whereas Kosovo Albanians hold that independence is the only realistic solution to the country's status. Other, non-Serb minority representatives (Turks, Bosniaks, Roma, Egyptian Ashkalis, and Croats) have publicly shown their support for independence.

A coalition government consisting of all parliamentary parties was in power from March 2002 to December 4, 2004, when a new government was

elected. The election was based on a coalition agreement between the LDK (the largest Kosovar party) and the Alliance for the Future of Kosovo (AAK). In accordance with constitutional provisions, control of three ministries was reserved for representatives of minority communities in the following order: two ministries for Serbs and one for the parliamentary group entitled Other Minorities, which includes Turks, Bosniaks, Roma, Egyptians, and Ashkalis. The president of Kosovo, who has a ceremonial role and very limited foreign relations powers, is elected by the Kosovo Assembly. According to an unwritten rule, the LDK retained the position of president of Kosovo—Dr. Ibrahim Rugova—and six ministerial seats, whereas the junior coalition partner (AAK) took prime minister—Ramush Haradinaj—and four ministerial positions.

In contrast with the government formed following the 2002 election, which resulted from international pressure after Kosovo's inability to agree on a viable formula, the 2004 government was elected entirely through the free will of Kosovo Assembly members. The opposition consists of two main parties, the Democratic Party of Kosovo (PDK) and Party ORA. The Serbian bloc—consisting of two parties, the Serbian List for Kosovo and Metohija (SLKM) and the Civic List Serbia (CLS)—refused to participate in the government as of December 31, 2004, although they presented their election lists in the ballot and gained a total of 10 reserved seats for the Serb community in the assembly.

The Law on Access to Information was approved by the assembly in 2003. However, its consistent implementation has been hampered by a lack of procedural knowledge among civil servants as well as the general lack of knowledge about the law among the population. Although civil society groups increasingly meet with the receptive PISG in public hearings and legislation discussions, access to public information continues to be a challenge at both UNMIK and PISG layers of governance.

Kosovo's citizens have especially questioned the transparency of the UNMIK, which formally is accountable only to the UN. Owing to its unlimited mandate and the lack of a clear time frame for determining Kosovo's final status, the UNMIK has come to be seen by many as a self-serving bureaucracy immune to the dynamics of democratic practices. The stalling of privatization, which is under European Union (EU) and UN authority, is an example of the international community's perceived lack of responsiveness toward the people of Kosovo, resulting in a widening gap between the citizens and the government.

Just when it seemed that stability and normalization had sufficiently returned to allow for dialogue with Belgrade and accelerating the pace of return of the displaced Serbs, Kosovo was rocked by unpredicted ethnic violence on March 17 and 18, 2004, the worst occurrence since the end of war in June 1999. In two days, four years of postconflict developments were in jeopardy. The extent of the violence caught the UNMIK, KFOR, and PISG by sur-

prise and shook the foundations of the UN mission and Kosovar governing structures. The events were sparked by an incident in the northern village of Cabra on March 16, when three out of six Albanian children drowned in the Ibar River, allegedly chased by a group of Serbs with a dog (as recounted by one of the surviving children). Before this tragedy, interethnic tensions were already running high when the Serb inhabitants of Caglavica, near Prishtina, blocked the main highway to protest a drive-by shooting in which a Serb youngster had been wounded. The protesters blamed Albanians for the incident and attacked Kosovar Albanians driving by their village.

These two incidents triggered a chain of violent reactions in Mitrovica and Prishtina that quickly proliferated across Kosovo. An international prosecutor who investigated the drowning stated that there was insufficient evidence to open a case and that the dog described in the child's testimony could not be found. The truth about this incident was never uncovered. Security forces failed to control the situation, as rioters ignored entreaties from politicians, the UNMIK, and Kosovar Albanian leaders to stop the violence. Although former prime minister Bajram Rexhepi and some of his cabinet ministers went among the protesters in Prishtina on the evening of March 18 and convinced them not to enter Caglavica, his pleas did not keep the rioters from setting fire to the Prishtina Orthodox Church as they were dispersing. Fortunately, the appeals managed to halt the riots on March 19. Had the riots continued, the consequences would have been incalculable for Kosovo and probably the entire region. Furthermore, the UNMIK mission was seriously challenged, and a rethinking of NATO's peacekeeping mission looked imminent.

When law and order had been reestablished, three issues were made particularly clear about the UN mission. First, maintaining the status quo had failed to close the ethnic divide between Kosovar Albanians and Serbs. Second, Kosovo's final status had to be addressed sooner rather than later, and as a result, the United Nations agreed to prioritize the standards and drop the requirement that Kosovo meet all eight standards before status talks could begin. Third, moving ahead with decentralization was the only way to ensure safety for Serbs and reconcile them to the final status prospects. Complicating matters was Belgrade's continued attempts to create ethnic autonomies for Serbs within Kosovo. Since the violence of March 2004, for example, Belgrade has further cemented its de facto control over local health care, education, and security structures in northern Kosovo. Belgrade-controlled institutions also remain strong in other parts of Kosovo inhabited by the Serb minority, though to a lesser degree.

In response to the March violence, the Kosovar government allocated 14 million euro (US\$16.8 million) to rebuild residential and public buildings and invited an international commission to evaluate damage to religious shrines. The government's reconstruction commission, headed by Minister

of Culture Behxhet Brajshori, vigorously led the project to meet the end of October deadline; it was probably the most efficiently completed project by the government since its creation in March 2002. An additional 4 million euro (\$4.8 million) was allocated to reconstruct Orthodox shrines, but the Orthodox Church leadership withdrew its consent for reconstruction.

In 2004, the KFOR made changes in its approach to maintaining security in Kosovo. Among these were the creation of restricted access zones in Serb-inhabited areas when warranted by security concerns, the establishment of closer cooperation between the UNMIK police and the Kosovo Police Service (KPS), and the improvement of the security service's capacity to deal with riots. The prompt capture of two Albanian teenagers suspected of the drive-by murder of a Serb youth in Gračanica, near Prishtina, in April was the result of direct cooperation between Serb and Albanian members of the KPS.

Changes at the highest levels of the UNMIK were also undertaken in 2004. In particular, SRSG Harri Holkeri, whose leadership had been widely criticized, resigned and was replaced by former EU envoy to Macedonia Soren Jessen-Petersen. Jessen-Petersen is considered an energetic leader capable of grappling with Kosovo's most serious challenges. As the new SRSG, he has been successfully transferring additional competencies to the PISG and pursuing a dialogue with Belgrade. Between September and December 2004, Jessen-Petersen pressed ahead with the privatization of some of Kosovo's most important industries and transferred three areas of responsibility to the Kosovo government elected in December: the return of displaced Serbs, local governance, and energy policy.

Dialogue with Belgrade on technical issues stopped after the March riots, then resumed in October with a meeting on decentralization under U.S. auspices. Belgrade's call to Kosovo Serbs to boycott the assembly elections in October resulted in a deadlock and lack of communication between the PISG, Belgrade, and Kosovo Serbs. As the new government is constituted, further developments in this area are expected.

Electoral Process

2004 / 5.25 2005 / 4.75: *Kosovo's rating for electoral process improves from 5.25 to 4.75 owing to the success of the October elections to the Kosovo Assembly. International observers proclaimed the elections, which were administered by Kosovar-run bodies rather than the Organization for Security and Cooperation in Europe (OSCE), to be free and fair. Sufficient mechanisms to ensure a system of checks and balances among different institutions, including the SRSG and the OSCE, were established. All parties accepted the election results, the credibility of which was confirmed by a recount of votes at the central counting center. The major deficiency of these elections was a Belgrade-encouraged boycott by Serb voters, despite efforts by the OSCE and the PISG to make all possible concessions.*

It is important to note, however, that even with the boycott, two Serb parties participated in the election: the SLKM and the CLS.

The second elections for the Kosovo Assembly were held on October 23, 2004. Out of 1.39 million voters, 699,519 participated in the ballot (53 percent), with an almost absolute boycott by Kosovo Serb voters due to the intensive antielection campaign by the government of Serbia and the Serbian Orthodox Church.

As in previous elections since June 1999, this ballot was a well-organized example of a democratic, fair, and transparent electoral process. The legal basis for the second assembly elections is contained in the Constitutional Framework for the PISG and UNMIK Regulation 2004/12. Kosovo has a purely proportional electoral system with closed party lists in which voters elect party representation in the Kosovo Assembly. The Constitutional Framework of Kosovo enables representation of all ethnic groups in the legislature through the system of reserved seats for minority communities. Out of 120 seats in the assembly, the political parties and independent candidates run for 100; the remaining 20 seats are reserved for minority representation, 10 for Serb candidates and 10 for other non-Serb minorities.

Before the October elections, a network of civil society activists came together under the umbrella group Reforma 2004 to advocate for open party lists that identify each party's candidates. However, the campaign got under way long after Kosovo's political parties had successfully pressured the UNMIK to approve a proportional voting system with closed lists.

The main parties that participated in the elections were the LDK, the PDK, the AAK, and the Civic List ORA (initiated by civil society activists). In spite of an almost absolute boycott by Serb voters, two Serbian groups ran for seats in the Kosovo Assembly: the SLKM and the CLS. As a rule, all minority representatives run regularly for the assembly elections. The independence platform was the most moderate of all the parties, except for the Serbian ones, which hardly campaigned. Generally, there was more focus on issues of good governance, anticorruption, employment, health care, and agriculture. Each candidate had to submit a financial statement before running, and political parties could spend no more than 2.00 euro (US\$2.40) per voter during the entire campaign.

The election's main features were the emergence of new political parties, a large number of independent candidates, and the dissolution of some minority coalitions. The Serbian coalition Povratak and the Bosniak coalition Vatan were replaced with the new initiatives SLKM and the coalition Vakaf, respectively. A new Serb entity representing displaced Serbs, the CLS, was also created. The biggest success in this election was the Civic List ORA, founded by civil society activists and led by Vetton Surroi, owner of the largest Kosovo Albanian newspaper and a national TV station.

Out of 32 political parties and independent candidates that participated in the assembly elections, 19 won seats, with 10 parties occupying regular seats and 9 minority parties contesting for the reserved seats. Though no independent candidates won seats, 5 newly formed political parties are represented. The results for the main parties are similar to those in the 2001 elections, except for the Serbs, whose boycott resulted in 12 lost seats. All main parties show a decrease in votes, though the PDK and the AAK increased their representation in the assembly.

The president and government are elected from the assembly in a secret ballot. Out of the three election rounds allowed for a single candidate, a two-thirds majority in the first two rounds and 50 percent plus one vote in the third round are needed to be elected. The president of the LDK, Ibrahim Rugova, was elected president of Kosovo in the third round owing to insufficient votes in the first two rounds. He was challenged symbolically by Rame Buja, candidate of the PDK. The government led by Ramush Haradinaj, president of the AAK, won 71 out of 120 votes in the assembly's first election round.

This year's elections were administered almost entirely by Kosovo-run bodies. At the end of 2003, the OSCE transferred this function to the Central Election Commission (CEC) secretariat, with the OSCE in an advisory role. The CEC, which is headed by the OSCE head of mission in Kosovo, consists of 11 members representing main political forces and ethnic communities represented in the Kosovo Assembly. Decisions in the CEC are taken by consensus and arbitrated by the CEC head. To provide a system of checks and balances, the UNMIK has created the Election Complaints and Appeals Commission (ECAC), an independent quasi-judicial body. After the preliminary results of the assembly elections were released on October 25, a number of tabulation errors were found and prompted the ECAC on October 29 to direct the CEC to order a recount. No attempted fraud was uncovered, and the final results were very close to those before the recount.

All observers, including the Council of Europe, the European Parliament, the UNMIK, and the OSCE, stated their satisfaction with the election process and turnout. SRSG Soren Jessen-Petersen said that "Kosovo has passed an exam of democracy giving a proof of its readiness to move forward in democratic governance and in meeting other standards." Speaking about the atmosphere in which the elections were held, Doris Pack, head of the European Parliament election-monitoring delegation, said, "Everyone should be proud of this election."

Two Serb political parties participated in the 2004 ballot: the SLKM (8 reserved seats) and the CLS (2 reserved seats), consisting of Serb displaced persons in Serbia. Urged by the Serbian government and the Serbian Orthodox Church, Kosovo Serb voters opted for an almost absolute boycott of the election, with fewer than 1,000 ballots cast. In fact, the Serbian prime minister,

Vojislav Kostunica, conditioned the participation of the Serb voters with the international endorsement of Belgrade's plan for ethnic autonomy for Kosovo Serbs, approved by the Serbian Parliament on April 29, 2004. Promises that elements of Belgrade's plan could be included in the Document for the Reform of the Local Government, endorsed by the Prishtina-led Working Group on Decentralization, did not convince Kostunica, who contended that Serb participation in the elections would be a blow to his government's efforts to push successfully for ethnic autonomy for Kosovo Serbs.

2004 Kosovo Assembly Election Results

LIST OF PARTY NAMES	# OF VOTES	% OF VOTES	# OF SEATS
LDK ¹	313, 437	45.42	47
PDK ²	199, 112	28.85	29
AAK ³	57, 931	8.39	9
ORA ⁴	43, 017	6.23	7
PSHDK ⁵	12, 427	1.80	2
KDTP ⁶	8, 353	1.21	3
PD ⁷	7, 013	1.02	1
K ⁸	4, 972	0.72	3
LPK ⁹	4, 526	0.66	1
Others	35, 759	5.00	18

¹Democratic League of Kosovo. ²Democratic Party of Kosovo. ³Alliance for the Future of Kosovo. ⁴Civic List ORA. ⁵Albanian Christian Democratic Party. ⁶Turkish Democratic Party. ⁷Justice Party. ⁸Vakat-Bosniak. ⁹People's Movement of Kosovo.

In the last moment, Serbian president Boris Tadic urged Kosovo Serbs to vote. This appeal was quickly undermined by the Serbian Orthodox Church, which promoted the boycott. Both the UNMIK and some Serbian politicians who participated in the elections reported various forms of voter pressure and coercion by antielection activists sponsored by Belgrade. Although the Constitutional Framework provided two Serb parties with 10 seats in the assembly, the seats remained vacant through the end of 2004.

Civil Society

2004 / 4.25 2005 / 4.00: *Kosovo's rating for civil society improves from 4.25 to 4.00. In 2004, nongovernmental organizations (NGOs) were active in advocating for better anticorruption legislation and strategies, in providing expert commentary at public hearings, and in forming coalitions aimed at achieving common goals. The creation of coalitions among different civil society groups in 2004 highlights an increasing maturity and issue-driven focus of NGOs, whereas their influence at the municipal level has increased significantly. NGOs also received more substantial media coverage owing to increased public interest*

in their activities. During the year, the government began providing funding to civil society groups and, along with the UNMIK, approved changes in the fiscal policies and compensation of workers during privatization as a result of pressure from trade unions and business associations. While all these developments point to the increasing maturity of Kosovo's civil society sector, important challenges still remained. In particular, the activities of radical and vigilante groups continued to cause political tensions during the year.

The law governing the registration of NGOs and their activities, Regulation 1999/22, was enacted in November 1999. It is highly permissive, allowing for easy registration and unrestricted activities. Currently, more than 2,000 NGOs are registered with the NGO registration office, which functions under the jurisdiction of the Ministry of Public Services. Many NGOs are nonfunctioning or were created on an ad hoc basis during the flood of donor money into Kosovo from 1999 to 2002. It is believed that about 150 NGOs continue to function in Kosovo.

There has been a significant rise in the vibrancy and organizational capacity of civil society groups in the last five years. However, with the gradual decrease in international donations over the same period, the viability of many NGOs is challenged. Support from the Kosovo government is insufficient, although government financing of the nongovernment sector has seen a substantial increase in the last year. In 2004, there was substantial progress in the sector's capacity to efficiently identify and represent civic interests as well as advocate on specific issues. In addition, many NGOs have used networking to increase their influence in particular areas, such as anticorruption advocacy.

AVOCO, an NGO network with advocacy initiatives on a wide range of issues, appears to be one of the most sustainable. The Network of Kosovar Women has been successful in campaigning for equal rights and empowering the role of women in society. The Association of Missing Persons Families is another network that actively pressures the UNMIK and the PISG to convince Serbia to release information about the fate of Kosovar Albanians missing since 1999 and the return of bodies exhumed from the mass graves found in Serbia.

All religious groups are active in charitable activities, with the Catholic organization Mother Theresa being the only one providing aid to members of other faiths. The Kosovo Islamic Community (KIC) represents 90 percent of Kosovo's Muslim population. During the 2004 parliamentary election campaign, the KIC criticized the Justice Party of Kosovo for "abusing religious values for political ends" during the election campaign. The KIC's position reflects the secular nature of Kosovar society. Following a period of withdrawal from political activities, the Serbian Orthodox Church in Kosovo, led by Bishop Artemije, returned to the political scene in 2004 as a protector

of Kosovar Serb nationalism and campaigned actively for a boycott of the assembly elections.

On the other side, the associations of former KLA members—Association of War Veterans, Association of War Invalids, and Association of the Families of KLA Martyrs—have been active in public campaigns for the release of KLA members arrested or sentenced for war crimes and the like. As vigilante organizations that claim to represent the values of the liberation war, they are known as politically engaged groups opposing the LDK-AAK coalition following the October 23 elections.

NGOs maintain good relations with the media. This enables them to attract both public and government attention through print and broadcast media coverage of their activities, which is substantial.

Almost every interest group and profession in Kosovo is organized into associations, either business, cultural, or some other form. Business groups have been successful in advocating their views on economic policy, particularly as it relates to import and export taxes to stimulate domestic production. In spite of the initial lack of receptiveness by the UNMIK, which is responsible for setting fiscal policies and other macroeconomic policies, associations representing businesses have successfully mobilized the government and achieved several changes in UNMIK fiscal policies relating to the decrease of import taxes in agricultural machinery, and raw materials. On the other side, trade unions have been actively pursuing workers' interests in the privatization process and collective contracts. The Kosovo Trade Unions Federation has successfully closed deals with the government and the UNMIK on both issues. While 20 percent of funds from privatization are distributed equally to the workers of respective enterprises, collective contracts signed in October 2004 provide minimal protection for workers. However, trade unions remain weak in the private sector, where disrespect for labor law is most egregious.

The public University of Prishtina has become a political arena in which the LDK (in charge of education in the government) and the PDK (controlling the highest governing bodies in the university) have collided over the issue of university control. As a result, relations between the university rectorate and the Ministry of Education have been tense. Most managing positions in the university are allocated according to party allegiances, and the two officially recognized student organizations side with one or the other political party. In September 2004, the election for top university positions was questioned by the Ministry of Education. Former PDK vice president Dr. Arsim Bajrami, the PDK's candidate for assembly member, was elected rector of the University of Prishtina. The Ministry of Education accused university leadership of manipulating the election and filed a suit in the Kosovo Supreme Court. The conflict has complicated the university's cooperation with foreign partners and the implementation of Bologna process reforms. The Supreme Court did not rule on this matter until the end

of 2004; meanwhile, the new rector continued to be unrecognized by the ministry and other international partners.

Mitrovica University in Slavic Languages, as recognized by UNMIK and the PISG (which in the parallel system sponsored by Belgrade is labeled “The University of Prishtina”) is also subject to political interference by the government in Belgrade. In April, the Ministry of Education of Serbia unlawfully replaced Gojko Savic, then rector of the university, with the hard-line Milosevic loyalist Radivoje Papovic, who had been rector of the University of Prishtina in the 1990s and had opposed the return of Albanian students to university facilities in 1997. Although supported by north Mitrovica hard-liners who stand for Kosovo’s partition, Papovic’s appointment was protested by the European University Association as well as the Serbian Association of University Rectors, who viewed this as setting a precedent for continued government involvement in the universities in Serbia. The Serbian government’s authority to dismiss or appoint officials in Kosovo institutions in areas with a Serb majority highlights Belgrade’s de facto control of these institutions in defiance of the UNMIK mandate, in spite of continuing UN calls for Belgrade to disband parallel institutions in Kosovo.

Independent Media

2004 / 5.50 2005 / 5.50: *Kosovo’s rating for independent media remains 5.50. Freedom of speech in Kosovo is limited by various forms of pressure from both government and nongovernment actors. Attacks on investigative reporters are rare, but they can be deadly, while verbal threats continue to affect the work of journalists and editors. Libel is treated as a criminal offense. However, on the positive side, independent newspapers have higher circulation than party-aligned papers and focus increasingly on investigative reporting. The public enjoys a diverse selection of media at both national and local levels, while all linguistic communities have TV and radio stations in their own languages.*

Kosovo media operate in a postconflict environment where tensions among ethnic and political groups run high. With hate speech a major concern in the aftermath of the Kosovo war, the UNMIK considers free speech and editorial independence to be matters of security and peacekeeping rather than strictly human rights issues. The murder of a Serb in 2000 in Prishtina, presumably instigated by an article in the (then) newspaper *Dita*, triggered national debate about the consequences of hate speech in postconflict Kosovo. As a result, the UNMIK approved Regulation 2000/37, On the Conduct of the Print Media in Kosovo, and its associated code of conduct, and Regulation No. 2000/4, On the Prohibition Against Inciting to National, Racial, Religious, or Ethnic Hatred, Disorder, or Intolerance. The body responsible for overseeing media and implementing these regulations is the Kosovo

Temporary Media Commissioner (TMC), a quasi-judicial and -reporting agency that issues broadcast media licenses and imposes administrative fines on media for regulation violations. Although journalists have generally criticized these regulations as UNMIK tools for limiting press freedom, numerous complaints of hate speech have been filed at the TMC, indicating a need for some form of control over several print media offenders.

The term *irresponsible journalism* has been used frequently by the UNMIK and the OSCE to describe media reporting, particularly during the interethnic violence of March 17 and 18, 2004. The TMC and the OSCE accused media, especially TV broadcasters, of reporting irresponsibly about the drowning of the Albanian children on March 16, asserting that this may have instigated the violence against Serbs that took place in the following days. The interview on public TV station RTK with the surviving boy who described a chase with a dog by local Serbs was targeted in particular as a biased and a nonverified report. It indeed contained emotional commentaries and accusations that might have affected public sentiment. The media's response was that the reporting had to be done and that official police and judicial sources were not available, nor were they prepared to respond to media inquiries. In actuality, the international administration and police did not address the situation publicly until March 18, by which time rumors were being reported as truth.

No particular measure was taken against the media regarding the March 16–18 reporting. However, the media had to sign a binding agreement with the TMC that contained an acceptance of moral responsibility for reporting on the March riots and a pledge to report objectively in similar cases.

Instead of being a civil code issue, libel in Kosovo is included under the criminal code and many of the pending legal charges appear to be politically motivated or selectively applied. Currently, the newspaper *Bota Sot* is facing criminal charges for libel for statements printed against a member of the presidency of the PDK and at the same time is facing charges for public offense. Notwithstanding the March reporting of events, more professional reporting on the side of the media could be observed during the second half of the year.

The Law on Access to Official Documents (freedom of information) was approved by the Kosovo Assembly on June 16, 2003, and was enacted by the SRSG on November 6, 2003. However, access to documents at the PISG is hardly free, and there is an utter lack of knowledge by journalists and the media on procedures for accessing public documents. Journalists tend to receive information from official press releases and briefings, and there is rarely any effort to research statements or denounce the noncompliance of public officials.

Sectors under control of the UNMIK are some of the most difficult areas to cover owing to a persistent lack of transparency, which characterizes the

UNMIK style of governance. The Prishtina daily *Zeri* is an exception, since it is uniquely supplied with regular confidential information through the *Zeri* editors' extensive network of diplomatic contacts.

Reporters and editors persistently receive verbal threats and other forms of pressure for their reporting. Physical attacks against journalists are not uncommon and sometimes prove deadly. The case of an armed attack in September 2004 against one of the most prominent investigative journalists in Kosovo, Fatmire Terdevci of *Koha Ditore*, reopened the topic of the protection of journalists from attacks by criminal and political groups, particularly since these were frequently seen in the immediate aftermath of the 1999 conflict. Public reaction to these incidents is low, and the lack of protection forces journalists and editors to apply self-censorship. There are also cases where security forces (the KFOR and police) prevent journalists from reporting on particular events.

Kosovo has six printed media, all privately owned. *Bota Sot* and *Epoka e Re* are politically aligned newspapers (LDK and PDK, respectively), and both regularly use hate and derogatory speech against political opponents. This was especially the case during the 2004 election campaign. The independence of *Koha Ditore* has suffered somewhat from the politics of its publisher, Veton Surroi, particularly in regard to the LDK campaign reporting. Surroi formed the Civic List ORA, which won seven seats in the assembly. Although he has stated he will not interfere in *Koha Ditore's* editorial policies, and has resigned from all functions in the newspapers, sympathies between ORA and *Koha Ditore* during the election campaign were visible. However, the newspaper maintained its objectivity in a broader sense.

The print media market has improved, with *Koha Ditore* retaining the lead in terms of circulation. According to reports, *Koha Ditore* is followed by *Bota Sot* and *Zeri*. These reports are disputed by the latter as subjective. However, the print media are not enthusiastic about disclosing their real circulation, which they treat as a business secret, even if they dispute polls on the circulation. A realistic estimate would be 5,000 to 15,000 copies for the major newspapers.

TV and radio licensing is currently under UNMIK control. Three national TV stations cover about 80 percent of the country's territory; two are private (KTV and TV 21) and one is public (RTK). Broadcast licensing has not been reviewed, and for the time being the broadcast market is closed.

As has been the case for some years, minority-language broadcasting is carried through RTK, each language section having autonomous editorial policies within the boundaries set by UNMIK regulations. As for print media, the main source of information for Serbs remains Belgrade-based media and local radio stations. Other language groups, such as the Turks, also have local radio broadcasting in their own languages.

Linguistic Representation of Licensed Broadcasters in Kosovo*

	Albanian	Serbian	Bosniak	Turkish	Gorani	Mixed
Radio	50	20	3	2	1	16
Television	17	7	0	0	0	2
Total	67	27	3	2	1	18

Source: Kosovo Temporary Media Commissioner, Annual Report 2002

* Electronic media licensed by the TMC originate in Kosovo. Other, non-Kosovar radio stations, including Belgrade and Macedonian radio, and TV stations are currently on the air in some areas, mainly those inhabited by Serbs.

Local Democratic Governance

2004 / n/a 2005 / 5.50: *Kosovo's new rating for local democratic governance is set at 5.50. All powers in Kosovo have been devolved to the local governments by the UNMIK, although some central-level legislation supersedes provisions of local government legislation. Municipal councils manage their own finances and have the power to collect property taxes. The decentralization process has resulted in a document that envisages substantial self-administration of local communities. Municipal councils have diverse political and ethnic representation as a result of free and fair elections held in 2002. On the negative side, nepotism and political allegiances continue to influence the recruitment of senior municipal officers, and transparency mechanisms have not proved sufficiently effective. In addition, Belgrade continues to illegally control various sectors at the local governance level in Serb-majority areas.*

Kosovo has 30 municipalities, with populations ranging from as low as 15,000 in Zvecan to as high as an estimated 600,000 in Prishtina. At the end of 2003, the UNMIK withdrew its international municipal administrators and transferred all competencies of local governance to elected representatives. The UNMIK retained a supervisory role through its regional administrations, which report to the UNMIK about the performance of the local councils in their geographic areas of responsibility.

As with the central elections, a proportional system is used to elect municipal councils, which in turn elect the president of the council and two vice presidents. The municipal governments are chosen through competitive vacancy announcements for a four-year term. However, by an unwritten rule, all senior officers are chosen according to their party loyalties, indicating a noncompetitive selection process. Although a formal distinction between political appointees and civil servants at the municipal level is clear, party allegiances are the most important criteria for selecting senior public officers.

The second municipal elections held in November 2002 marked the beginning of the complete transfer of authority from the UNMIK adminis-

tration to the elected municipal councils. The participation of all ethnic communities in the 2002 municipal elections helped create legitimate governments representing the will of local communities in all Kosovar municipalities. As a result, the LDK rules in 18 municipalities; the PDK dominates 6 municipal councils; the AAK rules in 1; and the Serb parties rule in 5 municipalities.

Municipal authorities are in charge of administering preschool, primary, and secondary education; primary health care; public transport; and construction inspection. As a result of capacity building and stricter procurement and finance administration rules developed within EU standards in 2003, the UNMIK and the Ministry of Finance have completed the certification of 27 municipalities to manage their own finances. Public spending is under better control, thanks to the introduction of the FreeBalance system, which increases cash flow control and consistency of financial reporting through permanent access to financial data between the treasury and all budgetary spending levels. This is a vertical system of budgetary spending, with checks and balances set up at all levels to authorize and approve the certification process for every public euro (1 euro=US\$1.2) that is spent. In addition, every purchase from the budget is controlled at the central level by the treasury officer. Although this system creates frustrating procurement delays, the standards for control are set at a high level.

Three majority Serb municipalities—Leposavic, Zubin Potok, and Zvecan, which are situated in northern Kosovo—remain uncertified because they have yet to comply with the agreed-upon financial standards and regulations as a result of Belgrade's influence in their administrative practices. Two other majority Serb municipalities, Novobrdó and Shtrpce, were certified in 2003. All Serb-ruled municipalities and their public institutions continue to receive finances from the Kosovo Consolidated Budget (KCB) and from the budget of the Serbian government. All municipal employees and elected representatives continue to receive two salaries, one from the KCB and one from Belgrade. The divided town of Mitrovica has two parallel administrations: one elected in the 2002 elections, which functions in the southern section, and the Belgrade-sponsored administration functioning in the northern section. Municipal budgets are filled from self-revenues as well as from the central level. In 2003, property taxes, which are collected at the municipal level, became an important resource for local government budgets, although the level of tax collection remains low.

The main challenges of local governments in Kosovo are the persistence in illegal (unlicensed) construction, inconsistent enforcement of decisions and regulations at the local level, and the increase of local capacity and resources. Municipal administrations suffer from limitations that impede their ability to improve the life of citizens. Local government powers defined by the current legislation on local government (Regulation 2000/45) are superseded by other UNMIK regulations that allow substantial interference by the central

government. These powers include the administration of public utilities, forests, and the environment; social and public enterprises; and the use of public land. The UNMIK has retained these powers because the concept of public property is attributed to sovereign states. This situation creates problems for Kosovo in attracting domestic and foreign investment. For example, municipalities cannot lease public land without UNMIK approval. Yet when a U.S. construction firm applied for a 99-year land lease in Prishtina, substantial delays by the UN to approve the lease forced the company to abandon the project because the UNMIK could not grant a 99-year lease without permission from New York. Likewise, municipal utility companies continue to fall outside the authority of municipal councils.

Public hearings on various legislative initiatives have increased in number and quality at the local level. Reportedly, there is more NGO influence at the local level than at the central level owing to the proximity of local governments and citizen associations.

Decentralization of local governance in Kosovo has been debated continuously since November 2002, when it was launched by then SRSG Michael Steiner to induce participation by Kosovo Serbs in the second municipal elections. To address increasing demands of the Serbian community for self-governance, the UNMIK has commissioned the Council of Europe to draft a proposal on the decentralization of local government in Kosovo. In a document entitled the Reform of the Local Government and Public Administration in Kosovo, the Council of Europe envisaged the creation of approximately 180 municipal units in Kosovo. The main principle of the proposal is to harmonize the municipal units' territories and demographics with the devolution of powers from bigger municipalities (like Prishtina, with an estimated 600,000 inhabitants) to local communities not exceeding 20,000 to 25,000 inhabitants. According to this proposal, the restructuring of the local government should take into account social, geographic, and economic characteristics. A by-product of this principle would be the creation of new municipal units in the majority Serb-inhabited areas in central Kosovo, an issue that continues to trigger debates among Kosovar Albanian parties.

In response to the UN Security Council statement on the need for devolution of powers from central- to local-level authorities, the government of Kosovo and the UNMIK created the multiethnic Working Group on Decentralization on April 30, 2004. The Working Group on Decentralization approved the Document for the Reform of the Local Government in Kosovo on July 19, 2004, as a basis for further discussions leading to the approval of the Law on Local Self-Governance as one of the main priorities for 2005. This plan relies largely on the Council of Europe proposal on local government reform and administration, allowing for pilot projects to be implemented until the approval of a comprehensive reform of local governance legislation.

The debate on decentralization took a new direction after the March 2004 violence. On April 29, the Parliament of Serbia approved the Plan for Political Solution of the Current Situation in Kosovo, which envisages the creation of five Serbian autonomous regions in the majority Serb-inhabited areas of Kosovo, connected by territorial corridors. These autonomies would be in charge of education, health care, police, judiciary, and finances and would be connected to the central government in Prishtina only in terms of financial support.

In addition, the authorities of Serbia agreed to sanction Kosovo Serb participation in the 2004 Kosovo Assembly elections only if this plan was unconditionally approved. Ultimately, by successfully encouraging the election boycott, Serbia helped reinforce the de facto situation on the ground, in which Serbs largely administer their affairs independently from the central Kosovo government. In all majority Serb-inhabited towns and villages, Belgrade-sponsored administrations were already in control of education, health care, social insurance, and in some cases security. UNMIK efforts to negotiate the reduction of Belgrade's parallel functions in Kosovo municipalities have been unsuccessful so far. The system of parallel institutions persists because of the lack of freedom of movement and perceived lack of security caused by fear—which has continuously affected the ability of Serbs to access basic education, health care, and administrative services—as well as their persistent loyalty to Belgrade rather than to the international administration established in 1999 and the PISG.

The UNMIK has made it clear that decentralization will be a Prishtina-driven process, while including certain limited elements of the Belgrade plan for ethnic autonomy. Whether the international community will accept Belgrade's calls for the partition of Kosovo will depend largely on the level and quality of the integration of Kosovo Serbs into Kosovar society, as well as on the delivery of equal services by Kosovo's own institutions. Kosovo's future will be profoundly affected by the manner in which this issue is resolved.

Judicial Framework and Independence

2004 / 6.00 2005 / 5.75: *Kosovo's rating for judicial framework and independence improves from 6.00 to 5.75. The highest authority to interpret the Constitution of Kosovo lies with the UNMIK. Although international judges and prosecutors continue to handle the most serious cases of interethnic violence, terrorism, and organized crime, local professionals took on some cases related to the March 2004 ethnic violence and were viewed by observers as showing no bias in their performance. The provisional criminal code, which came into force on April 1, 2004, provides improved protections for the rights of the accused. At the same time, the new code enhances the mechanisms for a more effective prosecution of sensitive criminal offenses. Although the Constitution and other applicable*

laws provide for highest human rights standards endorsed by the PISG, ongoing interethnic and political tensions continue to make protection of these rights the most significant challenge facing Kosovo's judicial system. However, it is worth noting that in 2004, minority access to Kosovo courts improved owing to the opening of municipal court liaison offices in Serb-majority areas.

On June 10, 1999, the UN Security Council approved Resolution 1244, which established the UNMIK and effectively suspended the Federal Republic of Yugoslavia's sovereignty in Kosovo. Until the country's final status is resolved, Resolution 1244 gives the UNMIK legislative, judicial, and executive powers.

To prevent a legal vacuum following the collapse of the Serbian administration in Kosovo, the UNMIK also established a legal system based on Kosovo and Yugoslav laws existing pre-March 28, 1989; nondiscrimination laws approved after 1989; UNMIK regulations; and international human rights conventions. The talks between the UNMIK and Kosovar political representatives in 2001 resulted in the approval of the Constitutional Framework for the PISG, which produced a dual system of governance with executive and legislative powers shared between the UNMIK and the PISG. In addition to being a caretaker for the PISG, the UNMIK has direct administrative responsibilities in all areas involving sovereignty issues, such as foreign affairs, justice and police, fiscal policy, customs, and minorities, and is accountable to the UN Security Council. The Supreme Court of Kosovo is responsible for the interpretation of the Constitution. However, the UNMIK retains final say in all legal and constitutional matters. The police and judiciary fall under the jurisdiction of the UNMIK, with administrative issues pertaining to the judiciary transferred to the PISG Ministry of Public Services.

Five years into the UN administration, the chief concern is respect for the human rights of Kosovo Serbs. Freedom of movement, property rights, and the ability of Kosovo Serbs to return and resettle remain seriously limited owing to 1999 war-related tensions, which makes the implementation of applicable human rights conventions difficult. The eruption of massive violence against Serbs in March 2004 indicates that the 1998–1999 war-related animosities between Albanians and Serbs have not yet been replaced by peaceful coexistence. The country's uncertain final status and conflicting aspirations of Albanians and Serbs are the main reasons for persistent interethnic animosities.

The provisional criminal code of Kosovo and criminal procedure code came into effect on April 11, 2004, after being approved by the assembly. The main features of the criminal code and procedure code include strengthening prosecutorial capacity, streamlining proceedings, and enhancing the protection of persons involved in the criminal justice system. The rights of the accused have also been expanded. New offenses have been introduced into the provisional criminal code to enable the prosecution of the most sensitive

cases. Some of these relate directly to the situation in Kosovo, and some relate to global security. The new criminal offenses include terrorism; unauthorized crossing of borders and boundaries; genocide and crimes against humanity, war crimes, and command responsibility; offense of torture; offenses involving nuclear materials; offenses against aircraft and civil aviation safety; and hostage taking and trafficking in persons.

The provisional criminal code has enhanced human rights protection of defendants, enabling them to make court motions and exercise other rights, which according to the previous applicable criminal codes (Kosovo 1989, Serbia, Federal Republic of Yugoslavia) belonged only to the prosecution. The code further allows for a defense counsel to be appointed at public expense in a wider range of circumstances than under the previous applicable codes. A new feature of this code is also the protection of witnesses and crime victims. And pending bilateral agreements, the code will authorize the transfer of Kosovo residents who are wanted by foreign jurisdictions on criminal charges.

Since March 2003, data on the prosecution of serious offenses has shown an 89 percent rate of convictions. Most serious offenses related to interethnic crimes, terrorism, and organized crime are prosecuted and tried by an international judicial staff of 24 judges and prosecutors. These cases are taken up by international personnel because the independence of Kosovar judges and prosecutors is frequently compromised by threats and fear of repercussions. Even so, Kosovar judges and prosecutors have gradually become more involved in prosecuting and/or convicting serious crimes, and they now handle all civil cases and 97 percent of criminal cases, according to UNMIK reports.

Currently, there are 311 judges and 84 prosecutors, of which 278 judges are Albanian, 16 Serb, and 17 from other ethnicities. Seventy-eight prosecutors are Albanian, 2 are Serb, and 4 belong to other ethnic groups. The integration of Serb judicial personnel within the Kosovar justice system remains problematic owing to the parallel judicial structures in the northern section of Mitrovica. In fact, Serbian judicial personnel are threatened by Belgrade with loss of employment and social benefits if they are integrated into the UNMIK's justice system. However, owing to the inadequacies of the Belgrade-controlled parallel courts, Kosovo Serbs increasingly file their suits in the Kosovo-UNMIK court system.

Efforts were made throughout 2004 to improve Kosovo Serbs' access to courts and services, including the opening of municipal court liaison offices in majority Serb-populated areas. However, since 1999 a parallel structure of courts, answerable to Belgrade and not the UNMIK, has developed in Kosovo and continues to exist in predominantly Serb enclaves. The parallel courts have evolved because of a lack of recognition of the UNMIK structures by the Kosovo Serbs who remained in Kosovo after the conflict.

The immediate response to the March riots by police and the judiciary consisted of more than 500 arrests based on suspicions of riot organizing

and committing crimes such as murder and attempted murder, arson, looting, theft, and public disorder. As of October 2004, 348 cases were brought before the courts. Of these, 98 were still being investigated, 79 persons were indicted and awaiting trial, and 171 cases have been completed. One hundred additional police investigators, 6 international prosecutors, and 3 judges were requisitioned to increase the justice system's investigative capacity. The role of international judicial personnel is considered necessary owing to fears of bias from Kosovar judges, particularly relating to terrorism and interethnic and political crimes. All cases in the minor offenses courts were handled by Kosovar judges and prosecutors. The OSCE mission, which is mandated with monitoring the justice system, observed no bias among the Kosovar judicial personnel, although the large backlog of cases has created problems for courts and correctional services.

Creation of the KPS is nearing completion, with 6,000 Kosovar police officers now on the job. Kosovo Serb police officers number 567 (9.5 percent of the total) and are included in all commanding structures. So far, the UNMIK has transferred command to the KPS in 17 police stations, with a complete transfer of 33 stations to take place by mid-2005.

The UNMIK has pursued regional police cooperation since 2001. Criminal activity in Kosovo is frequently based on regional criminal cooperation and includes human trafficking, movement of terrorist groups, and vehicle theft. As opposed to other areas of society, cooperation between Kosovar and Serbian criminal groups has proved to be quite effective, particularly in human trafficking, illegal prostitution, drug trafficking, weapons trading, and vehicle theft. So far, various policing agreements have been signed with Albania, Macedonia, and Montenegro. A number of arrests, including two suspected terrorists in a 2001 Nis bus bombing that killed 11 Serbs, were made as a result of this international cooperation. Other joint activities and mutual support—such as information exchange and border control, especially with Albania and Macedonia—are well established.

Corruption

2004 / 6.00 2005 / 6.00: *Kosovo's rating for corruption remains at 6.00. The year 2004 was marked by increased attention to anticorruption initiatives on the part of the PISG, civil society, and international organizations such as the Council of Europe, the United Nations Development Program (UNDP), and the UNMIK. Several high-profile corruption-related arrests during the year were noteworthy as well. Nevertheless, public confidence in anticorruption efforts remained undermined by weak transparency and inconsistent implementation of corruption-related legislation by the UNMIK and the Kosovo government. The absence of a whistle-blower charter also continued to cause a restraint among public officials who wish to publicly disclose corrupt practices.*

Simply recognizing corruption as a problem has been one of the most important advances so far in Kosovo's anticorruption efforts. Corruption has its roots in Kosovo's state-controlled economy as well as the decade-long lack of a democratic institutional framework to serve public interests. Tolerance for corrupt practices and an absence of proper mechanisms for holding public officials accountable further enable the persistence of corruption. Four areas appear to be most affected: public utilities, customs, public procurement, and local government. The health care and pharmaceutical sectors are influenced as well.

This year was marked by an increased focus on anticorruption initiatives by the Kosovo government, NGOs, and international organizations such as the Council of Europe, the UNDP, and the UNMIK. On March 17, the government of Kosovo launched its Anticorruption Strategy, a joint product of the government, civil society groups, the UNMIK, and other organizations. The Prime Minister's Office for Good Governance, Human Rights, and Equal Opportunities (Good Governance Office hereinafter) and the Council of Europe mission in Kosovo have been working on the Action Plan for the Implementation of Anticorruption, which consists of three main elements: prevention, enforcement, and public awareness.

In preparation for the action plan, the Good Governance Office and the UNDP conducted a survey on public perceptions of corruption and found that 82 percent of respondents considered corruption to be a daily problem. According to those surveyed, low public sector salaries, greed, moral crisis, judicial inefficiency, and imperfect legislation are the main causes of corruption. The exchange of bribes for better service indicates that citizens are more tolerant of corruption in health care, education, and employment than they are of corruption in the government, judiciary, and fiscal system. The most trusted institutions are the KPS, the KPC, and the KFOR.

Kosovars under the age of 25 (52 percent of the total population of Kosovo) are the intended target for the government's Anticorruption Strategy. This sector of the population has a lower level of tolerance for corrupt practices in comparison with other age groups. Additionally, it is believed that public perceptions about the acceptability of bribery in the workplace may change in light of revelations in 2004 about corruption at the Airport of Prishtina and the disappearance of a young man reportedly involved in collecting bribes on behalf of airport officials.

The UNMIK has the ultimate authority to enforce anticorruption measures regarding the police and the judicial system. The PISG is in charge of administrative aspects within its responsibilities by creating and enforcing regulations. In 2004, the SRSG enacted the Regulation on the Deterrence of Money Laundering, which provides for greater transparency in financial transactions that exceed a certain amount. Previously, huge bank transactions from Kosovo to Montenegro—suspected money laundering—were reported

to have been taking place among Chinese shopkeepers who started coming to Kosovo from Serbia in 2000.

The most drastic yet unexplained case of corruption happened during the bid in 2004 for a second mobile telephone provider. The UNMIK canceled the bid after the Ministry of Telecommunications and the Telecommunications Regulatory Agency (TRA) signed the license contract with the winning company, Mobitel-Mobikos. The cancellation came after an independent review of the tender claimed numerous irregularities in the preselection procedures. However, these irregularities were never explained in detail, which left room for speculation and confusion about the decision's fairness. In addition, no judicial or administrative measure was taken against the TRA officials responsible for administering the telecommunications tender.

In spite of the declared political will to curb corruption, Kosovo's anticorruption efforts leave much to be desired. First, the lack of a whistle-blower charter continues to cause restraint among public officials who might otherwise wish to publicly disclose corrupt practices. Second, implementation of the public information legislation has stalled because the Office of the Prime Minister has failed to issue instructions regarding the classification of documents to ministries and other government agencies. Third, delays in creating the Central Procurement Agency are frequently blamed on the desire of some key ministers to control government tenders, which are suspected to be the main source of illegal income for government officials. So far, no government agency has reported to the justice system a case of corruption within its ranks, in spite of ever increasing reports by media of alleged corruption. The PISG is obliged to regularly advertise job vacancies and calls for tenders in the media and does so. Fourth, although investigations at public enterprises, such as the Post and Telecommunication Company of Kosovo and the Airport of Prishtina, led to several high-profile arrests in 2004, no individuals had been brought to trial by the end of 2004. This, in turn, reinforced public perceptions that individuals who engage in corruption are seldom brought to justice. Finally, the fact that the Office of the Auditor-General is not required to publicly disclose investigation findings strengthens public sentiment that there is insufficient transparency at all levels of government, including within the UNMIK.

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Slovakia

<i>Capital</i>	Bratislava
<i>Population</i>	5,400,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$12,840
<i>Private sector as % of GDP</i>	80%
<i>Ethnic groups</i>	Slovak (86 percent), Hungarian (11 percent), Roma (2 percent), other [including Czech] (1 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	3.75	3.50	2.50	2.25	1.75	1.50	1.50	1.25
Civil Society	3.25	3.00	2.25	2.00	1.75	1.50	1.25	1.25
Independent Media	4.25	4.00	2.25	2.00	2.00	2.00	2.25	2.25
Governance	3.75	3.75	3.00	2.75	2.25	2.25	2.25	n/a
National Democratic Governance	n/a	2.00						
Local Democratic Governance	n/a	2.25						
Judicial Framework and Independence*	4.00	4.00	2.50	2.25	2.00	2.00	2.00	2.00
Corruption	n/a	n/a	3.75	3.75	3.25	3.25	3.25	3.00
Democracy Score	3.80	3.65	2.71	2.50	2.17	2.08	2.08	2.00

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

In the 15 years since the collapse of the Communist regime in the former Czechoslovak Federation, Slovakia has seen radical societal changes. During the initial stage of transformation between 1990 and 1992, the country built the foundation for a democratic political regime and created favorable conditions for democratic institutions. In 1993, Czechoslovakia split and the Slovak Republic became an independent country. The next five years were marked by an intense struggle over the country's future democratic character. The authoritarian government, consisting of nationalist and populist political forces, attempted to concentrate political and economic power in order to restrain free, democratic competition. The situation changed dramatically in 1998 when democratic political forces won the parliamentary elections and formed a broad ruling coalition that pursued reforms in key areas, including the constitutional system, public administration, human and minority rights, and the economy. In time, the country achieved full membership in both NATO and the European Union (EU). Today, the Slovak Republic has a stable democratic political regime and a functioning market economy.

Slovakia's democratic institutions were sufficiently stable throughout 2004. Early in the year, the government lost a formal majority in the Parliament owing to internal conflicts in ruling coalition parties. Nevertheless, it continued to pursue a range of reforms, including unpopular socioeconomic measures such as the introduction of fees in health care. Opposition parties tried to capitalize on this issue and along with trade unions initiated a petition that eventually led to a referendum on early parliamentary elections; however, the plebiscite held in April 2004 was declared null and void on grounds of insufficient voter participation. That same month, Slovakia elected Ivan Gasparovic, a member of the Movement for Democracy, as the new president. Although Gasparovic is considered a representative of the opposition with critical views of the incumbent administration's reform policies, the government and the new president have managed to maintain generally cordial relations. With help from independent deputies in the Parliament, the ruling coalition was able to override Gasparovic's vetoes of certain reform laws.

National Democratic Governance. The system of power division in Slovakia functioned well in 2004 and the minority government survived the year without changes in party or personnel composition of the cabinet, though

opposition parties, dissatisfied with certain policies of the incumbent government, tried unsuccessfully to shorten its term through a referendum on early elections. The cabinet and other organs of executive power performed their duties effectively. The Parliament adopted legislation in line with basic requirements for the country's development, including a law that prohibits the secret service from using journalists and police officers as agents. The Constitutional Court fulfilled its role without limitations and approved several constitutional laws that strengthened the stability of the system. *Slovakia's rating for national democratic governance is set at 2.00 owing to basic trends in the field of institutional development, operation of the system of checks and balances, civil control of military and security services, and practical execution of power.*

Electoral Process. In 2004, Slovakia held presidential elections and elections to the European Parliament (EP). Both elections were declared free and fair. The lack of agreement among ruling coalition parties on a single candidate led to the election of Ivan Gasparovic, a representative of the opposition, as the country's new president. Ruling coalition parties fought back in elections to the EP and achieved better results than the opposition. Both elections confirmed the general trend of declining voter participation. In May 2004, the Parliament passed a new Law on Parliamentary Elections, which allows Slovak citizens living abroad to participate in elections. The law also strengthened the power of voters to influence the position of candidates on party tickets and initiated improvements in the technical aspects of the electoral process. *Slovakia's rating for electoral process improves from 1.50 to 1.25 given the dependability of electoral mechanisms and improvements in the quality of election legislation.*

Civil Society. Civil society in Slovakia is vibrant, and public opinion toward nongovernmental organizations (NGOs) is prevailingly positive. The legal and regulatory environment for NGOs is free of excessive state pressure. The civil society sector has a well-developed infrastructure with an efficient training and research base. During 2004, NGOs continued their effort to increase sustainability. The year also brought unprecedented cooperation between government agencies and NGOs in the promotion of democracy and the rule of law in countries with autocratic regimes. *Slovakia's rating for civil society in 2004 remains unchanged at 1.25.*

Independent Media. Slovak media and journalists in 2004 were free of any open interference from the government. The most serious media problems include the concentration of media ownership in the hands of a few powerful private groups and the continuing perception of influence over TV Markiza, the largest private TV station, from Economic Minister Pavol Rusko. On

a positive note, new laws on public broadcast media (Slovak Television and Slovak Radio) took effect at the beginning of 2004, strengthening their independence from political power and increasing their supervisory powers. *Slovakia's rating for independent media remains unchanged at 2.25.*

Local Democratic Governance. In 2004, Slovakia entered the final stage of public administration reform, which seeks to decentralize the government, strengthen the principle of “subsidiarity,” transfer extensive powers from the central state administration to regional and municipal self-governments, and prepare for their future financial viability. In 2004, the Parliament approved a series of laws related to fiscal decentralization and passed a law that seeks to strengthen the control mechanisms of self-government. Self-governance bodies in some towns and municipalities continued to cooperate closely with civil society players in tackling local problems. Unfortunately, certain self-governments were less prepared than others to assume and properly perform their new functions. *Owing to the prevailing positive trend of enshrining local democratic government in law and respecting it in practice, Slovakia's rating is set at 2.25.*

Judicial Framework and Independence. Slovakia's judicial system was relatively effective throughout 2004. The main objective in the country's ongoing judicial reform is a general improvement in the courts' performance (chiefly to speed it up). The Parliament approved in the first reading two drafts of completely new codes: a new criminal code and code of criminal procedures that seek to increase citizen safety inside and outside the legal system, introduce adequate punishments for criminal offenses, and facilitate just and effective judicial proceedings. The adoption in 2004 of the Law on Equal Treatment and Protection Against Discrimination should help implement principles of equal treatment and work to eliminate all forms of discrimination. The new law applies affirmative action principles in respect to certain population groups (especially Roma). *Slovakia's rating in the category of judicial framework and independence remains 2.00 as a result of the continuation of judicial system reform and approval of the Law on Equal Treatment and Protection Against Discrimination.*

Corruption. Many Slovak citizens believe that corruption and clientelism are among the most pressing social problems in the country. In the course of 2004, Parliament and the cabinet adopted various legislative and executive measures aimed at reducing opportunities for corrupt behavior. The most important legislative accomplishment was passing a constitutional Law on Conflicts of Interest, which introduced stricter performance criteria for a large group of public officials. Another achievement was strengthening control mechanisms within self-governance bodies with the adoption

of several amendments to particular laws. On the other hand, there has been no perceptible improvement in controlling political party financing, either legislatively or practically. Another lingering problem is the lack of transparency in the methods of public procurement used by many government institutions. *Taking into consideration the substantial changes in anticorruption legislation, Slovakia's corruption rating improves from 3.25 to 3.00.*

Outlook for 2005. In 2005, Slovakia will continue to pursue reforms in a number of sectors, including health care, education, social security, and public administration. The overall course of reform may be influenced by the power ratio of the main political players, namely the proportion of seats in the Parliament among parties and deputy factions. Unpopular socioeconomic measures are likely to increase voter support for opposition parties, which might prove challenging for the cabinet since it does not control a majority in the Parliament. The elections to regional self-governments scheduled for December 2005 are likely to test individual parties' electoral support before the parliamentary elections scheduled for September 2006. In 2005, the Slovak Republic will be entitled to use financial assistance from EU funds to boost its socioeconomic development, which may have a generally positive impact on the entire process of democratic consolidation.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.00						

The Slovak Republic is a stable democracy that respects the rule of law and human rights. Citizens enjoy direct participation in the political process through elections and political party activities. Public administration reform, which between 2001 and 2004 transferred massive powers from the state to self-governance bodies, has brought the execution of power closer to citizens. Moreover, the reform has improved basic conditions for public participation in decision-making processes. Slovakia also has a generally effective system of governmental checks and balances.

The Constitution of the Slovak Republic guarantees the right to free retrieval, collection, and dissemination of information. In 2000, the Parliament passed a specific Law on Free Access to Information, which stipulated

conditions for gathering information by citizens on activities of state administration and self-governance organs. Although enforcement of this law sometimes meets with bureaucratic resistance and is further hampered by citizens' unpreparedness to exercise their constitutional right, the general trend in this field is undoubtedly positive.

More than 90 percent of Slovakia's gross domestic product (GDP) is produced by the private sector. The government continues to control some natural monopolies such as the Slovak Railway Company, Slovak Gas Industry, and Slovak Electric Industry. However, the current administration promotes the policy of reducing the state's role in the economy and is furthering the privatization process.

Since the collapse of the Communist regime in 1989, Slovakia has not seen any violent attempts to usurp political power. However, between 1993 and 1998, when the country was ruled by a coalition of authoritarian and nationalistic parties, there were attempts to concentrate political power in ways that contradicted the principles of liberal democracy. Slovakia's political development was stabilized after 1998, and the execution of power on all levels has not departed from the basic constitutional framework. In April 2004, opposition parties initiated a referendum on early parliamentary elections, but the results were declared null and void owing to insufficient voter participation (35.9 percent).

The government's authority and the rule of law are solid and indisputable throughout Slovakia, and domestic political development is free from displays of dominance by the military, foreign powers, or other power groups. Government stability has never been threatened by internal military conflicts or insurgencies, and currently there is no danger of such conflicts. Political party activities within the armed forces and other state institutions are forbidden, as the Slovak army and police are politically neutral.

Legislative and executive powers are separated. The National Council of the Slovak Republic (Parliament) is a sovereign representative body, the sole legislative and constituent assembly, and autonomous from the executive. It has sufficient sources and capacities for the creation and enactment of bills, as well as adequate control powers. Each deputy has an assistant who is paid from the state budget. Deputies may also use the services of the Parliamentary Institute, which prepares expert and background materials for them.

Parliamentary deliberations are open to the public and media (except for closed sessions on confidential matters, such as intelligence and secret service issues). Public representatives may be present during deliberations of parliamentary committees if invited by their members. The entire legislative process (that is, verbatim wording of legislative bills, results of assembly votes, and so forth) is continuously recorded and made available to the public via the Parliament Web site. Printed shorthand records from the Parliament's plenary sessions are also available to the public.

The cabinet and other organs of executive power are clearly circumscribed by the Constitution and applicable laws and executive power is subordinated to the legislature. At the beginning of its tenure, the cabinet must solicit the Parliament's support by submitting its program manifesto for approval. During its tenure, the Parliament may at any time hold a vote of no confidence regarding the entire cabinet or its individual members; it may also compel the cabinet to act upon its resolutions. The loss of political support from the Parliament may lead to the cabinet's resignation.

The executive has sufficient resources and capacities to implement the government's policies. The cabinet and certain ministries regularly publish information about their activities on their respective Web sites. Media representatives may obtain information directly from government officials at regular press conferences; from spokespersons of cabinet members, state organs, and government agencies; and through personal contacts. The Law on Free Access to Information has substantially improved public access to information on state activities.

The law orders all state employees to act in compliance with the letter and spirit of democratic legislation; however, some civil servants continue to act like bureaucrats whose main guiding principles are political affiliations and close-knit corporate interests. All state agencies are subject to control by the Supreme Bureau of Supervision (NKU); the government's office also has certain controls. Funded by the state budget, the NKU regularly publishes violations of laws and bylaws by the state and simultaneously orders the offending agencies to remedy their deficiencies. In 2004, there were no documented attempts to restrict the oversight powers of the NKU.

The reform of the armed forces implemented during the past decade has introduced civilian controls that are in line with NATO, which Slovakia joined in 2004. Judicial oversight of the military and security services is sufficiently effective, and the Slovak army uses a system of martial prosecution with martial courts. The Parliament decides on the amount of the state budget to allocate to military and security service activities, and spending is supervised by the Parliament's defense and security committee. Deputies, media, and the general public may access information on the activities of the military and security services up to the extent stipulated by applicable laws. Certain types of information are considered classified and not available to the media and public.

The cabinet informs the public about its activities through special public affairs units at the Ministry of Defense, the Ministry of the Interior, and the Slovak Intelligence Service (SIS). In terms of communicating information, members of Parliament and the media were particularly dissatisfied with the SIS, whose representatives failed to respond to allegations that the service was trying improperly to influence political life and public opinion in Slovakia.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
3.75	3.50	2.50	2.25	1.75	1.50	1.50	1.25

The authority of the Slovak government is based on freely exercised universal suffrage. Since the Communist regime's collapse in 1989, Slovakia has held five parliamentary elections (1990, 1992, 1994, 1998, and 2002), four municipal elections (1990, 1994, 1998, and 2002), one regional election (2001), and two presidential elections (1999 and 2004). In June 2004, shortly after the Slovak Republic became a full-fledged member of the European Union (EU) on May 1, the country held its first elections to the European Parliament (EP). International as well as independent domestic election monitors declared all of these elections free and fair.

The legislative framework for elections includes several laws that provide for free and democratic competition, equal campaigning, fair voting, and the transparent scrutiny of votes. Parliamentary elections are based on a proportional system that stipulates the following thresholds to qualify: 5 percent for single running parties, 7 percent for coalitions comprising two or three parties, and 10 percent for coalitions consisting of four or more parties. Elections to the EP use a proportional system. The minimum quorum to qualify for the assembly is 5 percent of the popular vote, which applies to both individual parties and party coalitions. Elections to local, municipal, and regional self-governments use a modified majority electoral model. The Slovak president and regional governors are elected using a majority model with two rounds.

In May 2004, the Parliament adopted a new Law on Parliamentary Elections that contained several improvements. First, a new provision allows Slovak citizens who are abroad on election day to vote by mail. Second, the new election law increased the weight of preferential ballots cast in favor of individual candidates by lowering the minimum required quorum from 10 percent to 3 percent of the total number of ballots cast for the party in order to move candidates up on the party list. Third, the new law stipulates that elections shall be held on a single day, Saturday. Previously, parliamentary elections were held over two days, Friday and Saturday. Fourth, the law abolished the 48-hour election moratorium on political advertising and other campaign activities and the 7-day moratorium on publishing the results of voter preference polls.

Slovakia's election laws provide for equal participation in political processes. Owing to the strong position of political parties, however, candidates whose parties are represented in the Parliament are typically favored over independent candidates. The political system is multiparty based, with a total of 113 parties registered at this time. Seven parties are currently represented in the Parliament: Slovak Democratic and Christian Union (SDKU),

Movement for a Democratic Slovakia (HZDS), Smer (Direction), Party of Hungarian Coalition (SMK), Christian Democratic Movement (KDH), Alliance of a New Citizen (ANO), and Communist Party of Slovakia (KSS). All parliamentary parties have functioning structures at the national, regional, and local levels and are represented in regional and local self-governments. The representation of opposition parties in parliamentary bodies corresponds proportionally to their number of seats in the Parliament.

Although citizens are quite active in Slovakia's political life, there has been an overall decline in voter participation. The high frequency of elections and referendums has resulted in voter fatigue, and the failure of some parties to mobilize voters by traditional campaigning methods. Social pessimism and passivity also may contribute to declining election turnout. Generally, the highest voter participation is recorded in parliamentary elections, although this too has fluctuated up and down over the past decade (84.4 percent in 1992, 75.6 percent in 1994, 84.2 percent in 1998, and 70.1 percent in 2002). Voter participation was also relatively high in the first presidential elections in May 1999 (73.9 percent in the first round and 75.5 percent in the second). In 2004, the presidential elections recorded voter participation of 47.9 percent (first round) and 43.5 percent (second round).

Local and regional elections typically show lower voter turnouts than do national elections. The lowest voter turnout in Slovakia's modern history—only 17 percent—was recorded in the first elections to the EP held in June 2004. The reasons for this low turnout included a general lack of public awareness about the EU, underrating the importance of the EP in the future development of the EU and its member states, and the failure of parties to mobilize voters.

Nationwide, there is a relatively low level of public participation in political parties. According to various estimates, approximately 5 percent of Slovakia's adult population are members of political parties. The party with the largest membership is the HZDS (nearly 45,000), followed by the KSS (23,000) and the KDH (20,000); other parliamentary parties have between 5,000 and 12,000 members.

Ethnic minorities encounter no institutional obstacles to participating in political processes. About 15 percent of Slovak citizens belong to various ethnic minorities. Ethnic Hungarians form the largest ethnic minority, making up nearly 10 percent of the total population. Traditionally, ethnic Hungarians have a high rate of political mobilization; as a result, this minority is effectively represented at all levels of government, mainly through the Party of Hungarian Coalition (SMK).

In contrast, the Roma minority is not sufficiently represented owing to the ethnic group's low social status and inadequate education, a virtual absence of political leaders, and the inability of "majority" mainstream political parties to cooperate with Romany organizations. Although a number

of Romany political parties are registered, none has gained a foothold in executive or legislative organs on the national, regional, or even local level. So far, all attempts to overcome the excessive fragmentation of the Romany political elite by integrating smaller Romany parties have failed because of conflicts arising from the personal ambitions of individual leaders.

Other ethnic minorities and ethnic groups (Czechs, Ruthenians, Ukrainians, Germans, Poles, Croats, Bulgarians, and Jews) take advantage of opportunities provided by majority political formations. Representatives of these minority groups can participate in public life through, or their interests can be represented by, mainstream political parties. For example, representatives of the minority groups can become political nominees to positions in state institutions or in self-governing bodies at the central, regional, or local level.

Since 1990, all of Slovakia's democratically elected administrations have differed in terms of party makeup, reflecting diverse views and strategies for tackling societal problems. Individual political parties have formed ruling coalitions and have managed to facilitate trouble-free rotations of power. These favorable conditions also exist at the regional and local levels. At the beginning of 2004, opposition parties that disagreed with the socioeconomic reforms pursued by the incumbent conservative-liberal administration joined with trade unions to organize a petition demanding a referendum on early parliamentary elections. The referendum was held in April 2004 but was declared null and void on grounds of insufficient voter participation—35.9 percent (in Slovakia, a referendum is valid only if a majority of eligible voters participates).

Parliamentary elections held in September 2002 were declared free and fair by all domestic and international observers. The formal victor in the elections was the HZDS, which received 19.5 percent of the popular vote (resulting in 36 seats in the new assembly), followed by the SDKU with 15.1 percent (28 seats), Smer with 13.5 percent (25 seats), the SMK with 11.2 percent (20 seats), the KDH with 8.3 percent (15 seats), the ANO with 8.0 percent (15 seats), and the KSS with 6.3 percent of the popular vote (11 seats). Four parties—SDKU, SMK, KDH, and ANO—formed the government cabinet with Prime Minister Mikulas Dzurinda at the head.

The most recent presidential elections in Slovakia were held in April 2004. In total, 11 candidates ran in the first round, which did not produce a winner. The two leading candidates advanced to a second round: Vladimir Meciar (HZDS), who received 32.7 percent of the popular vote, and Ivan Gasparovic, a joint candidate of the Movement for Democracy (HZD) and the Slovak National Party, shortly before the elections also supported by Smer, who garnered 22.3 percent. In the second round, Gasparovic obtained 59.9 percent of the popular vote and was elected the new Slovak president. International and domestic observers declared the elections free and democratic.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
3.25	3.00	2.25	2.00	1.75	1.50	1.25	1.25

Slovakia's civil society is dynamic and vibrant. In October 2004, the Ministry of the Interior listed 21,897 nongovernmental organizations (NGOs). Of these, 20,459 (93.4 percent) were civil associations (societies, clubs, movements, trade unions, international NGOs, and sports clubs), 232 (1.1 percent) were foundations, 623 (2.8 percent) were noninvestment funds, and 583 (2.7 percent) were nonprofit organizations. However, it is estimated that not more than 2,000 NGOs are active on an everyday basis. The image of NGOs in public opinion is prevailingly positive—according to a poll conducted by the Institute for Public Affairs in November 2003, 57 percent of Slovak citizens evaluated the activities of NGOs positively, 12 percent negatively, and 31 percent had no opinion.

Women's organizations, now totaling more than 90, are increasing steadily in visibility and efficiency. Ethnic minorities also operate cultural and civic organizations. However, Hungarian organizations are typically larger and more effective than those of the Roma population. Religious groups play a significant role in charitable activities. Openly extremist and racist organizations are not registered by the Ministry of the Interior and operate illegally.

The legal and regulatory environment for civil society is free of excessive state pressure and bureaucracy. The basic legislative framework for NGOs is provided by the Slovak Constitution—which guarantees freedom of expression (Article 29), freedom of assembly (Article 28), and freedom of association (Articles 29 and 37)—and by other laws. Registration of NGOs is simple, and government regulations are not overly burdensome. The Ministry of the Interior acts not only as the registry, but as the regulating institution for NGOs. Taxation favors nonprofit activities; thus, in several fields NGO taxation is easier than in the business sector. NGOs are exempt from paying gift taxes and institutional income taxes.

The NGO sector in Slovakia has a well-developed infrastructure and an efficient training and research base. It has also been well stabilized thanks to the Gremium of the Third Sector (G3S), a voluntary advocacy group of elected NGO leaders whose mission is to develop partner relations with representatives of the state and local governments, the business sector, and international organizations. The role of the G3S was very important during the dramatic transformation of the country and served to defend and pursue the interests of NGOs, develop cooperation and solidarity within the third sector, and publicize NGO activities.

Private and public financial assistance from Western democracies has been instrumental in developing Slovak civil society. During 2004, NGOs continued efforts to provide for their long-term sustainability. First, in 2004 Slovak taxpayers could designate 2 percent of their income tax for publicly

beneficial purposes (up from 1 percent previously). In 2004, 41.8 percent of eligible taxpayers took advantage of this opportunity and dedicated more than 266 million korunas (roughly US\$7.5 million) to NGOs. Legal entities can also dedicate 2 percent of their tax to NGOs—in 2004, more than 94 percent of legal entities dedicated more than 550 million korunas (roughly US\$15.7 million). Second, EU membership has opened new financial opportunities for Slovak NGOs (structural and cohesion funds and the like). Third, liberalization efforts by the current government have given NGOs access to spheres once exclusively by state organizations, particularly in the area of social welfare.

The current state administration is open to NGOs and successfully uses their expertise and willingness to participate in legislative, political, and social change. This year witnessed unprecedented cooperation between NGOs and the Slovak government in arenas outside Slovakia. NGOs, including the Pontis Foundation and the Civic Eye Association, worked in states with nondemocratic regimes—Belarus, Central Asian countries, Cuba as well as in Iraq—and the Slovak government began consulting with these NGOs to make use of their knowledge and experience in these areas.

Trade unions in Slovakia are free, but the question remains whether they play a sufficient role. The Confederation of Trade Unions (KOZ) represents fewer than 550,000 employees. The image of trade unions is predominantly negative in many segments of the Slovak population. It worsened in 2004 owing to KOZ's involvement in domestic party politics and the April 2004 referendum on early parliamentary elections initiated by KOZ and opposition parties. A sizable portion of the population perceived this action as the direct and inappropriate involvement of trade unions in the political realm. In response to KOZ activities, the current administration suspended the Law on Tripartite Negotiations, which had provided overly favorable conditions for trade unions to participate in the mechanisms of social dialogue.

Slovakia's education system is free of political influence and ideological propaganda. However, some provisions of the basic treaty between Slovakia and the Vatican provoked public discussion about the issue. The Ministry of Education succeeded in 2004 to equalize civic education and religion courses at the elementary and secondary school levels. This step is perceived by many NGOs as endangering the secular character of the Slovak educational system.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
4.25	4.00	2.25	2.00	2.00	2.00	2.25	2.25

Freedom of speech in Slovakia is guaranteed by the Constitution and regulated by the 1966 Law on the Press. In April 2004, the Ministry of Culture submitted draft legislation for a new press act based on freedom of speech

and the right of citizens to seek and disseminate information. Also in 2004, new laws on public broadcast media—that is, Slovak Television and Slovak Radio—took effect, strengthening their management and control organs and increasing their independence. However, the extent to which this “enhanced independence” shows in the newsroom depends primarily on the broadcasters’ general directors (who are no longer elected or removed by the Parliament). In 2004, there were no documented attempts to influence public broadcast media by the state or other political entities.

Reporting by private media generally reflects the owners’ interests, and lack of ownership transparency is the industry’s chief problem. The most glaring example continues to be the influence of Pavol Rusko, ANO party chair and economic minister, on TV Markiza, the country’s largest private television station, which Rusko founded and formerly co-owned. Although Rusko sold his stake in the company in 2003, various surveys show that TV Markiza’s news broadcasts continue to give more space to Rusko and his party than to other political figures and parties.

In recent years, the print media market has stabilized. In terms of circulation, the country’s largest nationwide daily is *Nový Cas*, followed by another tabloid, *Sport*, and two serious daily papers, *Sme* and *Pravda*; the remaining market share is divided among several smaller dailies.

The television market continues to be dominated by the private TV Markiza. After the recent introduction of a people-meter method of surveying television ratings, average daily market shares of the most popular television stations in Slovakia stabilized as follows (data are from November 2004): TV Markiza 34.1 percent; combined channels of the public Slovak Television 28.5 percent; private TV Joj 13.7 percent; and cable news TV station TA3 1.2 percent. Also, almost 20 percent of Slovak citizens regularly watch Czech and Hungarian TV stations.

Despite its steady long-term ratings decline, the first channel of public Slovak Radio continues to be the most-listened-to radio station, followed by a handful of strong private radio stations (Radio Expres, Radio Okey, Fun Radio, Radio Twist, and Radio FM, a commercial channel of Slovak Radio). Besides Slovak Radio and 8 nationwide licensed radio stations, Slovakia has 10 regional and 7 local broadcasters who are struggling with long-term financial problems.

The greatest share of advertising revenue is still consumed by TV stations; however, thanks to substantial growth in the advertising market in 2003, the portion claimed by print media has increased (at the expense of radio stations). Additionally, the people meters revealed that TV ratings in Slovakia are generally 10 percent lower than previous survey methods had shown, which means that further redistribution of advertising revenues in favor of print media may be expected. The dominant position of TV Markiza remained unchallenged; nevertheless, other television stations

experienced steady growth in advertising revenues, particularly the public Slovak Television.

Distribution of print periodicals to subscribers is controlled by the state-run Slovak Postal Service, while retail distribution is in the hands of private firms. The owner of the market's dominant company controls stakes in dozens of other firms directly or indirectly tied to the publication and distribution of print media and is also a majority owner of the second largest private nationwide television station—these overlapping affiliations may become a source of conflict in the future.

Slovak journalists, publishers, and private broadcasters have their own professional organizations, but their practical role is not apparent. The Slovak Syndicate of Journalists, the country's largest professional organization with a membership base of approximately three quarters of all Slovak journalists, is improving its structure in order to collectively bargain with publishers, government organs, and so on. Most Slovak publishers are members of the Association of Periodical Press Publishers (ZVPT), while private television and radio broadcasters are organized in the Association of Independent Radio and Television Stations (ANRTS). Regrettably, the Press Council, established jointly by the Slovak Syndicate of Journalists (SSN) and the ZVPT as the supreme agency for monitoring journalistic ethics and professionalism, is virtually inactive.

Access to the Internet is free in Slovakia, and the total number of Internet users grows each year. According to a survey conducted by Taylor Nelson Sofres in July 2004, almost one third of Slovak citizens over 15 know how to use the Internet and an additional 25 percent were familiar with e-mail. On the other hand, the survey suggested that more than half of the Slovak population over 15 is still unable to use computers. The growing number of Internet users in 2004 brought down the cost of connecting to the Internet. Also, the territory of Slovakia where broadband Internet connections are available is increasing constantly, helping to close the “digital gap” between residents of the capital, Bratislava, and the rest of Slovakia.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.25						

The Slovak Constitution and other applicable laws provide an adequate framework for self-governance at the regional and local levels. The Slovak Republic has a dual system of public administration—state administration (organs of executive power) and self-governments (elected bodies). There are three levels of elected bodies: central (the Parliament), regional (regional assemblies), and local (municipal councils). Public administration is based on the principle of

“subsidiarity,” or keeping public administration functions with smaller units when there is no major advantage in transferring them to bigger ones. In 2001, Slovakia launched public administration reform that seeks to transfer a number of executive powers from central state administration to regional and local self-governments.

In 2002 and 2003, ongoing reforms included reorganizing state administration organs at the district level (the lowest territorial units), introducing a network of specialized state administration bodies. In 2004, the transfer of power to regional and local self-governments was accompanied by fiscal decentralization aimed primarily at strengthening their financial stability. The establishment of state and self-governance institutions is subject to laws passed by the Parliament; however, local self-governments may initiate the creation of pro bono non-state organizations that focus on aiding local development (such as agencies, associations, funds, and the like).

In recent years (2000–2004), self-governments and NGOs have cooperated more in tackling local problems in particular regions and municipalities. Local self-governments are autonomous concerning matters within their authority but often turn for guidance to applicable ministries (especially education, health care, labor and social affairs, environment, construction, and regional development).

The Constitution and other relevant laws allow citizens to exercise their right to suffrage at the regional and local levels. Representatives of regional and local self-governments (deputies of municipal councils and regional assemblies, mayors of villages and towns, and regional governors) are elected in direct, free, and democratic competitions. The electoral system is open to representatives of political parties as well as independent individual candidates.

Elections to local and regional self-governments are held regularly (every four years) and are open to independent observers. Participating candidates and elected deputies represent a broad spectrum of opinions and political orientations. Political parties play an important role in elections to self-governance bodies; therefore, many citizens in regional and municipal elections support party candidates. Nevertheless, citizens do have an alternative—they can vote for independent candidates.

Various civil society players (particularly NGOs) strive to cooperate with elected representatives of local and regional self-governments to solve local problems. So far, this has had significantly mixed results. Although some towns and municipalities recently showed positive examples of working with NGOs, it would be premature to speak of systematic cooperation. Some mayors and deputies of self-governance bodies are beginning to take the initiative to involve the public in local issues by holding discussion forums, establishing expert task forces, and taking part in events organized by NGOs. But mostly these are personal initiatives by individuals, which reflect their own experience, level of professional expertise, and civic attitudes.

Current legislation allows individual citizens and their associations to exercise their civil rights and to influence local decision making. Over the past year, there have been no attempts to restrict the activities of citizens and their associations. In 2004, the Parliament amended the Law on the Municipal System of Government and the Law on Self-Governance of Higher Territorial Units, stipulating the direct participation of citizens in decision-making processes.

The degree of public involvement in regional and local politics is similar to that of participation in so-called big politics; in the case of women and ethnic minorities (especially Roma), the rate of participation is even higher than on the national level. Independent media at the national, regional, and local levels sufficiently cover the activities of self-governance bodies and the public's reaction. The media's efforts to expose existing problems are relatively successful in spurring self-governments into action; however, there have been cases when self-governance bodies reacted negatively to information and criticism published by the media.

Regional and local self-governments do not have the power to pass laws, which is the prerogative of the national legislative assembly; however, they do have the power to pass bylaws and regulations that apply exclusively to them. Should the need arise, self-governance bodies may turn to the courts to enforce their decisions; should the state administration unconstitutionally interfere with local matters, self-governments may appeal to the Constitutional Court. The law allows self-governments to form associations with other domestic and foreign self-governance institutions in order to assert their interests and tackle local problems.

One of the main objectives of the ongoing public administration reform is to loosen the government's centralized grip on the country's taxation system and public expenditures. In 2004, the Parliament adopted a series of laws designed to regulate the process of fiscal decentralization. According to this law, local and regional self-governments will not receive state budget subsidies to perform their duties and powers, as was previously the case, but will be financed from tax revenues (individual income tax and local taxes). According to preliminary calculations, 70.3 percent of total individual income tax revenues should be allocated to municipal budgets, 23.5 percent should end up in budgets of regional self-governments, and 6.2 percent should be designated for the central government's reserve. The tax rate is set by the central government, but authority over budgetary planning and spending rests ultimately with self-governments. The possibility of political pressure from the central government is quite limited. More important are the agreements among political parties represented on local decision-making bodies, which significantly impact the budgetary management of local self-governments.

Self-governance bodies determine the number of employees and their salaries in line with binding rules for public sector remuneration. Generally

speaking, self-governments have adequate funds to fulfill their duties and provide proper services to citizens.

Self-governments are subject to internal as well as external supervision. In 2004, the Parliament passed an amendment to the Law on the Municipal System of Government that introduces uniform and legally binding control mechanisms and regulates the role of supervisory agencies. Internal supervision is performed by the chief supervisor (a mandatory post for all self-governments), who is elected by the local or regional representation for a period of six years, which is longer than the elected representation's four-year term. External supervision of local economic management is performed by the NKU, whose position was strengthened in 2004 by an amendment that extended its powers over local spending of EU funds.

Meetings of local and regional self-governance bodies are open to the public and are held regularly; the results of their deliberations are posted on specially designed public notice boards, via the media, and increasingly on the Internet. To obtain information about self-governance bodies, the media and individual citizens may invoke the Law on Free Access to Information. The media consider the act of informing the public about local policy issues just as important as their coverage of so-called big (national) politics. In 2004, there were no documented cases of journalist intimidation for reporting on self-government activities.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
4.00	4.00	2.50	2.25	2.00	2.00	2.00	2.00

The Slovak Constitution and laws, including the Bill of Fundamental Rights and Freedoms, provide a sufficient framework for the protection of human rights. The implementation and exercise of political rights is regulated by the Law on Political Parties, the various election laws (to the Parliament and to regional and local self-governments), and the Law on Presidential Elections. A number of other laws help co-create the domestic system of human rights. In 2002, the Parliament elected the first public defender of human rights (ombudsman) in the country's history. Citizens can turn to the Constitutional Court, which accepts complaints regarding violations of human rights and also issues verdicts.

While pursuing their activities, state agencies and NGOs respect citizens' political, civil, and human rights. When there's doubt about the state's compliance, its activities are investigated by applicable law enforcement agencies (the police, prosecution, and courts of law), which attracts the attention of independent media and the general public. In 2004, the police continued their investigation into a 2003 scandal involving unauthorized wiretapping

of journalists by employees of the SIS, Slovakia's secret service. In 2004, Slovak citizens filed complaints to the European Court of Human Rights against alleged violations by various state institutions. Most frequently, these involved procrastination in judicial proceedings that violated citizens' constitutional right to judicial protection, particularly the right to a lawsuit without unnecessary delays.

The Slovak Constitutional Court is the constitutionality watchdog, and its verdicts are legally binding. The right to appeal to the court regarding the possible unconstitutionality of laws, government regulations, and other legal rules applied by the public administration rests with parliamentary deputies (at least 30 required to appeal), the president, the cabinet, courts of justice, and the general attorney; in certain cases, self-governments also enjoy this right. In 2004, there were no attempts to mount administrative or political pressure on the Constitutional Court in order to influence its deliberations or verdicts.

The Slovak Constitution guarantees equality before the law to all Slovak citizens regardless of their sex, race, complexion, language, religion, political preference, nationality or ethnicity, property status, or other categories. By joining the EU in May 2004, the Slovak Republic undertook all related human rights obligations, including enforcement of equal treatment principles. To comply with European Council Guideline No. 2000/43, the Parliament in May 2004 passed the Law on Equal Treatment and Protection Against Discrimination, also known as the antidiscrimination act. The law stipulates the principles of equal treatment and the legal protections in case of violations. It introduced definitions of direct and indirect discrimination, harassment, instruction to discriminate and encouragement to discriminate, and unjustified sanction. At the same time, the law allows for affirmative action with respect to certain groups (especially Roma).

At the beginning of 2004, after several years of intense work by the recodification commission, the justice minister submitted to the Parliament brand-new proposals for the penal code and the code of penal procedure. The Parliament approved the drafts in June 2004 after the first reading and is expected to approve both bills in 2005.

The proposed draft of the new penal code introduces more precise definitions for most criminal offenses. Also, in order to reflect the changes in Slovakia's societal and legal system over the past 15 years, the new penal code seeks to introduce a new categorization for criminal offenses. According to the proposed classification, the most serious and socially dangerous crimes should be considered those against life and health, followed by crimes against freedom, human dignity, family, and youth; the third category includes property and economic crimes, while crimes against the government dropped from the top to the bottom. The proposal authorizes alternative punishment for less serious criminal offenses and lowers the age limit for

criminal prosecution to 14 years. It also introduces a new criminal-law institution pertaining to legal entities.

The proposed draft of the new code of penal procedure seeks to introduce systemic changes to criminal procedures, strengthening the accusation principle during court proceedings, which means that the burden of proof would rest with the complainant. It also introduces a pretrial judge who will decide on individuals' fundamental freedoms (such as custody, strip search, and house search). The Slovak legal system guarantees the presumption of innocence until courts issue their final verdicts.

The Slovak Constitution guarantees citizens the right to legal protection. The state is obliged to provide a defender for every person facing criminal prosecution if the accused person cannot afford one. Investigation of criminal offenses in Slovakia is conducted under a prosecutor's supervision. An accused person can be detained and arrested only if a judge has issued a written warrant. A judge must hear the arrested person's plea within 48 hours of detention and subsequently either order the person into custody or set him or her free. International conventions and other legal acts banning torture and maltreatment form an integral part of Slovakia's legal system.

The Slovak Republic has a three-level judicial system: the Supreme Court, 8 regional courts, and 45 district courts. (In 2004, the Parliament passed a new Law on Headquarters and Jurisdiction of Courts of Law in Slovakia, which reduced the total number of district courts from 55 to 45.) The judicial system is administered jointly by the president, the Parliament, the Ministry of Justice, the Judicial Council, and the Supreme Court. The president appoints judges acting on proposals from the Judicial Council, which is the principal organ of self-governance within the judiciary. Chairmen and vice chairmen of particular courts are appointed by the Ministry of Justice.

Candidates for judge must meet the following formal requirements: Slovak citizenship, minimum age of 30, civic probity, proper legal education, three years of justice candidacy, and successful completion of a judicial examination. Professional training of would-be judges (candidate justices) is administered by the Ministry of Justice. Following their appointment, all judges must complete a four-year educational program. At the end of 2004, the Parliament was expected to pass a bill on law courts that seeks to introduce a new scheme for the judiciary's organization and supervision, provide a new model for its economic and administrative management, and separate court adjudication and administration.

International monitors have confirmed that the Slovak judiciary is independent to a satisfactory degree. However, the public's sense of legal safety continued to be impaired by the courts' inefficiency, which is reduced by an overwhelming and slow-moving backlog of cases. The situation might improve in the foreseeable future with an amendment to the Civic Court Code, which regulates citizen behavior in courts and a new Law on Mediation, both of

which were passed in 2004. The former allows for expediting judicial proceedings during the pretrial stage. The latter introduces a mechanism for the extrajudicial settlement of litigation in the fields of civil, commercial, labor, and family law. If the new mechanism is applied properly, part of the courts' agenda may be transferred to mediators.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	3.75	3.75	3.25	3.25	3.25	3.00

Corruption remains one of the most critical problems in Slovakia's overall post-Communist transformation. It has two basic dimensions, institutional and noninstitutional. While the first dimension concerns legislative, executive, judicial, and political party actors and positive changes are faster and more visible, the second involves the general public's deeply rooted behavior, views, customs, experience, and cultural stereotypes and thus requires more time to effect eventual positive change.

The issue of combating corruption is a primary focus of media, political parties, and NGOs. For several years, the cabinet and government agencies have been trying to implement legislative and administrative measures to reduce the opportunities for corruption. The current administration's program manifesto adopted in November 2002 pointed out the inevitability of combating corruption and included provisions from the *Anticorruption Minimum*, a document elaborated by Transparency International Slovakia (TIS). First, the administration's manifesto implements systemic reform measures in particular areas of the public sector (for instance, judiciary, public administration, public finance, social security system, and health service). Second, the manifesto pursues legislative, executive, and administrative measures designed to combat corruption.

In 2003, the Slovak government established a specialized Department of Combating Corruption headed by Jan Hrubala, a former judge and respected civic activist. In the same year, the authority for combating corruption was transferred to the minister of justice. In line with its manifesto, the incumbent administration established the Special Court of Justice and Special Prosecutor's Department, both of which focus on combating corruption.

In 2004, the Parliament approved several bills; one constitutional bill in particular concerned conflicts of interest. Other regular bills sought to introduce the principle of zero tolerance for corruption among notaries and marshals, compulsory disclosure for customs officers, protection of whistle-blowers in the workplace, protection of witnesses, and the post of controller in bodies of local and regional self-governance. Last but not least, the discussed bills sought to make public procurement procedures more

transparent. Unfortunately, the implementation of anticorruption measures often meets obstacles ranging from red tape to open resistance from public administration agencies.

TIS warned in October 2004 that the government was falling behind in the schedule to implement its anticorruption program, particularly in curbing deputy immunity, and that not all ministries were vigorously combating corruption. Among the positive examples cited by TIS were the Ministries of Justice, Labor, Social Affairs, and Family. According to the Corruption Perceptions Index published annually by Transparency International, in 2004 Slovakia ranked 57th with an index of 4.0.

Slovakia's privatization has considerably reduced the government's involvement in the national economy and the space for corrupt behavior from state officials. More than 90 percent of Slovakia's GDP is now produced by the private sector. The government did retain certain investments in so-called strategic enterprises (natural monopolies); however, these stakes continue to diminish as privatization continues.

In recent years, Slovakia has adopted a number of measures to reduce bureaucratic corruption in various areas (for instance, enterprise, real estate, government public procurement orders, and so on) and to increase transparency of public authorities. However, corruption continues to be relatively large owing to the persistent centrality of the public administration and the subjective decision-making processes of officials and clerks.

In May 2004, the Parliament approved a constitutional Law on Conflicts of Interest, which bans the president, members of the cabinet, justices of the Constitutional Court, and other supreme state officials from pursuing any business activities, receiving pay for brokering deals between the government and private entities or corporations, or receiving income generated by either a side job or a contracted business relation that exceeds the minimum wage. The civil and public service laws precisely circumscribe the process for selecting, appointing, supervising, and remunerating civil servants and invested the category of civil servant with special financial and executive powers that carry stricter rules.

Also, the new Law on Conflicts of Interest introduced so-called post-employment restrictions that ban ex-civil servants from being employed by legal entities that either received state assistance based on the civil servant's decisions or participated in public procurement for the agency where the civil servant worked. The ban lasts for two years after the individual leaves the civil service. In addition, the new law also states that public officials who commit major violations of the law may lose their posts.

The Law on Public Procurement stipulates conditions for holding public tenders to supply goods and services to the state administration. Information on public tenders and their results must be published in official gazettes that are publicly available. According to the Public Procurement Authority (UVO),

there are still too many cases where government bodies have organized public procurement without holding proper public tenders while using “softening” provisions of the Law on Public Procurement (particularly the so-called time pressure provision). According to UVO, only one in three (33.5 percent) of all public procurement contracts in 2004 was awarded after a proper public tender had been held. In 3 percent of all cases in which the authorities used restricted tenders, 1 percent of contracts were decided in negotiations with prior notification, and almost two in three contracts (62.5 percent) were decided in negotiations without prior notification.

In 2003, Slovak law enforcement prosecuted 147 persons for corruption-related criminal offenses; 49 of them have been convicted. In the first half of 2004, 134 persons were prosecuted and 29 convicted. Persons investigated in 2004 for suspicion of corrupt practices included representatives (or members) of the ruling SDKU and KDH political parties as well as the opposition HZDS; however, there were no documented cases of suspects or accused persons receiving special treatment based on their party affiliation. Likewise, there is little evidence that investigations of corruption are politically motivated.

All institutions financed from public funds are subject to the supervisory authority of the NKU. Although top officials of the NKU are elected by the Parliament, this agency is fully independent from any political pressure when exercising its powers and performing its duties. Its findings are made public via all types of media, including the Internet, and often become the focus of vivid public debate. In 2004, there were no attempts to restrict the activities of the NKU or question its findings.

In 2004, the Parliament amended the labor code, strengthening protections for persons who inform about corrupt practices in the workplace (so-called whistle-blowers). Slovakia has a number of independent NGOs that are very active in fighting corruption and promoting transparency and accountability in public life (for instance, TIS, Alliance for Transparency and Corruption Combat, Alliance to Stop Conflicts of Interest, and Fair Play Alliance). There have been no attempts by the state or private individuals to hinder the activities of these groups or intimidate their activists. The police encourage citizens with information on corrupt civil servants or a personal experience of corruption to participate in exposing concrete cases. The institution of protected witness offers a certain guarantee against intimidation or harm to those who help expose corruption and organized crime.

The Slovak media freely and openly inform the public about corruption cases and suspicions of corrupt practices. The daily press, as well as private and public electronic media, publishes dozens of news stories and analyses focusing on the issue of corruption and clientelism in public life. In the course of 2004, Slovak media presented extensive coverage of corruption scandals—and allegations of corruption—involving public figures.

The Slovak population perceives corruption as an extremely serious problem. According to a survey conducted by the independent FOCUS polling agency, corruption ranked fourth on the list of the most pressing social problems, trailing only standard of living, unemployment, and health care. The share of citizens who spontaneously cited corruption as the most pressing problem decreased from 24 percent in 2003 to 18 percent in 2004, which might be the result of successful anticorruption measures. On the other hand, a significant share of the Slovak population is critical of the government's efforts; as much as 60 percent of Slovak citizens believe that the incumbent administration is not interested in tackling the problem.

Public opinion polls conducted by FOCUS indicate that Slovak citizens perceive corruption as being widespread especially in health care services, judiciary, police, ministries, police, customs offices, schools, private firms, and tax offices. According to Slovak citizens, the most rampant form of corruption in Slovakia is giving and accepting bribes (according to 58 percent of citizens), nepotism (55 percent), clientelism (50 percent), and giving and accepting gifts (42 percent).

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Slovenia

<i>Capital</i>	Ljubljana
<i>Population</i>	2,000,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$18,540
<i>Private sector as % of GDP</i>	65%
<i>Ethnic groups</i>	Slovene (88 percent), Croat (3 percent), Serb (2 percent), Bosniak (1 percent), other (6 percent)

Nations in Transit Ratings and Averaged Scores								
	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	2.00	2.00	2.00	1.75	1.75	1.50	1.50	1.50
Civil Society	2.00	2.00	1.75	1.75	1.50	1.50	1.50	1.75
Independent Media	1.75	1.75	1.75	1.75	1.75	1.75	1.75	1.50
Governance	2.50	2.50	2.25	2.50	2.25	2.25	2.00	n/a
National Democratic Governance	n/a	2.00						
Local Democratic Governance	n/a	1.50						
Judicial Framework and Independence*	1.75	1.50	1.50	1.50	1.75	1.75	1.75	1.50
Corruption	n/a	n/a	2.00	2.00	2.00	2.00	2.00	2.00
Democracy Score	2.00	1.95	1.88	1.88	1.83	1.79	1.75	1.68

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

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EXECUTIVE SUMMARY

Slovenia became independent in June 1991. Together with Croatia, it was the first former Yugoslavian state to be recognized by the international community—the European Community recognized both in January 1992. Since independence, Slovenia has made steady progress toward market liberalization and democratic consolidation. In 2004, Slovenia became a member of the Euro-Atlantic community by joining NATO and the European Union (EU). Slovenia’s transition is now part of a much broader debate about the future direction and structure of the EU.

Today, Slovenia’s democracy is vibrant, functional, and competitive. Like previous years, 2004 was marked by successes as well as setbacks. In June, voters for the first time elected EU parliamentarians and only four months later ousted the incumbent government in the national parliamentary elections. Both elections were free and fair. The Slovene Syndicate of Journalists called a five-day strike on October 3, requesting the passing of the national collective employment criteria for journalists. In 2004, Slovenia held one controversial referendum, greatly criticized in the foreign press, on the rights of the so-called erased citizens. The “erased” are individuals who remain living in Slovenia without citizenship rights or papers. Thirteen reported corruption scandals erupted in the private sector, most involving the transfer of money into illegal funds or scams. For the most part, legal reforms continue in Slovenia.

National Democratic Governance. Slovene governance is divided into judicial, electoral, and legislative branches. Each is separate and independent, with the legislative exercising oversight over the executive. The judicial branch is fully independent and the final decision maker in this triad. The public has access to the legislative branch at the local and regional levels. Slovenia’s military and intelligence agencies are under comprehensive civilian control and function transparently. Access to public information is protected by law and is facilitated by the commissioner for public information. Throughout 2004, the Liberal Democracy of Slovenia (LDS), led by Prime Minister Anton Rop, held a comfortable majority in the Parliament. The opposition in 2004 was led by Janez Jansa’s Slovene Democratic Party (SDS) and won the October 2004 parliamentary election, taking over the government. *For these reasons, Slovenia’s new national democratic governance rating is set at 2.00.*

Electoral Process. The electoral process in Slovenia is stable, mature, and self-sufficient. The 2004 elections proved that Slovenia is a highly competitive democracy, with a capacity to hold fair and free elections. There was a slight drop in voter turnout in the national election compared with the 2000 election. Only 28 percent of voters participated in the EU parliamentary election. This perhaps raises a question as to the quality and quantity of public participation in the country's political process, but the numbers are in line with EU electoral averages. Slovenia experienced a change in government in 2004, with the LDS losing the national parliamentary election to the SDS. *Slovenia's electoral process rating remains at 1.50.*

Civil Society. Civil society in Slovenia still faces challenges in assuming a fully active role in strengthening democracy and influencing state policies and legislation. The nation still lacks a legal definition for nongovernmental organization (NGO); consequently, the legislation does not specify provisions on the participation of NGOs in preelection campaigning. Political parties have free rein in this matter, and political leaders can effectively use legislation for political campaigning. This happened in the run-up to the 2004 election. Thus, the former president of Slovenia became the president of Forum 21, a society that on paper was established for the promotion of political, social, economic, cultural, and ethical issues but in practice supported campaign bids of the LDS and the United List of Social Democrats. Leaders of the SDS, New Slovenia–Christian People's Party, and Slovene People's Party formed the Committee for the Republic, a civil initiative that served as an election platform for right-wing parties. *Slovenia's civil society rating worsens from 1.50 to 1.75 owing to the invasion of civil space by political parties in 2004. Political leaders assumed civil initiatives and through them promoted political programs. The question of the right to form political/civil associations has become highly politicized.*

Independent Media. While there were no significant changes in print or broadcast media—audiences remained loyal to their preferred choices, for the most part—a significant improvement was made in the area of Internet coverage. New laws and initiatives are increasing public access to the Internet by making it cheaper and more accessible, and this is also increasing public exposure to information. Worth mentioning is the new e-Government portal offering citizens direct communication links to top decision makers. *Slovenia's independent media rating improves from 1.75 to 1.50 owing to significant improvements in 2004 in terms of access to the Internet, while all other areas remained largely unchanged.*

Local Democratic Governance. The implementation of self-government in Slovenia is a complex political, legal, and as of yet unfinished process. But

in 2004, democratic principles were recognized publicly and politically, and meaningful participation in local government decision making was ensured. Representation of the Roma minority and voting rights of resident aliens are integral parts of local governance and an example of local representation where there is none at the state level. The participation and representation of women at the local level were not questioned in 2004, and no civil initiative raised these issues as being problematic. *Slovenia's new local democratic governance rating is set at 1.50 owing to the established organizational structure, which generally provides for free and autonomous exercise of power for local authorities, although municipalities are not yet financially independent.*

Judicial Framework and Independence. Slovenia's Constitution provides for absolute equality before the law. Human rights and fundamental freedoms are exercised directly on the basis of the Constitution. In 2004, problems of intolerance in Slovene society emerged. One was resolved positively. On July 12, Slovenia's Constitutional Court vetoed a proposed referendum to block construction of the country's first mosque. The court found that the Slovene people do not have the right to overturn basic human freedoms, arguing that these override citizens' democratic wishes. *Slovenia's judicial framework and independence rating improves from 1.75 to 1.50 owing to the progress made to protect religious, community, and minority rights.*

Corruption. The Slovene public is highly critical of corruption, which was also a major campaign theme in the 2004 parliamentary election. Many political figures used the corruption of top officials as a way to win votes. New anticorruption measures were introduced in 2004, such as the Administrative Council, which is aimed at helping to ensure a new degree of professionalism in the civil sector. Also, progress was made on the adoption of a national strategy against corruption. The state bureaucracy remains vast and red tape excessive. It takes some 61 days to set up a company in Slovenia; this is above the EU average and far above Serbia's average of only 5 days. *Slovenia's corruption rating remains at 2.00.*

Outlook for 2005. The newly elected center-right government will emphasize tax cuts and foreign direct investment. Prime Minister Janez Jansa made an electoral promise that his government will curtail corruption in the administrative sector; this means the focus in 2005 is likely to be on administrative reform, particularly on increasing transparency in the public sector. The question of the "erased citizens" will probably be an issue at some point in 2005, but no breakthrough decision is expected. The government looks poised to change the rules governing the national broadcast station, RTV Slovenia. Minority issues will not be on the 2005 agenda of political priorities. In the judicial sector, the reform of the land registry will most probably be

completed in 2005. The government could decide to scrap the Commission for the Prevention of Corruption in 2005. No electoral reforms are likely, nor is it likely that Slovenia will experience a change in government in 2005. The two quasi civil society groups—Forum 21 and the Committee for the Republic—will remain outside of official politics, but their status will probably remain undefined.

Slovenia's relationship with Croatia is poised to improve under the new government, as sincere and systematic efforts are being made by Prime Minister Jansa and his Croatian counterpart to sign a memorandum aimed at avoiding border incidents such as overstepping territorial waters when fishing.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	2.00						

Slovenia is a parliamentary democracy, with power divided among the legislative, executive, and judiciary branches. As part of the executive, the president of the republic has limited decision-making powers, with the exception of the role of supreme commander in times of war. President Janez Drnovsek was publicly elected and sworn into office on December 22, 2002. The Prime Minister of Slovenia is Janez Jansa, also leader of the Slovene Democratic Party (SDS), which won the October 2004 parliamentary election. Former governing party, the Liberal Democracy of Slovenia (LDS), is in the process of transformation following defeat at polls last October.

The president and Parliament are elected in free and fair elections. The president, elected for a five-year term, is ultimately responsible to the judiciary and the voting public. The government is answerable to the Parliament, which has the power to dissolve the government and is elected every four years.

The Constitutional Court protects the Constitution and decides on the constitutionality of laws. Citizens have access to local and regional party representatives as well as the government through media channels and e-Government, a new Web portal. Citizens participate directly in decision making through referendums. In 2004, a referendum was held on the technical law defining the so-called erased citizens, discussed in the civil society section. Other forms of direct public participation are limited.

The right to access public information is declared in Article 39 of the Constitution of the Republic of Slovenia. The Law on Access to Public Sector

Information was one of the first important steps toward creating a regulatory framework for this constitutional freedom, and the commissioner for public information was established in 2003 to facilitate information access by Slovene citizens.

The economy of Slovenia is free of excessive government regulations. As a market economy, it functions according to the principles of free trade, private ownership, and supply and demand, with the value of goods and services determined by the market. Publicly owned equities are freely and openly traded on the Ljubljana Stock Exchange. The government is still partial or majority owner of some companies, mostly in energy, telecommunications, and the steel business.

There is an absolute consensus among political groups and citizens on democracy as the basis of the country's political system. There are some dissenting opinions among those hit hardest by privatization and modernization schemes; however, their impact is negligible. The stability of the government is ensured through peaceful and democratic means and protected by a system of comprehensive checks and balances.

Citizens recognize the legitimacy of the government at all levels. The government exercises full control over Slovene territory and is responsible for enforcing the rule of law. Slovenia has open border issues with Croatia, which frustrates relations between the two countries. For example, the infamous Slovene-Croatian border dispute in the Bay of Piran featured prominently in the 2004 parliamentary election by stirring nationalist and populist sentiments. One of the party candidates, Janez Podobnik, now the new minister of the environment, started a scuffle with the Croatian police on the Slovene-Croatian border. Former prime minister Anton Rop quickly followed with a stunt of his own, jumping on top of a fishing boat—the symbol of the dispute—and declaring that Slovenia would no longer help Croatia in its bid for accession to the European Union (EU).

The Slovenia-Croatia relationship remains highly sensational and ripe for politicization. Such political opportunism is shortsighted given the actual border problems, but it is also inconsistent with the interests of Slovenia as an EU member and a country concerned with maintaining stability in the wider Balkan region. From the perspective of this particular issue, neither the electorate nor the electoral process matured much in 2004.

Slovenia is modernizing its military according to NATO standards. It faces no territorial threat—that is, on the magnitude of a military invasion—from another nation-state. It has mostly good and cooperative relations with all its neighbors, and with Croatia's anticipated entry into the Euro-Atlantic community, Slovenia will share borders with only NATO and EU members. The principal sources of instability come from so-called asymmetric threats: natural disasters, organized crime, cross-border trafficking, terrorism, and other activities by nonstate actors.

The biggest security threats in 2004 were natural disasters, such as fires and moderate earthquakes. There were a few explicit incidents of hooliganism and a number of trafficking and smuggling cases, underscoring the presence of organized crime. Slovenia is working closely with EU and NATO partners to establish an effective border-monitoring mechanism. However, cross-border cooperation with Croatia is insufficient; even less was accomplished in 2004 in promoting a proactive regional approach to curb organized crime and trafficking in the Balkans. More could be done to protect the homeland against nonstate actors, such as organized crime, that undermine stability by eroding security and democracy.

In 2004, Slovene troops were deployed to Afghanistan to take part in International Security Assistance Force operations. A new contingent of military police was sent to Kosovo in October 2004, making it the second largest deployment of Slovene troops outside of Slovenia. The country also joined the EU Althea deployment in Bosnia-Herzegovina; Slovenian troops in Bosnia constitute the largest deployment outside Slovenia. The 72nd Brigade of the Slovene military is highly specialized, where units are either task or area oriented. The 132nd Mountain Battalion is specialized for high-altitude warfare and battle in mountainous conditions, including special operations; this force was not used in 2004. Slovenia also has a military unit for radiological, chemical, and biological defense; this unit, too, was not used in 2004. Iraq remained a highly divisive issue at both government and academic levels. There was widespread disapproval with the prospect of sending troops to Iraq, and no explicit government efforts were made to advocate involvement.

According to law, the Slovene government cannot adopt policy without consent of the Parliament. However, incumbent governments usually also preside over the majority of the Parliament, which makes it easier to transform the Parliament into a rubber-stamping body. In 2004, the outgoing LDS-led government had a comfortable majority in the Parliament, which made the SDS-led opposition rather weak and ineffective in advancing its agendas. Scenarios where the sitting government also carries a majority in the Parliament are not uncommon in parliamentary democracies, though such an arrangement can undermine the separation of powers.

Citizens and media have access to legislators as well as the government. Government officials grant media interviews and hold press conferences on a regular basis. For example, the minister of foreign affairs of Slovenia offered 32 public statements in December alone. Government Web sites are easily accessible, though perhaps not user-friendly. The public has access to local party offices, but not necessarily a direct link to parliamentarians.

The powers of the ombudsman are extensive. "The ombudsman can inspect all public bodies and can propose disciplinary measures against civil servants," notes an EU Commission report. At the same time, decisions

of the public administration can be challenged in the administrative and general jurisdiction courts. The ombudsman serves a term of six years and is independent and impartial.

The executive branch is better staffed than the legislative, with adequate resources to conduct effective policy. For example, the government allocated special funds for Slovenia's role as the 2005 chairman in office of the Organization for Security and Cooperation in Europe. Public forums are sometimes organized by the government, where experts and citizens meet with decision makers to discuss policy. The Office of the President of the Republic organized three such forums in 2004, integrating experts and other elements of public participation into the discussion.

The Law on Civil Servants, adopted in 2002 and put in force in June 2003, calls for cuts in the number of government offices and ministerial bodies. The law is aimed at professionalizing public administration by reducing the number of political appointees. A number of decrees implementing the law were adopted in June 2003—one of them creates a uniform system of posts in different government bodies by setting up a 16-level career structure, specifying the titles of civil servants and the work experience required for each. A 12-member Administrative Council established in May 2003 is responsible for overseeing the politically unbiased selection of senior civil servants.

Decisions made by the executive branch generally represent societal preferences. For example, the two main government programs of the last decade, EU and NATO membership, received overwhelming public support in the national referendum held in March 2003. In 2004, the executive branch was particularly sensitive to public opinion on Iraq, which kept Slovenia from participating in military operations in that country.

Slovenia's military has comprehensive civilian oversight at both vertical and horizontal levels. The military is headed by a civilian defense minister, and military officers are prohibited from participating in party politics. Additionally, the Parliament sets the military and security policy of the country, approves the budget, and assigns ad hoc parliamentary inquiries. The military budget and policy are transparent.

These provisions are stated in the Law on Defense, which outlines the type, organization, and scope of national defense. There are also horizontal controls on the military in place in Slovenia, including mass media, nongovernmental organizations (NGOs), external research institutes, national ombudsmen, and other interest groups. Because all these entities have an interest in a functional military, they tend to participate actively in shaping security and military priorities through public debate. There is also a comprehensive nongovernmental security community in Slovenia made up of military and security experts who serve as advisers to political parties and help facilitate and strengthen public oversight of the military structure.

The Slovene Intelligence Agency is overseen by the government, the Parliamentary Oversight Commission, the relevant district court, the ombudsman, the court of audits, the Budget Supervision Office, and the public. Apart from external oversight, the agency also has internal regulatory bodies.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
2.00	2.00	2.00	1.75	1.75	1.50	1.50	1.50

Slovenia is a functioning parliamentary democracy with a highly competitive electoral process based on universal and equal suffrage. The EU parliamentary election, with Slovene candidates competing for seven seats, was held in June 2004, and the Slovene national parliamentary election was held in October 2004. No major irregularities were reported in either election.

The national parliamentary election this year resulted in a major shift from the traditional Left to the center Right. Not only were some 15 parties competing for seats in the Parliament, but it was also the first time since Slovenia's independence that the LDS did not win the highest number of seats. It was a highly competitive election and widely televised. The two main parties—the LDS and the SDS—held campaign events across the country, visiting every major city. At the same time, Slovene democracy was able to withstand a major change in power, and an entirely new team was put into office; with the exception of the Foreign Minister who has served in previous governments. This was achieved in a fully controlled and transparent manner.

The calm transfer of power from the center Left to the center Right may also reflect the fact that the two are relatively aligned on many issues, such as main foreign policy priorities, economic development, law, order, and private property protection. The lack of glaring distinctions in the parties' programs was evident during the campaign, as accusations were often directed at individual candidates, not party programs. For this reason, corruption played a big role in the 2004 elections, with the opposition accusing the incumbents of corrupt practices. Voters overwhelmingly backed the opposition, giving the SDS a decisive victory over the LDS.

The SDS ran a competitive campaign with a clear electoral platform. As the largest opposition party, the SDS was well organized, thanks also to support from its sister parties in the EU Parliament. The SDS had a well-defined targeting strategy, focusing on groups most eager for change (even if some fell outside the traditional SDS core). The campaign message was thus fine-tuned to fit the needs of diverse groups, but generally those dissatisfied with the status quo. Five other parties won seats in the national Parliament.

Voter participation was 60.65 percent, which is high by European standards but lower than figures for the 2000 or 1996 election. This may have to do with the fact that the opposition was much more assertive in rallying its voters to turn out at the polls. Second, general public dissatisfaction with the situation in Slovenia probably also contributed to a relatively high voter turnout. However, the EU parliamentary elections held only months before may have caused a certain amount of “election fatigue.”

The electoral system in Slovenia is multiparty based. The newly elected Parliament seats seven political parties; its predecessor seated eight. Twenty parties and three independent candidates ran for the Parliament in the 2004 election.

Table 1. 2004 National Parliament Election Results

(Note: The top seven parties entered the national Parliament.)

LIST OF CANDIDATES	# OF VOTES	%
Slovene Democratic Party (SDS)	281,710	29.08
Liberal Democracy of Slovenia (LDS)	220,848	22.80
United List of Social Democrats (ZLSD)	98,527	10.17
New Slovenia–Christian People’s Party (NSi)	88,073	9.09
Slovene People’s Party (SLS)	66,032	6.82
Slovene National Party (SNS)	60,750	6.27
Democratic Party of Slovene Pensioners (DeSUS)	39,150	4.04
Active Slovenia (AS)	28,767	2.97
Slovenia Is Ours (SIN)	25,343	2.62
Youth Party of Slovenia (SMS)	20,174	2.08
June List (JL)	8,733	0.90
Green Party of Slovenia (Zeleni)	6,703	0.69
The List for Enterprising Slovenia	5,435	0.56
Women’s Voice of Slovenia, Association for Primorsko, Union of Independents of Slovenia, New Democracy of Slovenia (GZS) + (UIS) + (NSD)	5,229	0.54
Party of Ecological Movements (SEG)	3,991	0.41
Democratic Party of Slovenia (DS)	2,670	0.28
Party of The Slovene Nation (SSN)	2,574	0.27
The United for an Independent and Just Slovenia	1,496	0.50
Advance, Slovenia	995	0.10
Social and Liberal Party	713	0.07
Marko Breclj	523	0.05
Mihael Svanjak	191	0.02
Independent Candidate Stefan Hudobivnik	145	0.01

Source: Slovene National Parliament archives

Voter turnout was lower still in the European parliamentary elections (28.4 percent), which could be an indication of either low public interest in European political debate or the public's general confusion about the institutional and political elements of the EU.

Table 2. Vote Distribution of the 2004 Elections to the EU Parliament

PARTY	PERCENTAGE
NSi	23.57
LDS in DeSUS	21.91
SDS	17.65
ZLSD	14.15
SLS	8.41
SNS	5.02
SJN	4.11
SMS in ZELENI	2.30
GZS	1.20
SEG	0.59
NSD	0.46
SSN	0.32
DS	0.29

Source: Government of Slovenia archives

The New Slovenia–Christian People's Party (NSi) did surprisingly well in the EU parliamentary election, winning the same number of seats in the European Parliament as the LDS and the SDS. As the two largest parties at the national level, the LDS and the SDS have significantly higher membership and general appeal than the NSi. The Slovene National Party, which sits in the new national Parliament, has no EU parliamentarian. Only 5 of the 13 parties running in the EU parliamentary election won seats in the EU Parliament. The distribution was as follows: NSi, 2 seats; LDS and Democratic Party of Slovene Pensioners, 2 seats; SDS, 2 seats; and United List of Social Democrats (ZLSD), 1 seat.

Public knowledge of the EU is strikingly low, which makes voters behave somewhat paradoxically. Slovene voters have not adjusted to the new reality of living inside the EU, which is a hybrid structure of national and supranational elements and character. After half a year in the EU, Slovenes do not yet "feel European" which is neither surprising nor different from the attitudes of other new EU member states. Interestingly, the legislation adopted in the Slovene Parliament (outside the requirements under the *acquis communautaire*) is being drafted in Brussels; yet only around 28 percent of voters turned out for the EU parliamentary elections. There is a serious discrepancy evolving between the actual gravity and shift in power and voter preferences and loyalties. Not to mention that Slovenia has only 7 representatives in a 730-seat EU Parliament. This, of course, is an irrelevant

figure if voters find as much comfort in a German Liberal Democrat as in a Slovene one. The reality, however, is different. Voter affinities still follow national lines much more so than EU party lines.

Slovenia is divided into 7 electoral districts and 77 subdistricts. All political parties are subject to the same electoral laws. Limited state funding is available to all parties that won at least 1 percent of the vote in the previous national parliamentary election. Retroactive funding is also available, and each party's preelection expenses are reimbursed based on the overlap between the preelection prediction and the actual result. Such funding is problematic in the sense that it encourages conservative electoral estimates. Needless to say, conservative estimates are a poor motivator for undecided voters. Political parties are also funded privately. Complaints have been made about the transparency of private funding, but the only stated limit is that individuals (private or public) may not annually contribute more than 10 times the average monthly salary of a Slovene worker. Parties get their money from private donations, membership fees, and the government (provided they meet the 1 percent quota). There is a law that prohibits funding from abroad.

Media access is guaranteed to all parties by law. The political platforms of competing parties in the 2004 elections were printed in all major newspapers and were also frequently and adequately discussed on national and local TV and radio stations. Not only were parties given equal access to the media, but some—the daily *DELO*, for example—printed special editions introducing the major parties and their platforms. Public debates on both national and private radio and television stations were conducted in the general spirit of healthy party debate.

The 2004 election year was highly competitive. Campaign messages—such as billboards, TV ads, and radio spots—were visible and abundant, as were public debates broadcast live on local and national TV and radio stations. No irregularities were reported in registering new parties. Three new parties were formed in 2004: Active Slovenia, Slovenia Is Ours, and For Entrepreneurial Slovenia.

On the minority level, the Slovene Constitution guarantees national representation to Hungarian and Italian minorities, reserving one parliamentary seat for each. Only Hungarians and Italians are recognized minorities in Slovenia. It is possible that the Slovene Parliament will soon recognize Serbs, Croats, Bosnians, and Montenegrins as a linguistic minority. Roma are the only exception here, in that they are recognized as a national minority but have not been accorded parliamentary representation. They have representation at the local level.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
2.00	2.00	1.75	1.75	1.50	1.50	1.50	1.75

Civil society in Slovenia played a very important role in the process leading up to independence in the 1980s and during the establishment of democracy at the beginning of the 1990s. Once the democratic political space was formed and political parties were established, many civil society activists transformed into political leaders. Civil society today is struggling with a personnel deficit as well as the need to find a new role in the context of a strengthened democracy.

The 1991 Slovene Constitution defines the rights of assembly and association in its chapter on human rights and fundamental freedoms (Article 42). The rights to freedom of expression of thought, of speech, and of public appearance, to freedom of the press and of other forms of public communication and expression, are guaranteed under the Constitution. Citizens may freely collect, receive, and disseminate information and opinions. It must be noted that there is a constitutional prohibition against any incitement to national, racial, religious, or other discrimination, and it is thus unlawful to assemble or establish an NGO for such purposes.

There is no clear legal definition of “nongovernmental organization” in Slovenia. Slovenia’s legal framework allows trade unions, religious groups, and political parties to be included among NGOs. At the end of 2003 and throughout 2004, the Slovene Legal-Information Center for NGOs (LIC) made an effort to define the term *nongovernmental organization* on the basis of the definition offered by the European Commission and to separate it from the term *civil society organization*. The latter encompasses all forms of organization, including trade unions, cooperatives, and others.

Likewise, national legislation does not specify provisions for the participation of NGOs in preelection campaigning. Consequently, political parties have free rein, and political leaders can effectively use civil society frameworks and platforms for political campaigning. This happened in the run-up to the 2004 election. The former president of Slovenia thus became the president of Forum 21, a society that on paper was established for the promotion of political, social, economic, cultural, and ethical issues, but in practice supported campaign bids of the LDS and the ZLSD. Leaders of the SDS, the NSi, and the Slovene People’s Party formed the Committee for the Republic, a civil initiative that basically served as an election platform for right-wing parties.

The issue of the so-called erased citizens was the biggest test of government receptivity to civil initiatives in Slovenia in 2004. When Slovenia declared independence, 130,000 non-Slovene residents (from other republics of the former Yugoslavia) were given six months to apply for citizenship. Most completed the necessary paperwork and became Slovene citizens. But at least

18,000 did not register. Many were not well-informed or didn't know about the new legislation. As a result, 18,000 people were erased from registers.

"Erased citizens" are organized in the Association of the Erased Residents of Slovenia. They campaigned actively in 2004 through government and civil society channels to obtain legal status. After examining their plight, in 2003 the Constitutional Court ruled as unconstitutional several articles of the 1999 legislation regulating the legal status of citizens of the former Yugoslavia living in Slovenia.

As a consequence, in 2004 the Slovene government decided to solve the problem of the "erased" with two laws. The first is connected to the operative part of the ruling of the Constitutional Court, which speaks of enforcing the rights of individuals who had already received a permanent residence card on condition that they had actually lived in Slovenia all along. The second law deals with individual standards defining the circumstances of absence that constitute a break in actual living in the Republic of Slovenia. In addition, the second law determines further categories of eligibility for obtaining status that the Constitutional Court ruling does not cover.

The SDS filed an initiative for a prior legislative referendum against the second, so-called systemic law. The Parliament sent it for a ruling to the Constitutional Court because of lack of clarity and thus its possible anticonstitutionality. The Constitutional Court ruled on April 20, 2004, that such a referendum would indeed be unconstitutional; therefore, it was not held. Public reaction to the case of the "erased" is split yet is more strongly influenced by nationalist attitudes than empathy with this group's plight.

Though other civil society initiatives were less visible in 2004, the number of NGOs in Slovenia is rising. These cover different fields and activities, including sports, women's rights, social welfare, the environment, culture, fire brigades, and animal protection. Societies predominate; other forms make up only about 3 percent of civil society groups. According to the LIC, in Slovenia today there are some 18,000 societies, 125 foundations, and 250 private institutes. They differ in terms of registration process, membership, governing bodies, internal policy making, and operational structure. Not all are active. In addition, there are approximately 350 religious communities and 120 cooperatives.

The procedure for establishing an NGO is overtly bureaucratic but transparent. For example, the Institute for Strategic Studies, which began operations in 2004, waited almost a month for the court to decide on the name and approve the institute's statute. Three main laws regulate the establishment and operation of NGOs: the Law on Societies, the Law on Institutes, and the Law on Foundations. Although they may earn income, NGOs cannot be founded with the sole intention of turning a profit.

Societies, religious groups, public and private funds, and other organizations and institutes that are established for ecological, humanitarian, benevo-

lent, and other nonprofit purposes do not pay taxes on profit. Revenue from nonprofit activity for which it is not necessary to pay taxes includes donations, membership fees, whatever may be categorized as substantive rights and activities of the organization, gifts, and money received from public services. The law does not contain specific provisions governing foreign donations.

NGOs in Slovenia generate 44 percent of their funds through their own activities; 30 percent comes from donations and from national and local budgets; the remainder comes from other sources. The state contributes the majority of funds through project resources (60 percent), annual subsidies (30 percent), and long-term contracts (10 percent). Organizations with well-defined mission statements and clear goals tend to fund-raise more successfully. Such NGOs also have a better understanding of the importance of transparency and financial accountability. Most NGOs are funded through a single source.

There is no official data on the territorial distribution of NGOs; a good estimate is that there are more NGOs in urban areas, especially in the capital, Ljubljana. Because NGOs focus their work on their immediate surroundings, their outreach to rural areas is limited.

Slovene legislation provides clear guidelines for how NGOs are to be managed. In practice, only 1.7 percent of all societies have more than two employees on staff. The Nonprofit Legal Information Center for Nongovernmental Organizations acts as primary adviser to many NGOs on legal and practical issues, providing information on the benefits of group work planning, good management, and the most successful operational practices.

The Center for Information Service, Cooperation, and Development of NGOs (CNVOS) was established in 2002 as an interface between 27 Slovene NGOs and the government. In 2004, CNVOS activities were devoted to policy formulation and an agreement between the government and NGOs in Slovenia on improving conditions for NGO activities. Additionally, the CNVOS established the so-called Social Network to improve connectivity among NGOs in Slovenia. Important results were also achieved regarding the visibility and standing of the CNVOS within the NGO sector, the media, and certain government institutions. The CNVOS's role in formulating the content of the document "System Development Strategy for NGOs in Slovenia" is especially important. The strategy, when applied, should considerably improve public dialogue on different civil society issues.

Some NGOs are working together by sharing information through networks and project partnerships. Other umbrella organizations facilitated networking and coordinated activities for NGOs in 2004—most notably the Association of Slovene Societies, the Association of Slovene Foundations, the Network of Private Institutes, and youth centers such as The Institute for Promotion of Youth Mobility, SKUC, and KIBLA (these last two are the names of the organizations).

The government of Slovenia generally recognizes the comparative advantages of NGOs and their ability to develop innovative solutions through a participatory grassroots approach to problem solving. In the 2004 coalition treaty draft, the new government explicitly stated its determination to work with NGOs. Before entering parliamentary procedure, every bill must be consulted by competent NGOs representatives. While the most urgent needs of civil society will thus be addressed, it remains somewhat unclear how these consultations are to be enforced and monitored.

The Government Office for European Affairs (SVEZ) has coordinated the government's cooperation with the NGO sector since 2000. The objective is to support capacity building of the NGO sector, strengthen NGO networks, and promote partnerships and dialogue between the NGO sector and the government. Since joining the EU, the SVEZ operates in accordance with EU recommendations on NGO and government cooperation.

The education system in Slovenia is free of propaganda and political influence. A constitutional provision on the division of state and religion is applied in all public schools. In 2004, the government approved the establishment of a third university in Slovenia, in Koper.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
1.75	1.75	1.75	1.75	1.75	1.75	1.75	1.50

The media in Slovenia are free and independent. There were no major setbacks or developments in 2004, with the exception of the general strike by the Slovene Syndicate of Journalists during the national parliamentary election in October. The strikes were held to draw attention to the position of independent journalists and to urge the finalizing of national collective employment criteria for journalists. Freedom of the press is guaranteed by Article 39 of the Constitution, which secures the right to “collect, receive, and circulate information and opinions.”

However, journalists are bracing themselves for trouble once the new Law on Protection of Personal Data comes into effect in January 2005. This legislation prohibits media exposure of the names of individuals other than as shorthand (for instance, B.G. for Borut Grgic) or with prior consent. In the case of individuals under 18, no name can be mentioned.

Most print media—including *DELO*, the nation's main daily—are privately owned. Government ownership is more prominent among broadcast media. Even in this sector, there has been surprisingly little governmental interference. POP TV, TV Paprika, Gajba, and Kanal A are privately owned. RTV Slovenia (the state broadcaster) is the main broadcasting house in Slovenia, with both national and regional coverage. Of the above-mentioned

private enterprises, only POP TV is a serious competitor to RTV Slovenia in terms of viewers.

Access to public media is in no way restricted by law; likewise, reporting is generally not subject to interference from oversight bodies or owners. There were no serious infringements of media independence in 2004. In fact, the media were often vocal critics of the government and private interests.

Journalists are protected against excessive penalties such as long prison sentences or exorbitant fines for “irresponsible” journalism, under Article 39 (the Law on Access to Public Information). The codex for journalists clearly specifies their rights (and consequences if violations occur), while the 1999 amendment to the criminal code protects journalists from prosecution if their reporting helps to uncover irregularities.

However, Slovene journalism suffers from pockets of unprofessional reporting, and in general the media are not very competitive. This is perhaps less the fault of the media than evidence of an immature market. Slovene readers have media loyalties and typically subscribe rather than purchase their daily news at a newsstand. For example, 85 percent of *Dnevnik*'s readers are subscribers. They also show a preference for local newspapers, which distorts the demand at the national level.

In 2004, *DELO* was still the only serious national paper; *Slovenske Novice* features sensational “yellow” journalism. In September, *Primorske Novice* made the transition from a weekly to a daily paper.

Internet use is increasing in Slovenia, with cable companies and Telekom of Slovenia offering special Internet deals to students and broadband users. According to a statement made in 2004 by the Office of Public Relations and Media, “Internet is becoming a daily routine: 40 percent of the users use it on a daily basis, and a further 40 percent use it weekly. Internet access in households has shown dramatic growth in recent years, tripling from 15 percent in 1999 to 45 percent in 2003.”

A major step toward enhancing the flow of information has been liberalization in the information infrastructure. This has led to greater competition, cost reductions, and an increasingly diverse supply of information technology. A new Law on Electronic Communication, adopted in May 2004, is fully harmonized with EU legislation. Its purpose is to establish “effective competition in the electronic communications market, to ensure universal service, and to protect the rights of users.” The law governs electronic communications networks used wholly or chiefly to supply the public with electronic communications services.

The Ministry of Information Society is working on a number of initiatives to make the Internet available to the wider public. In cooperation with the Ministry of Culture, a network of multimedia centers and e-library projects was launched in 2004. The Ministry of Information Society has established

some projects enabling citizens to use the Internet in public spaces (for instance, a cybercafé network and the highly visible project “e-schools”).

Table 3. Percentage of Slovene Households with Internet Access at Home Compared with That of the European Union

YEAR	SLOVENE % OF HOUSEHOLDS	EU % OF HOUSEHOLDS
1999	15	28
2000	21	36
2001	24	38
2002	36	43
2003	45	49

Source: Internet Use in Slovenia (RIS); European Union 2003 estimate for Slovenia

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	1.50						

The principles of local self-government are enshrined in the Constitution of Slovenia and indicate that the country is determined to ensure common European standards and protections for the rights of local authorities as well as the efficient participation of citizens in decision making. In addition to the Constitution, the legal basis for the implementation of local self-government is stated in the 1994 Law on Local Self-Government, accompanied by the Law on Referendums for the Establishment of Municipalities, Law on the Establishment of Municipalities and Municipal Boundaries, Law on Local Elections, and Law on Financing of Municipalities, all enacted prior to 2004.

The only subnational level of government in Slovenia is local governance. According to the Constitution, municipalities may join and form provinces or other larger self-governing communities on the basis of a referendum. There are no examples of this to date. In order to receive EU funds for regional development, the government formulated a regional structure corresponding to a single region. Details for the “Slovenia as one region” scenario will likely be formulated after 2006.

The Law on Local Self-Government was adopted by the National Assembly on December 21, 1993, and has been amended eight times, the last in June 2002. These amendments included new regulations for the salaries of mayors, vice mayors, and city councilmen and a requirement that 20 towns ensure the representation of Roma on their city councils.

Municipal councillors and mayors are elected in free and fair elections every four years. The mayor represents the municipality and heads the local administration. Amendments to the Law on Local Elections were put into

force in 2002, allowing nearly 16,000 resident aliens to vote in towns where they were registered. They are also eligible to run for positions on city councils but are not eligible to run for mayor.

Representation of Roma and voting rights of resident aliens are integral parts of local governance, which ensures meaningful participation in local government decision making. The participation and representation of women at the local level were not questioned in 2004, nor were these issues mentioned as being problematic.

Local government implementation targets were recognized publicly and politically in 2004. These goals included facilitating a better quality of life for people in local communities, encouraging greater local participation in decision making through elections and local meetings, and proportionally developing all communities through the principles of subsidiary and decentralization. Other stated goals included improving the efficiency of local administrations, supporting local self-government—particularly the classic identity of the municipality—as the essential element of parliamentary democracy, and introducing regions. In all of these goals, the overarching aim was to achieve comparability with neighbors and other EU countries.

Nevertheless, the implementation of self-government targets is a complex political and legal process, as evidenced by the frequent amendments already made to local governance legislation. The division of powers between the national level and the local level was outlined in the 1993 Law on Local Self-Government, which reassigned to the national government various responsibilities previously administered by localities. Most important, the 1994 law abolished municipalities as so-called sociopolitical communities—as defined in the 1974 Constitution of Yugoslavia—functioning in the name of a state. Former communities were structured according to size, number of inhabitants, organization, and field of activity, a model hardly comparable to a classic European municipality. To a certain extent, the municipality was a state in and of itself, which meant that municipalities were too large to play their classic role and too small to play the role of first-level state administration or regional community. There were only 64 municipalities (communities) in Slovenia at the time of independence, as opposed to 193 today.

The 1993 Law on Local Self-Government defines only basic rules for municipal efficiency and municipal responsibility. The reforms pursued under the rubric of local self-government have several components:

The *functional* component deals with the redistribution of competencies between the state and municipalities as basic self-governing local communities. The implementation of the principles of subsidiary and decentralization are key elements. Important competencies of a municipality have already been defined by substantive acts that regulate individual spheres of social life, such as urban planning, roads, communal activities, public services, environmental protection, social welfare, culture, and sports.

The *territorial* component calls for the establishment of new municipalities. Until 2002, there were 192 municipalities, including 11 urban ones. One new municipality was registered in 2002, bringing the total to 193. Not all meet the legislative norm of 5,000 inhabitants.

Organization of powers in the municipality consists of several bodies and processes: the directly elected municipal council and the mayor, a supervisory board, and forums for direct participation of citizens in decision making. This organizational structure generally provides for the free and autonomous exercise of power by local authorities.

The *financial-material* components of local self-government enforce the proportionality of funds regarding the tasks of localities; solidarity with weaker municipalities in the case of development; and the right to own sources of local funding. Financial resources and capacities are generally provided to fulfill the responsibilities of local authorities. The Slovene government provides local communities with various forms of financial aid, such as general or special financial transfers or shared taxes (for instance, personal income tax). In numerous cases, state property was transferred to local communities, and the privatization of property gave local communities the necessary liquidity in many instances. Yet the fiscal independence of local communities is still merely a goal. According to the last report on Slovene local democracy issued by the Council of Europe, only 25 percent of municipalities are actually self-financed. Self-financing depends on the ability of specific municipalities to organize and perform legally defined tasks according to local resources and state financial aid. All the above-mentioned components of local government reform in Slovenia were pertinent in 2004 and will be in the near future as well.

In 2004, local authorities operated transparently and were accountable to citizens according to the Law on Financing of Municipalities. Local authorities were relatively free of domination by power groups. The media were free to investigate and report on local politics in Slovenia.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
1.75	1.50	1.50	1.50	1.75	1.75	1.75	1.50

The Constitution provides protections for fundamental political, civil, and human rights. Human rights are explicitly addressed in Sections II and III of the Constitution and include freedom of expression, conscience, religion, association, business and property rights, and others. Although there is a provision for the suspension of these rights in a state of emergency, certain rights, such as the inviolability of human life, may not be suspended.

A comprehensive, qualitative analysis on respect of human rights in Slovenia has not been undertaken. State and nongovernmental ac-

tors generally respect all fundamental political, civil, and human rights, although research by the Budapest-based Open Society in 2000 and 2001 shows some abuses of the right to equal protection (Article 22 of the Constitution) at the level of ordinary courts. Abuses refer mostly to lengthy judicial procedures.

The Constitution mandates an ombudsman for the protection of human rights and fundamental freedoms in matters involving state bodies, local government bodies, and statutory authorities. In 2004, the *Ombudsman's Ninth Annual Report* showed no systematic human rights violations in the country. From January 1 to December 31, 2003, 2,754 cases were opened by the ombudsman. Of those, 30.8 percent referred to courts and police procedures. A considerable number of complaints asserted unlawful or merely improper use of physical force or means of restraint by police. Also commonly cited were excessive police detentions. Nevertheless, complaints on police procedures were 8 percent lower in 2003 than in 2002.

Interpretation and enforcement of the Constitution are the responsibility of district courts, regional courts, and the court of appeals as well as the Constitutional Court. Judges are nominated by the Judicial Council and elected by the Parliament. They are independent, and their mandates are indefinite, notwithstanding an age limit of 65 for male judges and 62 for female judges. The Judicial Council comprises six sitting judges elected by their peers and five presidential nominees elected by the National Assembly.

For the most part, Slovene judges rule impartially and on the basis of strict interpretation of the law. The judiciary is linked to the Ministry of Justice, but it operates as an independent branch of government and is not linked to any executive body. The main problem facing the judiciary is inefficiency and backlog. There are no criteria for measuring the efficiency of judges' work. In certain cases, there is a lack of professionalism on the part of court employees, and cross-communication in the legal system is poor.

The Constitution provides for absolute equality before the law (Article 14), irrespective of national origin, language, religion, political or other convictions, material standing, birth, education, social status, or any other personal circumstances. Human rights and fundamental freedoms are protected by Article 15 of the Constitution. However, as the *Ombudsman's Ninth Annual Report* shows, intolerance exists in Slovene society, especially in the offices tasked with monitoring such issues.

The two biggest human rights cases this year were those of the "erased citizens" and the Muslim community's right to a religious center in Ljubljana. The latter was resolved on July 12, 2004, when Slovenia's Constitutional Court ruled against holding a proposed referendum to block construction of the country's first mosque. The court found that the Slovene people do not have the right to overturn basic human freedoms, arguing that these freedoms override citizens' democratic wishes.

Slovenia's criminal code entered into force in 1995 and was amended in 1997 along with the Law on Criminal Procedure. New forms of crime were addressed, and the interpretations were aligned with EU standards. Namely, these pertain to money laundering, corruption, and computer hacking. No major cases involving computer hacking or money laundering were addressed by courts in Slovenia in 2004. Amendments to the Law on Penal Procedures relating to the use of special investigative methods were put into force in 1999.

The Constitution prohibits the abuse and humiliation of prisoners. No systematic abuses were reported in 2004. The 2003 ombudsman's report, however, does raise the issue of significant overcrowding in prisons and detention facilities.

Individuals brought into custody on criminal charges must be advised of these charges in writing in their own language within 24 hours. Detention may last up to six months before charges are brought. Courts authorize searches and issue warrants. The increase in complaints of police improprieties in 2004 could potentially trigger an erosion of public trust in police protection.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	2.00	2.00	2.00	2.00	2.00	2.00

With the exception of a handful of new initiatives and a series of alleged corruption cases (the most notable involving a housing construction scam known as Zbiljski Gaj), Slovenia experienced no major backslide into corruption in 2004. While members of the opposition sent a letter to the Parliament president listing 13 alleged corruption cases in May 2004, Slovenia also managed to pass new anticorruption legislation during the year.

The government considered several proposals for revising anticorruption initiatives, among them one for a revision of the Commission for the Prevention of Corruption. This commission is responsible for monitoring the assets of the approximately 6,500 functionaries (including prosecutors) at the state and local levels. The commission operates under the Law on the Prevention of Corruption, which obliges Slovene functionaries to report their personal monetary and material assets. The law also prescribes punitive measures for irregularities.

The commission has been tasked with three problem areas. First, it ensures that functionaries do not hold public office while simultaneously running private businesses or taking direct part in the economy. This helps to resolve cases where there is an outstanding conflict of interest. The Law on Access to Public Sector Information passed in 2003 will provide additional help to disclose conflicts of interest on the part of officials.

Second, the commission will develop guidelines for integrity plans as prescribed by the Law on the Prevention of Corruption. These plans will include data regarding the potential for corruption in the institutions where they will be adopted, the risks associated with corruption, and methods and ways for reducing such risks.

Third, the commission is pushing for the adoption of a new anticorruption strategy; thus the Resolution on the Prevention on Corruption in the Republic of Slovenia was passed in the summer of 2004. In addition to other elements, the resolution includes 172 measures to be performed over the coming years to eliminate the conditions for the appearance and spread of corruption in Slovenia. These measures are prescribed for the areas of politics; state administration; investigative, prosecuting, and judicial bodies; business; NGOs; the media; and the general public.

Some progress has also been made in the way the government advertises jobs and contracts. The Law on Civil Servants aims at creating a professional, impartial, and accountable civil service. It creates a more transparent and harmonized system of recruitment and career structures and introduces promotions based on performance appraisals.

A 12-member Administrative Council was established in May 2004 to oversee the politically unbiased selection of senior civil servants. This council is expected to ensure professionalism and efficiency and to make the civil service less dependent on political trends. The Law on Civil Servants also introduces disciplinary procedures and specifies that dismissals must follow strict legal procedures.

Corruption allegations and cases are exposed regularly by the media, while the public has low tolerance for official corruption. The anticorruption election platform of the opposition SDS also targeted the public's dissatisfaction with what it perceives as an increasingly corrupt government.

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Tajikistan

<i>Capital</i>	Dushanbe
<i>Population</i>	6,600,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$980
<i>Private sector as % of GDP</i>	50%
<i>Ethnic groups</i>	Tajik (65 percent), Uzbek (25 percent), Russian (4 percent), other (6 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	6.00	5.75	5.50	5.25	5.25	5.25	5.75	6.00
Civil Society	5.50	5.25	5.25	5.00	5.00	5.00	5.00	4.75
Independent Media	6.25	6.00	5.75	5.50	5.75	5.75	5.75	6.00
Governance	7.00	6.75	6.25	6.00	6.00	6.00	5.75	n/a
National Democratic Governance	n/a	6.00						
Local Democratic Governance	n/a	5.75						
Judicial Framework and Independence*	6.25	6.00	5.75	5.75	5.75	5.75	5.75	5.75
Corruption	n/a	n/a	6.00	6.00	6.00	6.00	6.25	6.25
Democracy Score	6.20	5.95	5.75	5.58	5.63	5.63	5.71	5.79

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Transitioning from Communism, according to social scientists Philippe Schmitter and Terry Lynn Karl, differs from earlier forms of regime change and movements toward democracy such as those that swept across southern Europe and Latin America decades ago. Post-Communist transitions appear paradoxical: even though new rulers gained power rather quickly, regime consolidations have been “lengthy, conflictual, and inconclusive.” Those adjectives suitably describe Tajikistan’s 13-year journey into the unknown of post-Communism. During 2004, one could sense that the principles and agenda enshrined in the 1997 peace accord that formally ended a bloody civil war (1992–1997; estimated 50,000 dead) between the ex-Communists and the Islamist-dominated United Tajik Opposition appeared to have stalled. Little progress has been made to expand democratization and pluralism. On the economic front, transition has been anything but smooth. The free market prosperity that many had envisioned has been slow and still out of reach for most of the populace. Though Tajikistan’s annual gross domestic product grew by an impressive average of 9.5 percent during the past five years, as reported by the International Monetary Fund, the World Bank estimates that as much as two thirds of the population is living below the poverty line. It appears that the already substantial gap between the rich and the poor only widened in 2004. Impressive macroeconomic growth in Tajikistan and its neighboring states, coupled with centralized power and estranged relations between the citizenry and the state, has led to what Peter Sinnott, a professor at Columbia University, has referred to as a sense of “false stability” in the region.

As the country prepared for the February 2005 parliamentary elections, the government began a harassment campaign against active opposition parties, and it continued to formulate novel ways to prevent the registration of new opposition groups. Furthermore, in 2004 the government still dominated the media, especially television stations, and put forth politically motivated obstacles for the journals and newspapers associated with the opposition. In what appeared to be a move to ensure a successful bid for yet another seven-year term in office for President Imamali Rahmonov, who has held the position of head of state or president since 1992, the government was able to extradite and arrest the former minister of the interior, Yaqub Salimov, and the head of the country’s drug control agency, Ghaffor Mirzoyev, who

may have potentially posed obstacles to Rahmonov's reelection plans. The two have been charged separately for a variety of alleged crimes, including corruption and intent to overthrow the government.

Thanks in large part to its nonpolitical activities, civil society was able to strengthen and expand during 2004. Women-run nongovernmental organizations (NGOs), soliciting both the president and the Parliament, introduced legislation against domestic violence and human trafficking that was later approved. Others worked on a variety of issues and projects such as education on countering human trafficking, promotion of microfinance schemes, ensuring food security, and advocacy of open media. Some NGOs, such as the Mountain Societies Development and Support Program (MSDSP), continued their emphasis on strengthening and building on existing social and community structures, such as *mahalla* (neighborhood) councils. *Mahallas*, one of the smallest and most basic community structures in Central Asia, are still not recognized and used officially by the Tajik Constitution and government administrative bodies.

Owing to international pressure and its desire to follow suit with other countries in the Commonwealth of Independent States (CIS), the Tajik Parliament (after urging from the president) passed a moratorium on capital punishment in May 2004, in effect banning the death penalty in Tajikistan. Human rights organizations and victims' advocates welcomed this move while acknowledging the large amount of reform still necessary in the country's legal system, prisons network, and human rights arena. In 2004, the government continued with the surveillance and arrest of members of alleged Islamic extremist groups. Among the people who were detained, subsequently tried, and given prison sentences were dozens of alleged members of the Hizb ut-Tahrir, an Islamist group whose followers advocate the nonviolent overthrow of Central Asian regimes in favor of a pan-Islamic caliphate.

National Democratic Governance. In power for the past 13 years, President Rahmonov has failed to lead his government to expand on the 1997 peace accord signed with the umbrella opposition group. As a result, political and ethnoregional cleavages have not mended, and patronage and clan politics continue to play heavy roles in Tajikistan's political arena. In addition, the government has failed to substantially curtail the country's widespread poverty. Based on a 2003 World Bank study, Tajikistan still ranks as the poorest among post-Communist states, with nearly two thirds of the population living below the poverty line. Still, in 2004 a comprehensive security and economic treaty worth US\$2 billion was signed with Russia, promising the construction of two hydroelectric dams that have the potential to radically expand future revenues via the export of electricity to neighboring states. The Russian deal also includes the construction of a new aluminum production plant. *Tajikistan's new rating for national democratic governance is set at 6.00.*

There have been more setbacks than progress in democratic governance in the past several years, with the president wielding additional powers and continuing to use patronage and clan politics. Though poverty still prevails, national security has improved since the signing of the peace accord. The October 2004 security/economic treaty with Russia is likely to lead to a stronger economy, with trickle-down effects to households and individuals.

Electoral Process. Despite many inflated promises, in 2004 the government continued to foment obstacles for existing and potential political parties in order to minimize the opposition's chances to successfully challenge the pro-government People's Democratic Party (PDP) in the February 2005 parliamentary elections and the 2006 presidential election. By using trumped-up charges and by applying the law selectively, in May 2004 the government refused to register the Unity Party on minor technical grounds. In August 2004, it arrested the deputy of the unregistered Development Party. The government continued to monopolize TV airwaves, and it intensified a campaign to prevent timely and regular printing of opposition newspapers. *Owing to the denial of registration to several new political parties, the obstruction of rightful political activities of existing opposition groups, and the abuse and imprisonment of several opposition figures in 2004—all of which contributed to an unfair and intimidating atmosphere prior to the 2005 parliamentary and 2006 presidential elections—Tajikistan's rating for electoral process worsens from 5.75 to 6.00.*

Civil Society. In 2004, the activity of NGOs and advocacy groups in Tajikistan has strengthened. The country's largest NGO, the MSDSP, successfully expanded its rural, self-help, socioeconomic, food security, and educational projects. Women's NGOs were heavily involved in assisting female-headed households and enhancing women's rights, and they were able to successfully lobby the government to introduce the new draft law On Social and Legal Protection from Domestic Violence. International NGOs, including the United Nations agencies, played a vital role in efforts to improve public security and promote political pluralism. *Given the strengthening of local NGOs, as well as the variety and depth of their activities in 2004, Tajikistan's rating for civil society improves from 5.00 to 4.75.*

Independent Media. Despite the relative freedom available to independent media as compared with that in other countries in Central Asia, Tajikistan's government still exerts a high degree of pressure and intimidation on journalists deemed to be critical of the state's activities. Tajik law allows for the incarceration of anyone who defames the president, thus discouraging criticism of the regime by individuals and independent media outlets. Though there are several opposition-aligned newspapers, as well as a handful of

independent radio stations, the government has a near complete monopoly over the state-run television stations, which it uses copiously during national plebiscites and elections to promote its own agenda and candidates. *Because of the continuous pressure exerted by the government on the handful of opposition newspapers, harassment of individual journalists, and the enforcement of stricter criteria for new media applications, Tajikistan's independent media score worsens from 5.75 to 6.00.*

Local Democratic Governance. The *mahalla*, or neighborhood, has for centuries acted as a de facto community council and the smallest body of governance (aside from the nuclear family) in Central Asian societies, including Tajikistan. Despite the importance of the *mahalla*, the Constitution of Tajikistan dating back to 1994 has failed to institutionally recognize and benefit from this traditional formation. Based on the government administrative categories, the smallest local entities of governance are the *jamoats*, or local councils, nearly all of which are responsible for too large a constituency. The *jamoats* are not democratically structured, and they lack sufficient revenue. The MSDSP's project of village organizations is a successful attempt by a civil society entity to induce local democratic governance while using the existing *mahalla* networks. Currently, 400 village organizations (VOs) throughout Tajikistan engage in a wide variety of socioeconomic and community development projects, including revenue generation, agriculture, and rural development. Despite some success in local democratic governance induced by civil society, Tajikistan has a long way to go toward empowering local communities and promoting pluralism and good governance on the local level. *Aside from the 'mahalla,' higher levels of local democratic governance are enshrined in Tajik law, but citizens are normally not able to choose their local leaders freely and democratically. Furthermore, participation and decision-making are often contingent on business, political, and ethno-regional connections, with many decisions made in a non-transparent manner. Tajikistan's new local democratic governance rating is thus set at 5.75.*

Judicial Framework and Independence. In both law and practice, the executive branch of the government has excessive amounts of control and influence over the legislature and judiciary. Several of the 56 constitutional amendments that passed in the June 2003 plebiscite exacerbated this problem by weakening the checks and balances necessary in a democratic society. That said, in 2004 the government did make what many would consider progress in the judicial system. To placate international criticism and mimic reforms made in Russia and other CIS countries, the Tajik Parliament passed a moratorium on the death penalty in May. Furthermore, the government made some concrete steps in educating the staff of its ministries and security structures in the fight against human trafficking. At the same time, however, the government

arrested several individuals accused of belonging to the Islamist Hizb ut-Tahrir and was criticized for not providing sufficient due process to detainees. The government continued to draw criticism for its generally backward prison conditions, which regularly put the lives of prisoners in danger. *Tajikistan's rating for judicial framework and independence remains at 5.75 owing to remaining shortcomings, although the government's ensuring in 2004 that new legislation was in line with international standards and educating government employees to uphold the law hold promise for visible results in the coming year.*

Corruption. According to the World Bank, Tajikistan is the poorest of post-Communist states. Along with many other CIS countries, Tajikistan is experiencing serious problems with income inequality and corruption. In 2004, Transparency International rated Tajikistan among countries where corruption is “perceived to be pervasive,” though with some improvement in ranking as compared with 2003. The World Bank contends that as much as 80 percent of Tajikistan’s small businesses pay bribes to tax officials. Many pay extra fees to venal bankers in order to receive a legitimate loan, and traffic police regularly use extortion on ordinary citizens to allow passage from point A to point B. The pervasive and increasing drug traffic originating from Afghanistan is another serious source of corruption. *Tajikistan's corruption rating remains at 6.25 owing to the government's insufficient steps to curb corruption, including the dismissal of some state officials and prosecution of only a selected few low-level officials. Though there were improvements in the tax laws and collection of taxes, in addition to an increase in the use of banking services, which indicated a degree of improvement in public trust in state structures and financial institutions, corruption remains widespread, hindering much-needed democratic and economic reforms.*

Outlook for 2005. The government is likely to take advantage of macroeconomic growth and the current sense of stability to further maintain centralized power through patronage and clan politics. It will ensure its grip in the February elections through a near sweep of seats in the lower house of Parliament, where the pro-government PDP will continue to dominate. Depending on the results of Eastern European and other CIS elections, a postelection coalition of civil society and opposition parties could emerge, aiming to pressure for political reforms and voice demands for fair presidential elections in 2006. Furthermore, international pressure in 2005 will force the government to allow existing and possibly new mass media to function, initiate serious legal and prison reforms, and increase awareness of human trafficking and other social ills. Owing to the high rates of poverty and unemployment, however, one can predict an increase in illegal trafficking of Afghan drugs. At the same time, improvements in Tajikistan’s macroeconomy along with Russia’s immigration-unfriendly policies will lead to a slowdown in the rate

of annual emigration of Tajik nationals from Russia and other CIS countries. The promised Russian investment in the energy and aluminum sectors of Tajikistan will begin to yield small positive results in local employment toward the end of the year. Overall, 2005 could be a year of opportunity for Tajikistan, but owing to the government's established consolidation of power, major moves toward democracy and freedom are unlikely—save for unforeseen circumstances including the influence of pro-democracy international demonstration effects, such as the Georgian Rose and Ukrainian Orange Revolutions, or increased political pressure by influential states and international organizations.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.00						

“Poverty, corruption, and a slow pace of reform,” according to a 2004 report by the Brussels-based International Crisis Group, are eroding President Imamali Rahmonov’s “image as peacemaker.” Indeed, it now appears that the momentum that surrounded the signing of the 1997 peace accord with the Islamist-dominated United Tajik Opposition (UTO), which promised to bring forth a more pluralistic and democratic Tajikistan, has largely diminished. President Rahmonov’s image, however, may be tarnished only within the international community, which has repeatedly criticized his government for rescinding the spirit of the peace accord and its principles of pluralism and openness. International bodies have also been unhappy with the pace of governmental reforms in Tajikistan, including a much-needed anticorruption campaign. Even so, Rahmonov remains largely popular at home thanks to the post-civil war period of peace and stability, which the public associates with his reign.

Despite pockets of opposition, the president still enjoys widespread popularity among the citizenry, many of whom rightly credit his government with ending the civil war and bringing a large degree of peace and stability to neighborhoods throughout the country. In the 2003 plebiscite, which approved 56 amendments to the Constitution, the government reported that 96 percent of the voting population participated, with 93 percent approval rates for the president. Though voting results favoring the government may very well be exaggerated by Tajik officials, still, the above percentages seem

to reflect actual trends and are corroborated by independent opinion surveys and anecdotal evidence. Furthermore, most voters appear to be indifferent to political party details and, if anything, view the agenda of opposition parties as not too different from that of the government. With memories of the civil war still fresh, the public relishes the current peace and appears to believe that political change will cause Tajikistan to revert to instability and violence.

As has been the pattern in Central Asian states in general, Tajikistan's president has striven to amass power at the expense of weakening the checks and balances necessary for a democratic government. The 2003 plebiscite, among other things, increased the power of the presidency, which already had overwhelming control over the legislature and judiciary. Judges, for example, depend on the executive for their appointments. According to the Organization for Security and Cooperation in Europe (OSCE), the lack of an independent legislature and judiciary has had negative consequences for the political and economic well-being of the country.

Rahmonov has so far successfully used existing ideological and regional cleavages in his favor. He has, for example, taken advantage of the fall of the Taliban and the U.S.-led coalition's antiradical Islam stance and the "war on terror" to clamp down not only on suspected religious extremists, even with no evidence of violent intent, but also on old rivals who were signatories to the 1997 accord. He has even arrested some of his former allies on various charges. Rahmonov has reduced the number of Islamic Renaissance Party (IRP) members from the top echelon of government bureaucracy to significantly less than the 30 percent required by the peace accord, and most recently, he has advanced legislation that prevents women from attending and praying in mosques, likely fearing the potential radicalization of women, who unlike men have so far not actively participated in opposition political activities. By targeting religiosity and Islam, however, the government risks alienating segments of the disenfranchised population, which may eventually seek more extreme means of expression and political change.

Regionalism and patronage are still at play in Tajikistan. As has been the trend since the civil war, the government has favored the policy of "Kulobization," or the disproportionate assignment into key government positions of individuals of Tajik ethnicity or those with family ties to the southern Kulob zone of Khatlon province—President Rahmonov's home region. This de facto government policy has troubled opposition parties and peoples from underrepresented regions and ethnicities of Tajikistan. It is important to keep in mind that regionalism and clan politics dating back to the Soviet era were among the key factors behind the 1992–1997 civil war.

Health care and education in Tajikistan remain in disarray. Despite impressive economic growth since the late 1990s, according to a 2003 poverty assessment report by the World Bank, about two thirds of households (64 percent) live below the poverty line on less than US\$2.15 per day, making

Tajikistan the poorest among post-Communist transitional states. According to a United Nations Children's Fund study released in 2004, Tajikistan is the leader in child mortality and malnutrition among Central Asian and Caucasus countries, with 78 children per 1,000 not surviving until the age of one and 106 in 1,000 not living to the age of five. Furthermore, the country has the highest rate of severe (36 percent) and chronic (5 percent) malnutrition among children under five.

Approximately one fifth (21 percent) of those polled in the 2003 World Bank study said that their lot has worsened in the past five years. The average monthly salary in 2004 is estimated to have been no more than the equivalent of US\$13–\$16. Owing to paltry salaries, thousands of teachers have left their profession, and many having immigrated as laborers to Russia. This, along with a rise in truancy, has led to an increasing number of semiliterate and even illiterate young people in a country with a historically high rate of literacy. Furthermore, any progress in reducing poverty is hampered by the emergence of new challenges—the expanded reach of disease, including tuberculosis and AIDS, growing environmental problems, and the destabilizing influences of crime and drug and human trafficking.

In October 2004, Tajikistan signed a comprehensive agreement with Russia worth up to US\$2 billion, a positive development likely to increase economic security and reduce poverty several years down the road. As a result of the agreement, two Russian energy and industrial conglomerates are scheduled to build two hydroelectric power stations and a new aluminum smelter in the southern part of Tajikistan. The deal also includes clearance of more than US\$300 million of foreign debt owed by Tajikistan to Russia (about 30 percent of Tajikistan's total foreign debt). In exchange, the Russian Federation and Russian business entities will own major stakes (possibly in the form of majority shares) in future Tajik hydroenergy and aluminum production. Additionally, the Russian military is now allowed to use Tajikistan as a permanent base to house at least 5,000 soldiers of its 201st Rifle Division—the same company that has de facto used Tajikistan as a base since the end of World War II.

The agreement has also given Russia a 49-year lease on an antimissile warning system at Nurek, a town with mostly cloudless skies (7,300 feet above sea level) located to the south of the capital, Dushanbe. The deal with Russia could potentially launch Tajikistan as a regional economic power but can also entrench existing political forces, which may use the opportunity to refuse and rescind political reforms toward democratic openness and equitable economic development. There's also a danger that the continuing economic growth, coupled with the centralization of power and a politically detached citizenry, may have led to what Peter Sinnott of Columbia University School of International and Public Affairs has referred to as a sense of "false stability."

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
6.00	5.75	5.50	5.25	5.25	5.25	5.75	6.00

The current leadership of Tajikistan dates back to the country's independence. Rahmonov was appointed by the Supreme Soviet (or Parliament) of Tajikistan as chairman in November 1992. Prior to his appointment, he had been a onetime *kolkhoz* (Soviet agricultural cooperative) leader and later chair of the executive committee of the Communist Party (CP) in the southern Kulob region. Most important, Rahmonov had been an avid supporter and one of the chief organizers of the Kulobi-dominated Popular Front militia, which fought the UTO during the civil war. By March 1993, all opposition parties had been banned, leaving the CP as the sole legally functioning political entity. Rahmonov managed to stand as a candidate for the office of presidency in two controversial victories in 1994 and 1999. In the earlier of the two elections, Rahmonov ran against onetime prime minister (1992–1993) Abdumalik Abdullojonov in a one-sided race marred by irregularities and possible corruption, which also barred the participation of the opposition parties forming the UTO.

The September 1999 plebiscite resulted in the approval of a series of constitutional amendments allowing, among other things, an extended presidential term limit from five to seven years, the introduction of a bicameral parliamentary system (a 63-member Council of Representatives and a 33-member National Council), and the formation of political parties based on religion. According to the Economist Intelligence Unit (EIU), this last amendment meant to satisfy the terms of the 1997 peace accord by making the IRP (the core political body forming the UTO) eligible to compete in the parliamentary and presidential elections.

Though the September 1999 plebiscite—approved by 70 percent of voters—was thought to have been generally free and somewhat fair, the ensuing November 1999 presidential election was marred by irregularities. Leading up to the election, the government began a systematic harassment campaign of opposition groups. These tactics included disqualifying newly legalized or newly formed independent parties based on trumped-up charges and minor technicalities. Most of these disqualified parties had vied to nominate their own presidential candidates. Furthermore, some provincial and local administrations reportedly fired or demoted employees upon their refusal to join the People's Democratic Party (PDP), the pro-government entity chaired by Rahmonov. As a result of government interference, two of the three remaining opposition candidates decided to boycott the election, and the government's candidate, Rahmonov, won the presidency with reportedly 96 percent of the vote.

Leading up to the February 2000 parliamentary elections, six parties qualified, with three obtaining more than 5 percent of the vote, the threshold

required for receiving parliamentary seats. Those parties were the PDP (winning 65 percent of the vote and 30 parliamentary seats), the then government-allied CP (21 percent; 13 seats), and the opposition IRP (8 percent; 2 seats). The OSCE criticized the 1999 presidential election as having insufficient “transparency, accountability, [and] fairness,” and Human Rights Watch questioned its integrity due to “extensive and egregious violations” during the campaign and referred to specific cases of fraud committed by pro-government polling station staff. Likewise, the OSCE described the 2000 parliamentary elections as not having met “minimum international standards.”

Following the trend of other states in Central Asia, Rahmonov has further concentrated power into his own hands. In June 2003, a national plebiscite overwhelmingly passed a package of 56 constitutional amendments. The amended form of Article 65, for example, gives the sitting president the option to run for two additional seven-year terms, creating the legal possibility for Rahmonov to remain in power until 2020. Other amendments forbid anyone who has not lived continuously in Tajikistan for the past 10 years to compete in the presidential election—thus eliminating some potential rivals to Rahmonov, such as the self-exiled Abdumalik Abdullojonov, who is still popular, especially in his native northern Soghd province. Despite valid criticisms of the 2003 plebiscite, voter turnout was reportedly quite high, with a near unanimous vote in favor of the amendments.

Still, to ensure an even tighter grip on power, in February 2004 the government was able to extradite from Russia and imprison Yaqub Salimov, an ex-ally of Rahmonov and the former minister of the interior and chairman of Tajikistan’s customs committee. In August, the government arrested Ghaffor “Sedoi” (“the Gray One”) Mirzoyev, a prominent ex-military commander and former head of the Presidential Guard, who had been serving as director of the country’s drug control agency. The range of charges against Mirzoyev included murder and possession of illegal weapons. The president has also accused Mirzoyev of planning bomb attacks, including the two that occurred outside the Ministry of the Interior in 2004, as well as secretly hoarding weapons and explosives in order to stage a coup d’état.

Furthermore, in December 2004, in Moscow, Russian authorities heeded a demand by the Tajik government to detain Mahmadrusi Iskandarov, the leader of Tajikistan’s opposition Democratic Party (DP). Though the government claims Iskandarov’s arrest was related to the alleged embezzling of millions of dollars while he served as head of the national gas company, as well as his supposed links to organized terror groups, DP officials argue that their party leader’s arrest was a convenient way for the government to eliminate potential rivals ahead of the February 2005 parliamentary elections.

Lower house parliamentary elections were set for February 2005, and the pro-government PDP was expected to win a near sweep of seats, with the Communists winning some and the IRP and the DP taking as few as

one each. An opinion poll conducted in the capital by Sharq Research at the end of 2003 concluded that the PDP enjoys the greatest number of supporters (32 percent of the population)—a rise of about 6 percent as compared with 2002. The same poll showed support for other parties as follows: CP, 27 percent; DP, 6 percent; IRP, 4 percent; and the Social Democratic Party (SDP), 2 percent. (The apparent low public support for opposition parties, especially the IRP, is likely an underestimation, as a large portion of the IRP's male constituency—people of Gharmi ethnoregional origin—consists of Tajiks working in Russia.)

In 2004, the leaders of the DP and the SDP accused the government of interfering with their legitimate campaigns. They also claimed that the government's monopolistic control of media outlets was the reason behind widespread public indifference toward opposition parties. Indeed, leading to the February 2005 elections, the government conducted a multifront campaign to eliminate potential rivals to PDP candidates, thus severely restricting the activities of registered political parties and blocking the registration of newly formed opposition parties. As a result of such interference in the democratic process, an attempt was made in 2004 to form an opposition political bloc as a way to defeat Rahmonov and PDP candidates by ensuring free and fair elections in 2005 and 2006. The proposed bloc (Coalition for Just and Transparent Elections) was meant to unite the disparate opposition groups of the IRP, SDP, Socialist Party, and CP. However, bickering among the various opposition leaders and a lack of enthusiasm on the part of the public—apparently unaware of the opposition bloc's goals or unconvinced that they differed substantially from Rahmonov's policies—were cited by Radio Free Europe/Radio Liberty (RFE/RL) as likely reasons for the bloc's failure.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
5.50	5.25	5.25	5.00	5.00	5.00	5.00	4.75

In contrast with some of the transitional societies of Central and Southeast Europe—where trade unions, political parties, and interest groups were developed years before the dissolution of the Iron Curtain—the formation of groups independent from the state, aka civil society, was seen as antagonistic to Soviet socialism and largely nonexistent in the USSR. Formal private groups did eventually take hold, especially as noticeable reforms were undertaken in socialism under the Gorbachev premiership. Although the conceptualization and eventual formation of a vibrant civil society was not as clear in Tajikistan as it was in the Baltic and Eastern European states, according to Shirin Akiner of the University of London, “a new spirit of self-confidence,

a receptiveness to new ideas, and a determination to challenge the existing order” were already under way. Just prior to independence, several informal “discussion groups” were formed, such as Ru ba Ru (Face to Face) and Ehyo (Renewal), each comprising as many as 90 members, most belonging to the country’s intelligentsia. These groups were associated with anti-Communist political forces and served as citizen forums for the expression of free speech and ideas.

Western-style nongovernmental organizations (NGOs) first came into existence in Tajikistan in the mid-1990s, when international donors began initiating programs and providing funds. Since then, various forms of civil society have been on the rise. Though still a bureaucratic, expensive, and time-consuming process, the act of forming an NGO in Tajikistan has been somewhat simplified in the past few years. Based on forecasts by the UN, more than 2,000 NGOs were registered with the Ministry of Justice in 2003, with only a fraction actually functioning. The number of local NGOs did not increase substantially during 2004, but they do appear to have gained strength. Among the most successful NGOs active in Tajikistan are those associated with the Geneva-based Aga Khan Foundation (AKF, a modern Islamic faith-based umbrella organization that supports a series of projects and sister agencies worldwide). AKF is renowned in Tajikistan for funding local self-governance projects, such as the promotion of small-business enterprises in both urban and rural areas (through repayable or in-kind loans) and experiments in democratic self-rule via community and village governance (see Local Democratic Governance, below).

Although women are not widely represented in the government, they have been playing increasingly important roles in civil society. More than one third of all Tajik NGOs are headed by women. This is at a time when the status of women in post-Soviet Tajikistan is under serious threat. The civil war created 25,000 widows, many of whom became head of their household. The UN reports that up to two thirds of women in Tajikistan (over 1 million) have been victims of domestic violence and sexual abuse. In 2004, a coalition of Tajik women’s NGOs and Parliament members proposed draft legislation against human trafficking and violence that was subsequently approved by the Parliament. The new legislation provides protection for victims and punishment for the guilty—up to 12 years’ imprisonment for those recruiting people for exploitation and 25 years’ imprisonment for rapists. Underage prostitution and human trafficking are also problems in Tajikistan. One local NGO has even cited the alleged case of 14 Tajik girls sold into sexual slavery to an entity in a Persian Gulf sheikhdom state for US\$20,000. During 2005, the NGO Modar (Mother) will be conducting workshops on how to fight human trafficking for a spectrum of government and public agencies, including law enforcement, courts, prosecutor’s offices, border guards, and tourist agencies. Also in 2004, the female-headed NGO Oshtii Melli (National Reconcilia-

tion) planned to train and provide independent election observers for use in the ensuing 2005–2006 national elections.

Civil society in Tajikistan is also addressing the problems of labor migration. According to government estimates, as much as half of all Tajik households—or some 3.5 million people—depend on remittances sent from family members working abroad. A survey conducted by the International Labor Organization showed that a great number of Central Asian labor migrants in Russia, a disproportionately large number of whom are from Tajikistan, are exposed regularly to various forms of forced labor and dangerous working environments. Many fear for their lives because of threats from the police, organized crime, and hate groups. One highly publicized hate crime was the fatal stabbing of the nine-year-old daughter of a Tajik immigrant in St. Petersburg by a gang of teenage Russians.

The large majority of Tajik nationals working in Russia are employed in government enterprises, but only 15 percent have legal status. Most are young to middle-aged males, but occasionally women travel abroad in search of work. Many of the Tajik men who have migrated to Russia—some already married with children in Tajikistan—have established second families there. To help potential Tajik labor migrants avoid the pitfalls and dangers of working abroad, the International Organization for Migration (IOM), with funding from the OSCE, set up special offices in Tajikistan in 2004 where information is made available on the realities of transit and destination countries.

Central Asians, according to Peter Sinnott, are “outperforming” their leaders by strengthening and building civil society. NGOs and informal civil society groups in much of Central Asia have become increasingly activated, attempting to aid their respective local populations in a variety of services, especially in areas where central and local governments have failed in their traditional responsibilities. Central Asian NGOs, including those in Tajikistan face a double challenge, however: working under relatively difficult conditions and at times dealing with government hostility. Government suspicions, according to Ian Bremmer of the U.S.-based Eurasia Group, result from Central Asian NGOs promoting the nonmaterial concepts of openness, pluralism, and free media, unlike most NGOs in neighboring Afghanistan, for example, which heavily promote reconstruction and economic activities. Governments are becoming less tolerant of international organizations and internationally funded NGOs that criticize their performance and regularly aid opposition groups, especially given the current booming macroeconomy of the region.

The 2003 Georgian Rose Revolution, which toppled the authoritarian Eduard Shevardnadze with assistance from Western-funded NGOs, is clearly in the minds of Central Asian leaders, including President Rahmonov. Not surprisingly, in 2004 the government of Uzbekistan closed the Soros-funded Open Society Institute (OSI). Further, as of fall 2004 some of Tajikistan’s pro-government print media had begun a slander campaign against OSI’s

work in Tajikistan. There is a Persian-Tajik saying: “*Kas nazanad bar dera-khte beebaar sang!*” (“No one throws a stone at a fruitless tree!”). Periodic government hostility, therefore, could be perceived as an indicator of the strengthening of civil society in Tajikistan.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
6.25	6.00	5.75	5.50	5.75	5.75	5.75	6.00

In contrast with the Soviet era—when periodicals were cheap, plentiful, and widely read—Tajikistan today is much diminished in its sources of public discourse, thanks largely to the multiple pressures of poverty, relatively high taxes, and the emigration of much of the cosmopolitan citizenry of Tajikistan. Still, as compared with neighboring Central Asian states, Tajikistan has a good number of independent newspapers and several TV and radio stations—albeit with constant but unspecified government monitoring and rules, including state harassment of journalists and de facto censorship of media. The government has legalized most of the once banned opposition parties and their respective print media outlets, but the dissemination of opposition platforms through the media is limited. Some articles critical of state structures have occasionally been published, but journalists have understood that reporting on sensitive political topics can be problematic and even lethal. Therefore, nearly all apply self-censorship to their work.

The government limits the political content of the media through a variety of tactics. It has managed to pass at least one law detrimental to free media: Article 137 of the Tajik penal code stipulates up to five years’ imprisonment for insulting or defaming the president. Other methods for controlling nonstate media have included the holding of informational “guidance” (read “intimidation”) sessions for journalists. It has also imposed burdensome licensing and tax procedures for media and, more recently, barred access to government-owned and private printing houses for opposition newspapers.

Not all has been bleak, however. In December 2003, a new private Tajik news agency, Avesto, began operations; and in January 2004, *Mehvar*, a magazine belonging to the pro-government PDP, released its first issue. Although there were no new radio stations in 2004, in 2002 the authorities granted operating licenses to at least two independent radio stations based in Dushanbe: an FM station operated by a private news agency, Asia-Plus, and Radio Vatan. They have become the most popular radio stations in Dushanbe. Asia-Plus had applied for its radio license as early as 1998 but was repeatedly refused by the Ministry of Communications. The government’s reversal is thought to have been due to international criticism of its de facto ban on private and opposition media.

Tajikistan was one of the last countries to connect to the World Wide Web (January 1999), and use of the Internet has expanded slowly. Although extremely expensive by local standards, at least four Internet service providers are functioning in Tajikistan, and Internet centers can be found in all major metropolitan areas. One clear shortcoming of both the state and the opposition media is that of insufficient ethnic minority voices (of the non-Russian variety). Though nearly a quarter of Tajikistan's population is ethnic Uzbek, for example, Uzbek music is allowed on TV and radio at a disproportionately low rate, and the ethnic Uzbek newspaper *Tong*, printed in the northern Soghd province, is generally known to be pro-government.

Regardless of one's political persuasion, journalism can be a dangerous profession in Tajikistan. Since independence, there has been a series of assassinations of both pro- and antigovernment journalists, though none occurred in 2004. In the early to middle 1990s, scores of journalists were victims of random violence or assassinated as a result of civil war rivalries. Among them were the assassinations of Muhiddin Olimpur (1995), a reporter with ties to the BBC; Viktor Nikulin (1996), a reporter for a Russian station; and Saifullo Rahimov (2000), head of the State TV and Radio Committee. In 2003, the government claimed to have caught the killers of Olimpur and Nikulin in what Human Rights Watch cited as a "rare departure from the pattern of impunity." Few details on the motives behind the killings were provided by the government; however, one of the accused is supposedly currently in a Russian jail, and another mysteriously died in Tajikistan.

In January and July 2004, Rajab Mirzo, editor of the independent weekly newspaper *Ruzi Nav*, was attacked by unknown assailants in an apparent message of political intimidation. *Ruzi Nav* had published a series of articles accusing the Rahmonov government of corruption and nepotism and had questioned the government's legitimacy. In July, vocal government critic Dodojon Atavullayev—renowned journalist, publisher of *Cheroqi Ruz*, and owner of www.tajikistantimes.ru—finally visited Tajikistan; however, fearing for his life, he stayed only a few days and then fled back to the relative safety of Russia, where he lives in self-exile.

Furthermore, in early 2004 the editor of *Nerui Sukhan* claimed that because of the "heavy tax burden," most publications in Tajikistan regularly conceal their real circulation numbers from government authorities. In August 2003, the National Association of Independent Media of Tajikistan, funded by the U.S. Agency for International Development, appealed to the government to ease taxes on the media. In March 2004, Rahmonov proposed a "print media expansion strategy" designed as a tax break for newspapers, including an exclusion from paying the 20 percent value-added tax. The government's revenues and duties committee, however, expressed reluctance to implement the proposition without a new tax code law.

Early in 2004, the government issued verbal warnings to the editors of *Ruzi Nav* and *Nerui Sukhan*, accusing them of slander and insulting government figures. Both papers had had their share of conflicts with the state-run printing house, Sharqi Azad, which had earlier stopped their printings for alleged contractual violations—a political vendetta for reporting criticism of the government may have been the real motive. In August 2004, the government again attempted to prevent the publication of opposition papers, this time accusing a leading private printing house, Jihonkhon, of violating the tax code. Jihonkhon had regularly published four weekly opposition papers, *Nerui Sukhan*, *Ruzi Nav*, *Odamu Olam*, and *Najot* (the official voice of the IRP).

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.75						

For centuries, the *chaikhona* (teahouse) and the *masjid* (mosque) have been focal points of local community dialogue on self-governance in many Muslim majority societies of Central Asia. The social organization behind such self-governance has been traditionally referred to as the *mahalla* (neighborhood, or council). Soviet rule, however, attempted to impose its own system of administration on local communities. In Tajikistan—which was a near total illiterate territory upon its inception in 1924—the Soviets, among other things, formed *likpunkty*, or centers of combating illiteracy. They also systematically discouraged and occasionally banned public expressions of religious worship and even introduced “Militant Godless Leagues,” as a result of which, according to Shirin Akiner, knowledge of Islam nearly disappeared, save for the occasional semifolk, semi-Islamic practices and rituals. The informal *mahalla*, however, never really went away. As it had for centuries, the *mahalla* now continues with its engagement in organized activities such as *hashar* (community mobilization), repairing neighbors’ homes, building local facilities, or helping with wedding and burial preparations. This informal institution in Central Asian communities helped to preserve a private space outside the control of Soviet authorities and now continues to foster communal identity and solidarity.

Tajikistan’s post-Communist Constitution, formulated in 1994 and approved by a nationwide referendum, confirmed the Soviet territorial and administrative division of the country into a series of *viloyats* (provinces), *nohiyas* (districts), towns, settlements, and *qishloqs* (villages). There are three provinces that technically uphold their own regional governments. The capital city and a series of districts surrounding it are, in essence, two additional provinces. There are also 62 districts and, below them, 356 *jamoats*, or local councils (somewhat similar to municipalities in Europe and North America). A *jamoat* is defined in the Tajik Constitution as a “system of organizing public

activities...to address issues of local importance autonomously and at their own discretion” in accordance with the Constitution. Ironically, however, the smallest self-organizing body, the *mahalla*—corresponding to the 3,500 villages in the country and various urban neighborhoods—is not institutionally recognized by the Tajik Constitution.

According to a UN official in Tajikistan, patronage exercised by the national government in appointing province and district administrators discourages independent decisions and policy making outside of the capital. Furthermore, because of the central government’s dominance, rampant corruption, and the stagnant economy of outlying regions, most local administrative bodies in the provinces, districts, and especially *jamoats* face serious budgetary and resource constraints. Despite its pitfalls, Communism did provide a sense of volunteerism and community order; in contrast, the subsequent introduction of capitalism has brought loss of direction, passivity, and, ironically, a massive lack of capital, especially in rural areas, notes Caucasus expert Sabine Freizer. It is estimated that as much as 85 percent of the taxes generated at the regional level goes to the state, with a mere 15 percent remaining at the district level. To generate funds for their staff and for community projects, *jamoats* may spend as much as two thirds of their time collecting often arbitrary property taxes and transportation duties and fees. However, *mahallas* and even *jamoats* are devoid of any real power on the national scale and remain largely outside the nation’s economic and political decision-making process.

Provincial and district heads are appointed by the president of Tajikistan in consultation with the governors and *jamoat* leaders (through the head of their respective district *hukumat*, or government). Though council members have the right to veto appointments, they seldom if ever do so. Not surprisingly, central government political organizations, such as the ruling PDP apparatus, nearly always dominate province, district, and *jamoat* bodies. Opposition parties, such as the IRP, see real change occurring in Tajikistan if and when free and fair elections ultimately occur at the *jamoat* level.

To overcome the accumulated entropy in local governance in Tajikistan, elements of modern civil society have come to the rescue. Tajikistan is home to as many as 350,000 followers of the Aga Khan, leader of the several million Ismaili Muslims of the world. The majority of Tajikistan’s Ismailis live in the eastern mountainous Badakhshan province. The AKF-funded Mountain Societies Development and Support Program (MSDSP) is an example of a successful experiment with civil society intervention in local governance. The MSDSP is the largest NGO in Tajikistan in terms of its project portfolio (over US\$8 million) and number of staff (over 400) and aims to provide self-help programs to communities living in and near the highland areas of Tajikistan (93 percent of the territory of Tajikistan is mountainous). Among other things, the MSDSP has used the existing social structures of Tajikistan, such as the *mahallas*, to induce self-reliance and sustainable economic development, especially in outlying areas.

In doing so, the MSDSP has managed to formulate more than 400 village organizations throughout the country; in reality, these organizations are a more formal and resourceful version of the *mahallas* whose members are in essence the same as those serving on the *mahalla* councils. Among the concepts introduced by the MSDSP is the mandatory membership of women, largely welcomed by local communities. Local governments at the *jamoat* and district levels have been highly receptive to the concept of village organizations, partly because of the income-generating effect they have had in the regions and the increase in associated tax revenues. Prosperity for post-Communist transitional states of Central Asia, including Tajikistan, may ultimately lie in the empowerment of local communities and the use of existing structures and cultural capital such as *mahallas*.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
6.25	6.00	5.75	5.75	5.75	5.75	5.75	5.75

Human rights in Tajikistan tend to be “bought and sold rather than guaranteed,” according to an OSCE official working in the country. Indeed, Tajikistan’s record of upholding human rights—especially given the atrocities committed by the government and antigovernment factions during the civil war immediately after independence—is not in any way a shining example of progressive governance and respect for the law. There is, nevertheless, far greater freedom of expression and association allowed today in Tajikistan when compared with such neighboring states as authoritarian Uzbekistan and near totalitarian Turkmenistan. There is also evidence that Tajik authorities are highly sensitive about their image in the global arena and do respond to international criticism.

One example is that of the death penalty. In 2003, 23 known executions were conducted in Tajikistan by order of the judicial system, with some prisoners shot by authorities in secret. In April 2004, during a televised speech, President Rahmonov said that “the right to life is natural, and nobody has the right to deprive any other person of [it].” A few weeks later, Rahmonov submitted to the Parliament a draft law moratorium on the death penalty, which passed with an overwhelming majority. This turnabout followed several years of criticism by the OSCE and Human Rights Watch of Tajikistan’s lack of proper due process and concern for the rights of the accused. More important, however, there was also a “demonstration effect,” in that the moratorium came at a time when similar halts on capital punishment had been passed by at least eight other former Soviet states, including Russia, Kyrgyzstan, Kazakhstan, and even Turkmenistan. In November 2004, the lower house approved the introduction of life imprisonment instead of capital punishment for five categories of crime—aggravated

murder, aggravated assault, terrorism, biocide, and genocide. (As of the end of 2004, out of the 55 member states of the OSCE, only the United States, Belarus, and Uzbekistan still retain the death penalty.)

The Tajik Constitution allows for individual freedoms, including freedom of privacy, assembly, speech, press, association, and religion. However, the government often breaks the law by arbitrarily harassing and arresting those suspected of antigovernment thoughts and actions. Among many flaws is a court system that tends to presume guilt rather than innocence when trying individuals. There is plenty of corruption in the legal system, and lawyers are not allowed to meet defendants until the accused has accepted the prosecution's indictment or has been interrogated successfully by the prosecution.

Among laws being considered by the president and the Parliament in 2004 was the bill On Social and Legal Protection from Domestic Violence, proposed by a coalition of women's groups in Tajikistan (Association of Women with Higher Education, Tradition and Modernity, League of Tajik Female Lawyers, Gender and Development, and Modar). The coalition gathered more than 6,600 signatures in favor of the legislation, which included 34 articles with preventive and educational components toward combating domestic violence. A serious issue facing Tajik women and girls is the danger of human trafficking. The government criminalized human trafficking in August 2003, but according to the U.S. State Department's 2004 report, Tajikistan has no national plan of action to fight the problem or to provide solace and counseling to victims of trafficking, though it does cooperate with the antitrafficking educational campaigns of the IOM in Tajikistan.

As in neighboring Uzbekistan, but to a much lesser degree, support for political Islam is on the rise. Even though Tajikistan is the only country in the CIS that has a legal Islamist party, the IRP, some among the disenfranchised Islamists no longer see the IRP as radical enough to bring about social justice and economic prosperity. One group that appears to have gained some ground is the outlawed Hizb ut-Tahrir, a transnational radical Islamist organization advocating the establishment of an Islamic caliphate in Central Asia. The government has accused Hizb ut-Tahrir of planning for the violent overthrow of the state and even having ties to al-Qaeda. (Estimates indicate there are 10 Tajik nationals imprisoned by the U.S. military in Cuba. In 2003, the Tajik government requested the release of 8 of them, claiming they were refugees in Afghanistan from the era of the Tajik civil war and arrested by mistake.)

Since 1999, as many as 500 alleged Hizb ut-Tahrir members have been arrested and imprisoned by Tajik authorities. In 2004, the government announced the arrest of about 70 individuals linked to Hizb ut-Tahrir and a new group known as Bay-at—the latter thought to have been responsible for a series of murders, including that of Baptist pastor Sergei Bassarab in the Soghd region. There is some evidence that the heavy-handed tactics of neighboring Uzbekistan and Kyrgyzstan in combating the activities of alleged members

of Hizb ut-Tahrir may have enticed some activists to relocate their operations to Tajikistan's northern Soghd province, reported EurasiaNet. Some international groups have accused the government of violating the rights of the accused, many with alleged connections to Hizb ut-Tahrir, including through the use of torture and forced confessions. Prison conditions are also far from ideal. Thanks to overcrowding, lack of sufficient nourishment, inclement heat and cold, and the widespread occurrence of diseases such as tuberculosis, many inmates die in prison before the end of their sentences.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	6.00	6.00	6.00	6.25	6.25

"Do tsarya daleko, do boga vysoko!" ("The czar is far away, and God is in heaven!") Substitute "czar" with "law" and this Russian proverb applies to much of today's CIS, especially the southern-tier Caucasus and Central Asia. Misappropriation of public assets, patronage or the dispensing of state benefits, influence peddling, bribes, and extortion: All fall under the umbrella of abusing public office for private gain, aka corruption. According to the World Bank, there is a substantial amount of "high corruption" (graft and state capture by state officials) and "petty corruption" (chiefly solicitation of bribes and extortion by civil servants) in the seven poorest CIS members: Tajikistan, Moldova, Georgia, Armenia, Azerbaijan, Uzbekistan, and Kyrgyzstan.

Despite some optimism, in recent years the international donor community in Tajikistan has expressed dissatisfaction with the government's pace in promoting democratization and fighting corruption. According to the U.S. ambassador to Tajikistan, for example, when two firms had expressed interest in building a five-star hotel in the capital city of Dushanbe—which currently lacks such an amenity—both encountered Tajik authorities seeking hefty bribes in exchange for permission to commence the project. Additionally, the head of the Swiss Cooperation Office in Tajikistan stated in 2004 that the Tajik government had not provided sufficient information to ensure a transparent system of funds management.

Since 2001, repeated pledges of financial assistance to Tajikistan have been held up by international donors because of insufficient economic and political reforms, the perceived weak management of government structures, and allegations of corruption. Furthermore, experts believe that of the US\$900 million pledged by the international community in May 2003 for various socioeconomic development projects in Tajikistan over a four-year period, only a fraction will actually materialize. This is thought to be due mainly to the international community's displeasure with the Rahmonov government for not having implemented sufficient economic and political reforms, as well as

other pressing crises of the world—such as Iraq, Afghanistan, and the Asian tsunami—overshadowing the humanitarian concerns of tiny Tajikistan.

A legacy of state corruption in the Soviet and pre-Soviet eras, combined with a lax rule of law following independence and massive income disparities, have all contributed to the culture of corruption in Tajikistan. According to a survey administered by the World Bank's International Finance Corporation (IFC) released in 2004, an estimated 80 percent of small businesses in Tajikistan admit to paying regular bribes to tax officials, and 75 percent pay bribes for government licenses and permits. Businesses in need of credit are also known to pay as much as 12 percent of the total sum of the loan as a bribe to bank officials. The IFC believes that growth in Tajikistan's industrial sector has not necessarily helped to reduce poverty and cites corruption as a major impediment to accelerating socioeconomic development. According to Transparency International's 2004 Corruption Perceptions Index, Tajikistan scored 2.2 on a scale of 1–10, where 1 is "most corrupt," putting the country in the same bracket as Angola, Congo, Georgia, and Turkmenistan; still, this is an improvement over the 2003 score of 1.8.

Land reform—the transfer of formerly state-owned farms to private use and eventual ownership—has also been problematic. There have been widespread complaints of misappropriation, bribe taking, and favoring the relatively well-to-do in the distribution and/or sale of state farmland. The president has publicly acknowledged and criticized such practices and, as a result, in 2004 ordered the government's Land Reclamation Committee to conduct audits of selected local districts. A poverty and social impact analysis by the World Bank has indicated that farm privatization has had both a positive and a negative impact on the Tajik population. The International Monetary Fund claims that farm privatization increases incomes and the general welfare of farmers, provides foreign exchange funds to government coffers via tax revenues generated from cotton exports, and at the same time lowers losses from rent seeking, as privatization weakens the control of vested interest groups. Critics of Tajikistan's privatization program have claimed, however, that children and farmworkers have been negatively affected by the process, as social services—kindergartens, schools, and hospitals—that had existed under socialist farming have dramatically deteriorated or are nonexistent in a privatized setting. Furthermore, there now is a large monetary debt estimated at over US\$160 million owed primarily by state and private farms engaged in cotton farming to (mostly Swiss) creditors.

Still, there are some signs that overall corruption may be decreasing—albeit slowly. In 2004, for example, the government formed a special department for combating corruption in the Office of the Prosecutor-General. Though Central Asia's banking sector has been described as being among the world's riskiest, with poor transparency, weak capitalization, large business concentrations (such as the cotton, aluminum, gold, oil, and gas industries),

and vulnerability to economic and political shocks, according to RFE/RL, reform efforts have returned some credibility to Tajikistan's banking system. A positive sign is the apparent increase of public trust in financial service institutions. In 2004, an estimated US\$150 million is thought to have been wired through the banking sector to Tajikistan from as many as 800,000 Tajik migrant workers in Russia. This amount is believed to have been a significant increase from past years. Another sign is a noticeable increase in tax collection, owing mainly to greater government efforts, a rise in private sector incomes, and a newly reformed two-tier tax law.

In a televised speech in January 2004, President Rahmonov emphasized that his government's top priorities will be working toward food and energy self-sufficiency, overcoming the country's "communication isolation," speeding up economic and land reforms, and "resolutely" fighting against all forms of corruption to attract additional foreign investment. In November, the president stated that his government should pay more attention to alleviating poverty, promoting the market economy (including the expansion of private ownership), and ensuring transparency in government activities, including the upcoming elections. The opportunities are certainly there to do so. Like the rest of the commodity-exporting Central Asian countries, Tajikistan is now facing an export boom. The associated double-digit economic growth rates—averaging 9.5 percent for the past five years (2000–2004), according to the EIU—have been due to prudent government macroeconomic policies and higher commodity export prices for cotton and aluminum.

Though most analysts consider sustained economic growth necessary for ending poverty and corruption, according to a senior economist from the European Bank for Reconstruction and Development, there is also room for caution. Increased government revenues in certain economies may very well boost the confidence level of existing regimes, but they also work as a disincentive for those in charge to pursue equitable and sustainable economic reforms, promote democratization, and fight corruption. In the case of Tajikistan and similar transitional states, even though economic growth and increased public wages will likely reduce corruption, these are not foolproof solutions. Some of the most corrupt state structures, such as the police, require alternative and radical cures. The problem may very well be one of institutional or state culture. According to Transparency International, factors such as business transparency, press freedom, and public and cultural pressure, all acting together, can work as effective checks against corruption.

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Turkmenistan

<i>Capital</i>	Ashgabat
<i>Population</i>	5,700,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$4,250
<i>Private sector as % of GDP</i>	25%
<i>Ethnic groups</i>	Turkmen (85 percent), Uzbek (5 percent), Russian (4 percent), other (6 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
Civil Society	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
Independent Media	7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00
Governance	6.75	6.75	6.75	6.75	6.75	6.75	7.00	n/a
National Democratic Governance	n/a	7.00						
Local Democratic Governance	n/a	7.00						
Judicial Framework and Independence*	6.75	6.75	6.75	7.00	7.00	7.00	7.00	7.00
Corruption	n/a	n/a	6.00	6.25	6.25	6.25	6.25	6.50
Democracy Score	6.90	6.90	6.75	6.83	6.83	6.83	6.88	6.93

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

While the concept of a post-Communist “nation in transit” implies the ultimate realization of a pluralist democracy based on the rule of law, in Turkmenistan the achievement of a viable democratic state is far from a foregone conclusion. On the contrary, the authoritarian regime of Turkmenistan’s first and only president, Saparmurat Niyazov, has been in the process of consolidation since his ascension to power in 1985. Following the collapse of the USSR in 1991, the course of independent Turkmenistan’s development has been determined by the arbitrary and highly personalized rule of President Niyazov, who was granted a lifetime presidency in 1999. President Niyazov has undertaken reforms aimed primarily at centralizing his own rule, allowing him to exercise power without restraint. His official title is Saparmurat Turkmenbashi (“Leader of the Turkmen”) the Great, and he enjoys a lavish cult of personality unrivaled in the former Soviet Union and, indeed, much of the world.

In 2004, the Turkmen government continued its long-standing practices of repressing political opponents, maintaining strict state control over the media and the Internet, denying civil rights and liberties to the country’s citizens, undertaking regular purges of officials in senior governmental posts, and maintaining a foreign policy characterized first and foremost by isolationism. The government reversed legislation criminalizing the activities of both unregistered nongovernmental organizations (NGOs) and unregistered religious communities and abandoned its policy of requiring its citizens to obtain exit visas to travel abroad. However, these positive steps did not translate into any significant liberalization of Turkmenistan’s polity, economy, or society, and President Niyazov’s authoritarian regime remained firmly entrenched.

National Democratic Governance. President Niyazov continues to rule through a system combining coercion and rewards for collaborators, while formal laws have little to no bearing on the practice of government. The Democratic Party of Turkmenistan, of which Niyazov is chairman, remains the only legally registered party in Turkmenistan. Despite the formal existence of legislative and judicial branches of power, in practice only the executive branch—supported by the all-important security agencies and the president’s private militia—exercises any real authority. The presence of a fourth branch of power, the People’s Council, which was granted the status

of the country's supreme representative body, has displaced even the formal legislative authority of the country's Parliament. In addition to his lifetime presidency, President Niyazov acts as chairman of the People's Council with lifetime tenure. In 2004, Niyazov's regime stepped up its already intensive campaign to inculcate a nationalist ideology, a cornerstone of which was the publication of the second volume of the president's quasi-spiritual guide for the Turkmen nation, the *Rubnama* ("Book of the Soul"). Regular purges of the upper echelons of the country's government are carried out, and Niyazov's lavish personality cult continues to serve as an important instrument for the buttressing of his authoritarian rule. Niyazov appeared to rely less on the Ministry for National Security to maintain tight control of society and to discourage dissent, while devolving greater powers to his own security service, the Presidential Guard. *For these reasons, Turkmenistan's new rating for national democratic governance is set at 7.00.*

Electoral Process. Turkmenistan is the only country in the Commonwealth of Independent States (CIS) formally to remove limits on an incumbent president's term in office. Since 2001, President Niyazov has proposed on several occasions that presidential elections be held before 2010, ostensibly to pass on the presidency before he reaches the age of 70. In October 2004, as on previous occasions, the People's Council, a pseudo-representative organ headed by Niyazov himself, rejected the president's proposal to hold presidential elections in 2008–2009, insisting that he remain in power until his death. No opposition parties or movements are officially registered in the country. Unrelenting harassment by authorities has driven the relatively small Turkmen opposition either firmly underground or into exile. Turkmenistan's third parliamentary elections, which took place in December 2004, were widely regarded as a ceremonial exercise. Only candidates approved by the government were permitted to stand, all of whom were ethnic Turkmen and members of Niyazov's ruling Democratic Party of Turkmenistan. As in the past, the government did not invite international observers—including observers from other CIS countries—to monitor the elections. Unprecedented voter apathy resulted in a record low turnout of only 76.88 percent, which was a marked departure from the usual near 100 percent participation rates declared by electoral officials for all previous elections and referendums. *Turkmenistan's rating for electoral process remains unchanged at 7.00.*

Civil Society. President Niyazov's illiberal regime has created tremendous obstacles for the development of civil society, severely impeding the ability of independent NGOs and religious groups to function. The few NGOs allowed to operate in Turkmenistan are generally government sponsored, such as the veteran's and youth associations, and the women's union, which is dedicated to the memory of President Niyazov's mother. In an attempt

to assuage widespread criticism of Turkmenistan's human rights practices by the international community, the government published new legislation in November 2004 abolishing criminal penalties for unregistered NGO activity. However, the legislative change was expected to provide only very limited relief to civil society activists, barring the absence of general reform in Turkmenistan. Similarly, in 2004 Turkmen authorities reversed legislation from 2003 that had made unregistered religious activity a criminal rather than an administrative offense. The government also introduced legislation facilitating the registration of minority religious communities, which allowed four such groups to acquire official registration. In practice, however, even registered minority religious groups were still subject to harassment. Tight control continued to be maintained over Turkmenistan's two largest religions, Sunni Islam and Russian Orthodox Christianity. The government took further steps to systematically dismantle the education system, replacing the bulk of teaching in most schools with the study of Niyazov's *Ruhnama*. *Turkmenistan's rating for civil society remains at 7.00. The legislative changes undertaken in 2004, while positive developments, were not expected to significantly ease the draconian restrictions currently placed on the activities of both NGOs and minority religious communities.*

Independent Media. All state media in Turkmenistan are devoted primarily to extolling the activities and achievements of the president and are devoid of independent information. Cable television has been banned, and access to the Internet is strictly controlled by the state. In July 2004, Turkmen authorities suspended the transmission of Russia's Radio Mayak, which was highly popular in Turkmenistan and acted as one of the last independent media sources in the country. In keeping with his general policy of reducing government employment, Niyazov ordered the paring down of the country's media establishment in September 2004, resulting in the closure of several news bureaus and the dismissal of over 120 professional journalists. A major propaganda effort to improve Turkmenistan's international image was undertaken in October 2004 when the country launched a new multilingual satellite television service. *Turkmenistan's rating for independent media stays the same at 7.00.*

Local Democratic Governance. Local executive power in Turkmenistan's five regions and the city of Ashgabat is vested in the governors, who are appointed by the president to execute his instructions. As with officials at the national level, regional officials tend to remain in their positions for very short periods, often for less than a year. In the first half of November 2004, President Niyazov dismissed at least 12 high-level local officials in the Ahal and Balkan regions for corruption, unfulfilled duties, and other "grave shortcomings." Given their brief tenure in office, local officials tend to give low priority to solving the problems of their respective regions, preferring instead to use their

short time in power to amass personal economic benefits. Tribal identities remain strong in Turkmenistan and continue to play an important role in Turkmen society and informal local politics. *For these reasons, Turkmenistan's new rating for local democratic governance is set at 7.00.*

Judicial Framework and Independence. The Office of the Prosecutor-General dominates a legal system in which judges and lawyers play a marginal role. While formally independent, the court system has no impact on the observance of human rights but rather acts as an important instrument of repression for the regime. Convictions are based on confessions that can be extracted by forcible means, including the use of torture. Ethnic minorities—and Turkmenistan's ethnic Uzbek population in particular—are affected by discriminatory practices denying them access to most higher education and jobs in the public sector. In 2004, as in 2003, the United Nations Human Rights Commission and the UN General Assembly adopted separate resolutions condemning Niyazov's regime for its human rights violations. While the government abolished the exit visa regime for citizens of Turkmenistan in early 2004, it implemented in its stead a number of unofficial measures intended to prevent free travel. *Turkmenistan's rating for judicial framework and independence remains unchanged at 7.00.*

Corruption. The existence of patronage networks as the basis of power in Turkmenistan has inevitably given rise to a political culture of bribery, nepotism, and embezzlement. In April 2004, it was revealed that public sector workers were owed nearly US\$290 million in back wages. While President Niyazov sought to pin the blame for the accumulation of wage arrears on his subordinates by accusing them of mass embezzlement, a more likely explanation for the budget shortfall was the continued diversion by Niyazov of ever larger sums from gas, oil, and cotton export revenues to a special presidential fund, a large part of which is used to finance prestige construction projects. This fund—which does not form part of the state budget and is under Niyazov's control—is estimated to be worth at least 60 percent of the country's gross domestic product. Numerous reports from the opposition in exile, including from former members of the secret services, continue to implicate Turkmen officials in drug-smuggling operations from Afghanistan as well as in gasoline smuggling operations into and out of Uzbekistan. *The accelerated pace at which governmental officials are replaced has led to steadily rising levels of embezzlement and bribery, with the result that Turkmenistan's rating for corruption has deteriorated from 6.25 to 6.50.*

Outlook for 2005. Following the December 2004 parliamentary elections, the new Parliament's first act of business was to declare 2005 the Year of the Ruhnama (after the *Ruhnama*, Niyazov's national code of spiritual conduct),

indicating that the government intends to further intensify its campaign to inculcate an official ideology glorifying Turkmenistan and its leader. President Niyazov is highly unlikely to relinquish power voluntarily, to groom a successor, or to embark on a path of liberalization. While Niyazov's regime clearly lacks a solid institutional foundation, revenues from the sale of natural gas—an easily exploitable natural resource subject to state monopoly—could continue to prop up his rule for a number of years. In view of the low level of politicization of Turkmenistan's population, a popular uprising is unlikely, although the periodic distribution of leaflets by underground oppositionists calling for the overthrow of President Niyazov is likely to continue. Perhaps the most immediate threat to the current regime is the failing health of the president, who has been battling cardiovascular problems since at least the early 1990s. Given the absence of an heir apparent, the inevitable regime change could usher in a period of instability in Turkmenistan.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	7.00						

Despite the formal existence in Turkmenistan of executive, legislative, and judicial branches, in practice only the executive branch, which is supported by hypertrophied security agencies and the president's private militia, exercises any real power. Turkmenistan can safely be characterized as a police state in which the activities of its citizens are carefully monitored. The Ministry for National Security (MNB) has the responsibilities held by the Committee for State Security (KGB) during the Soviet period—namely, to ensure that the regime remains in power through tight control of society and by discouraging dissent. The Ministry of Internal Affairs directs the criminal police, who work closely with the MNB on matters of national security. Both ministries have abused the rights of individuals and enforced the government's policy of repressing political opposition.

Since the coup attempt in November 2002, when oppositionists led by former longtime foreign minister Boris Shikhmuradov sought to forcibly remove the president from power, Niyazov appears to have relied less on the MNB while devolving greater powers to his own security service, the Presidential Guard. Consisting of some 2,000 to 3,000 former security agents whose loyalty to the president has been tested over time, the Presidential Guard is not subordinated to any security service and carries out a wide range

of functions on Niyazov's personal orders. Both the Presidential Guard and the MNB operate with impunity.

The Majlis, or Parliament, has been transformed into a presidential appendage, and presidential decree is the usual mode of legislation. All political parties must be registered with the Ministry of Justice (renamed the Ministry of Fairness in September 2003), thereby allowing the government to deny official status to groups that are critical of its policies. In December 1991, the Communist Party of Turkmenistan was renamed the Democratic Party of Turkmenistan (DPT) and Niyazov was confirmed as chairman, leaving the old Communist power structure essentially intact. Other than Niyazov's DPT and the pro-government National Revival Movement, no parties or movements are legally registered in the country. The Constitution proscribes the formation of parties with a religious or nationalist orientation (Article 28). However, since the government prevents all parties other than the DPT from registering and functioning, this ban is of little relevance.

During his reorganization of political structures in 1992, President Niyazov created the Halk Maslakhaty, the People's Council, to recall the Turkmen "national tradition" of holding tribal assemblies in order to solve society's most pressing problems. According to a constitutional amendment and constitutional Law on the People's Council, which were passed by that same body in August 2003, the council was elevated to the status of a "permanently functioning supreme representative body of popular authority." Whereas before August 2003 the law dictated that the People's Council convene at least once a year, the new law requires the People's Council to remain in continuous session.

The 2,507-member People's Council consists of the president, the members of Parliament, the chairman of the Supreme Court, the prosecutor-general, the members of the Council of Ministers, the governors (*hakims*) of the five regions (*velayats*), and the *hakim* of the city of Ashgabat; people's representatives elected from each district; the chairpersons of officially recognized parties, the youth association, trade unions, and the women's union; the chairpersons of public organizations; representatives of the Council of Elders; the *hakims* of cities that are the administrative centers of the *velayats* and districts (*etraps*); and the heads of the local councils (*archins*) of the cities and villages that are the administrative centers of the districts.

The August 2003 law ascribed to the People's Council a number of legislative powers, including the passing of constitutional laws, thereby officially displacing the Parliament as the country's primary legislative body. The constitutional amendment confirmed the People's Council's hitherto de facto status as a fourth branch of power. In reality, proposals put forward by Niyazov at sessions of the People's Council are invariably adopted unanimously by that body, which acts to officially validate the president's policies. At the same time that the status of the People's Council was formally upgraded in

August 2003, Niyazov was unanimously elected as chairman of the People's Council, with a lifetime tenure.

Officials in Niyazov's regime are appointed based on their complete loyalty and subservience to the president rather than on a system of merits. Niyazov regularly purges the upper echelons of his government to diminish the power base of political elites and to rid it of potential rivals. Since 2000, Niyazov's regular reshuffling of ministers and other high-level public sector officials has greatly accelerated in both intensity and scope, possibly belying an increasing inability to trust his officials as well as a growing sense of vulnerability. In March 2002, Niyazov embarked on a full-scale public purge of the security and intelligence agencies amid rumors of possible plans by security officials to oust the president from power. More than 60 MNB employees, including 36 senior staff members, were sacked, demoted, or given prison sentences for a multitude of crimes.

In 2004, Niyazov replaced the minister of internal affairs (on two separate occasions), the minister of national security, the minister of economics and finance, the commander of the Air Force, and the head of the State Border Services, in addition to a multitude of other ministers, deputy ministers, and high-level regional officials. While dismissed officials are sometimes reshuffled to other governmental positions or simply sacked, they are often subject to fines, arrest, or even internal exile. In June 2004, it was reported that authorities had forcibly resettled an estimated 40 former high-ranking officials to the central part of the Karakum Desert to prevent them from fleeing the country.

Niyazov's personalistic style of rule is marked by a significant degree of interference in the private affairs of the country's citizens. Among other things, in 2004 he outlawed the wearing of long hair and facial hair by young men, the use of makeup by television presenters, and the consumption of *nas*, a form of chewing tobacco in widespread use in Central Asia. A highly developed personality cult is perhaps the most visible component of the president's authoritarian regime. Niyazov's portrait is ubiquitous throughout the state, and monuments to the president have been erected in all cities and densely populated areas of the country. His name or title of Turkmenbashi (or his nickname, "Serdar," meaning "Supreme Chief-tain") has been given to several thousand locales and objects, including at least two cities; several districts and villages; the country's main airport; a military institute; a multitude of farms, streets, and squares; a brand of vodka; and the country's highest mountain peak. Study of Niyazov's multivolumed writings has been introduced as a mandatory subject in all educational establishments, and his cult of personality has been extended to include his deceased parents.

The publication in 2001 of the first volume of the *Rubnama* ("Book of the Soul"), a national code of spiritual conduct ostensibly written by Niyazov, served to buttress the president's lavish personality cult. The volume, which

embodies Niyazov's personal reflections on Turkmen history and traditions as well as moral directives, has been accorded the de facto status of a holy book on a par with the Koran. Imams are required to display the *Ruhnama* in mosques and to quote from it in sermons, and Niyazov regularly urges his country's citizens to study and memorize its passages. The *Ruhnama* has been published in more than 20 languages, including Zulu as well as a special Braille edition. Publication of the second volume of the *Ruhnama* took place in September 2004. Passages from the *Ruhnama* were inscribed alongside verses from the Koran on the marble walls of Central Asia's largest mosque, which was officially inaugurated in October 2004 in Niyazov's hometown of Gipchak, outside of Ashgabat.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00

Independent Turkmenistan held its first direct presidential election in June 1992 under a new Constitution, although Niyazov had been popularly elected to the presidency by direct ballot only 20 months previously, in October 1990. According to official results, voter participation in 1992 was 99.8 percent, with 99 percent of all votes cast in favor of Niyazov. In January 1994, a nationwide referendum overwhelmingly prolonged Niyazov's presidential mandate until 2002, exempting him from another popular election in 1997, as required by the Constitution. Following months of speculation on the introduction of a "life presidency," the Parliament approved amendments to the Constitution at the end of December 1999 that removed the maximum two-term provision, thereby enabling Niyazov to retain his presidential post until his death. Turkmenistan, therefore, became the first country in the Commonwealth of Independent States (CIS) formally to abandon both regularly scheduled presidential elections and popular referendums designed to extend the incumbent president's term in office.

Although he is highly unlikely to step down from power voluntarily, President Niyazov has proposed on several occasions since 2001 that presidential elections be held before 2010. At the October 2004 session of the People's Council, Niyazov suggested holding elections in 2008–2009, ostensibly to pass on the presidency before he reaches the age of 70 in 2010. Amid chants of "Glory to the great leader!" the People's Council, as on previous occasions, rejected his proposal to hold presidential elections, insisting that Niyazov remain in power until his death.

No opposition parties or movements are officially registered in the country. Unrelenting harassment by authorities has driven the relatively small Turkmen opposition either underground or into exile. The opposition in exile remains small, weak, poor, and prone to internal division, despite declarations

by prominent members of Turkmenistan's opposition parties and movements to work together to remove Niyazov from power.

A constitutional amendment and law adopted in August 2003 elevated the People's Council to the status of Turkmenistan's highest representative body, displacing the Parliament as the country's chief legislative organ. The majority of the 2,507 seats in the People's Council are distributed among parliamentary deputies and other governmental officials, with the result that only some 65 deputies are elected by the Turkmen population. The most recent elections to the People's Council, as well as to local representative bodies, were held in April 2003 amid a near total absence of information about the candidates or their platforms. Electoral officials claimed a 99.8 percent voter turnout.

The first parliamentary elections in independent Turkmenistan took place in December 1994, when 49 candidates stood unopposed for the 50-member unicameral legislature (2 candidates contested the remaining seat). Parliamentary elections were again held in December 1999, with a declared participation of 98.9 percent of the country's electorate. Although 104 candidates stood for the 50 parliamentary seats, nearly all were members of Niyazov's ruling DPT and served the state in some official capacity. The Organization for Security and Cooperation in Europe (OSCE) declined to send a monitoring mission on the grounds that "the legislative framework is inadequate for even a minimally democratic election."

In line with previous elections, the country's third parliamentary elections on December 19, 2004, were widely regarded as a purely ceremonial exercise. Although 131 candidates vied for 50 seats, only those approved by governmental authorities were permitted to stand. Candidates were initially selected by district authorities before being vetted by regional authorities, after which each candidate was referred to the presidential administration for final approval. Of the 131 candidates, there were 109 men and 22 women. No representatives of ethnic minorities were among the candidates, all of whom were ethnic Turkmen. All candidates were members of Turkmenistan's sole registered political party, the DPT.

As in the past, the Turkmen authorities did not invite international observers—including observers from other CIS countries—to monitor the parliamentary elections, asserting that national officials were capable of monitoring the event without outside help. The elections were thus monitored by some 200 national observers and employees from Turkmenistan's National Institute of Democracy and Human Rights, which is directly subordinated to the president, together with individuals from other organizations that had nominated candidates, such as the youth association and women's union.

During Turkmenistan's 13-year history of independence, electoral officials have declared near 100 percent voter turnout rates for all elections and referendums. To achieve such spectacularly high participation rates, electoral officials engage widely in irregular procedures, such as stuffing ballot boxes and making door-to-door home visits during which voters are urged to cast

their ballots. Pressure is exerted on all civil servants to vote, and failure to do so can lead to reprisals. Despite these undemocratic tactics to encourage voting, unprecedented voter apathy resulted in a record low turnout of only 76.88 percent for the December 2004 parliamentary elections. Authorities attributed the low participation rate to unusually cold weather conditions.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00

President Niyazov's illiberal regime has created tremendous obstacles for the development of civil society, severely impeding the potential interaction of nongovernmental organizations (NGOs), private traders, and other types of independent social and business networks. The few so-called NGOs that are allowed to operate in Turkmenistan are generally government sponsored. There are no independent trade unions. The successor to the Soviet-era Federation of Trade Unions remains linked to the government. Other government-organized "NGOs" include the veterans association, the youth association, the journalists union, and the Humanitarian Association of World Turkmen. The women's union, which is dedicated to the memory of President Niyazov's mother, is the only officially registered women's NGO.

Civil society in Turkmenistan was paralyzed by fallout from an attempted coup on November 25, 2002, when former foreign minister Boris Shikhmuradov and his fellow oppositionists staged an attempt to forcibly remove Niyazov from power as his motorcade was traveling through Ashgabat. Turkmen authorities immediately publicized the attack as a failed assassination attempt, although the opposition has declared that Shikhmuradov's aim was to capture Niyazov and force him to renounce power rather than to assassinate him. Information about the planned coup was apparently leaked to members of Niyazov's security agencies beforehand, enabling them to stage a counteroperation and subsequently present the assault as a carefully planned plot to kill the president. Investigations carried out by the Office of the Prosecutor-General predictably confirmed the official version of events as originally presented by President Niyazov within hours of the incident, and the accused were sentenced in closed trials within a matter of weeks.

Niyazov used the attempted coup to his advantage by incarcerating some of his major opponents, including Shikhmuradov, and implementing a series of new measures that curbed civil liberties even further. A new wave of repression and witch-hunts was initiated in the aftermath of the armed attack, resulting in the arrest of at least 200 individuals with purported connections to the opposition, of whom approximately 60 were ultimately convicted for their alleged role in the coup attempt. Independent civil society activists became

frequent targets of detention and harassment. Turkmenistan's government-sponsored NGOs were used as part of a propaganda campaign to demonstrate support for the president. Mass meetings were held and rallies staged, with participants calling for the "people's enemies" to be put to death. Niyazov proposed to the People's Council that a new maximum penalty of life imprisonment with no possibility of pardon, amnesty, or parole be introduced for the crime of treason, which was very broadly defined as any crime against the state or the president.

Civil society activists were repressed further in November 2003, when an unprecedented presidential decree was signed into law requiring all NGOs to register or reregister with the Ministry of Fairness (Justice) or face fines, corrective labor, and possible prison sentences with the confiscation of property. The law gave the authorities the right to exercise complete control over the funding and activities of NGOs, thereby effectively limiting the ability of foreign donors to provide financial aid and other assistance to civil society groups. As a result, many independent NGOs ceased to exist or began to operate under the safer label of "initiative group." In early 2004, the Dashoguz Ecological Club and the Ecological Club Catena—two of Turkmenistan's oldest operating NGOs—were stripped of their legal registration. According to a database kept by Counterpart Consortium, there were approximately 200 to 300 registered and unregistered NGOs in Turkmenistan in 2000; by 2004, there were fewer than 100, most of which were government sponsored.

In a move apparently designed to assuage international criticism of Turkmenistan's human rights practices, the government published new legislation in November 2004 abolishing criminal penalties for activities undertaken by unregistered NGOs, thereby reversing the November 2003 legislation. However, the decriminalization of unregistered NGO activity is not expected to have a significant practical impact on civil society given the general draconian restrictions on civic activism.

As with political parties and public associations, all religious congregations must register with the Ministry of Fairness to gain legal status. Before 2004, the only religions that had managed to register successfully were Sunni Islam and Russian Orthodox Christianity, although they were still subject to tight government controls. In March 2004, President Niyazov issued a decree pledging to register all religious groups regardless of background or number. The law was amended accordingly to reduce the number of adult citizens needed to register a religious community with the Ministry of Fairness from 500 to 5. As a result of these changes, four minority religious groups managed to gain registration in 2004: Seventh-day Adventists, Baha'is, Baptists, and Hare Krishnas.

According to the U.S. government's *2004 International Religious Freedom Report*, the March decree resulted in "a noticeable reduction in harassment of minority congregations." Yet despite minimal progress, several minority religious communities remain unregistered, such as Catholics, Lutherans, and

Jehovah's Witnesses. Moreover, some of those minority religious groups that succeeded in becoming registered in 2004 nonetheless continued to experience harassment. In August, groups of Baptists and Seventh-day Adventists were raided by security officials in the towns of Abadan and Turkmenabat, respectively, even though both groups were in possession of valid registration certificates.

In response to international pressure, Turkmen authorities eliminated criminal penalties for members of unregistered religious groups in May 2004. (In November 2003, Turkmenistan had tightened its Law on Religion and adopted amendments to the criminal code that imposed penalties of up to one year's imprisonment for unregistered religious activity, which had hitherto been considered an administrative offense.) However, while unregistered religious activity is no longer subject to criminal prosecution, congregations that are not registered with the Ministry of Fairness are prohibited from proselytizing, gathering publicly, and disseminating religious materials, with violators subject to penalties under the administrative code.

Since approximately 2000, the government has systematically dismantled the country's education system to such an extent that today the majority of children in Turkmenistan no longer have adequate access to education. Niyazov's *Ruhnama* is a compulsory part of school curricula, having replaced the bulk of teaching in most schools. In many rural schools, it is estimated that one half of classroom time is allocated to the study of Niyazov's quasi-spiritual guide and other writings devoted to furthering his personality cult. In addition, students must answer questions about the *Ruhnama* in order to pass entrance exams for higher education institutions.

Over 12,000 teachers have been made redundant, including those with degrees from foreign universities. The number of places in higher education institutions has been reduced by nearly 75 percent, and primary and secondary education has been reduced from 11 to 9 years (a circumstance that complicates the entry of Turkmen students into foreign universities). Only those who have completed two years' work experience after leaving school are allowed to go on to higher education, and the term of higher education has been reduced to just two years. All correspondence and evening courses have been liquidated. The dismantling of the education system has put in doubt the ability of the next generation of Turkmen to compete successfully in the global market.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
7.00	7.00	7.00	7.00	7.00	7.00	7.00	7.00

All state media in Turkmenistan are devoted primarily to extolling the activities and achievements of the president and are devoid of independent infor-

mation. The president is the formal founder of the country's 23 registered newspapers and 14 registered journals and personally appoints all editors, who are answerable to him. In 2004, the Paris-based Reporters Without Borders ranked Turkmenistan 164th out of 167 nations—immediately above Burma, Cuba, and North Korea—in its annual worldwide Index of Press Freedom. Foreign journalists are rarely allowed to enter the country, and those who do gain entry are closely monitored by the State Service for the Registration of Foreigners.

Cable television—which had provided access to Russian channels and acted as the country's main source of alternative information—was banned in July 2002 after Russian television broadcast footage of poverty in Turkmenistan. During the same month, Turkmenistan's Ministry of Communications halted the import of Russian newspapers and magazines, citing high airmail delivery rates. In July 2004, Turkmen authorities suspended the transmission of Russia's Radio Mayak, which was highly popular in Turkmenistan and acted as one of the last independent media sources in the country aside from a few foreign broadcasts on shortwave radio directed at Turkmen listeners. Satellite dishes are still tolerated and in widespread use in the capital city but are prohibitively expensive for the vast majority of the population.

All access to the Internet is strictly controlled by the country's sole Internet provider, Turkmen Telecom. The monitoring of e-mail by the state, blocked access to a growing number of websites critical of government policy, and high fees have successfully restricted use of the Internet to a small number of organizations and individuals. According to the International Crisis Group, it was estimated that in 2004 there were only some 8,000 Internet connections in the country, although the number of users was undoubtedly higher.

In keeping with his general policy of reducing government employment, Niyazov ordered the paring down of the country's media establishment in September 2004. This resulted in the closure of several news bureaus serving central and regional newspapers and the dismissal of over 120 professional journalists. In addition to sackings, at least two journalists, both working for the U.S.-funded radio station Radio Liberty, were beaten and threatened in 2004.

A major propaganda effort to improve Turkmenistan's international image was undertaken in October 2004 when the country launched a new multilingual satellite television service. TV4 Turkmenistan, initiated by President Niyazov at an estimated cost of US\$12 million, broadcasts programs in Turkmen and six foreign languages: English, Russian, Chinese, French, Arabic, and Persian. According to Niyazov, the channel's purpose is to report on various aspects of life in Turkmenistan while focusing on the country's achievements.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	7.00						

Local executive power in Turkmenistan's five *velayats* and in the city of Ashgabat is vested in the *hakims*, who are appointed by the president to execute his instructions. Below the *velayat* level, the president also appoints the executive heads of the cities and districts (*shakher hakims* and *etrap hakims*, respectively), purportedly based on the recommendations of the respective *velayat*-level *hakims*. Regarding local representative organs, the 1992 Constitution provided for the replacement of local soviets by councils (*gengeshes*), whose members are directly elected for five-year terms. The 528 *gengeshes* are administered by *archins*, who are elected from among their membership. Some 5,500 deputies were elected to local *gengeshes* in April 2003 with little transparency and minimal media coverage and preelection campaigning.

As with officials at the national level, regional officials tend to remain in their positions for very short periods, often for less than a year. In the first half of November 2004, President Niyazov dismissed at least 12 high-level local officials in Ahal and Balkan regions for "grave shortcomings." Given their brief tenure in office, *hakims* tend to give low priority to solving the problems of their respective regions, preferring instead to use their short time in power to amass personal economic benefits.

Tribal identities remain strong in Turkmenistan and they continue to play an important role in Turkmen society and informal local politics. The largest tribes are the Tekke in south-central Turkmenistan (Ahal Tekke and Mary Tekke), the Ersary near the region of the Turkmenistan-Afghanistan border, the Yomud in western and northeastern Turkmenistan, and the Saryks in the southernmost corner of the country. Unlike in parts of Africa, for example, where both formal and informal tribal associations have played a significant role in political mobilization and local governance, tribalism in Turkmenistan manifests itself primarily in social practices, such as the maintenance of preferential networks, endogamy, and the persistence of dialects.

However, the exit of the Russian nomenklatura following the collapse of the USSR led to a gradual resurgence of traditionally minded regional elites vying for their economic interests, which in turn prompted Niyazov to rely more and more on a policy of divide and rule with regard to tribal and regional politics. While a sense of national identity is being promoted at the state level, *hakims* tend to be members of the tribe that is dominant in their respective regions. A disproportionate number of influential positions in central government tend to go to members of Niyazov's own tribe, the Ahal Tekke.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
6.75	6.75	6.75	7.00	7.00	7.00	7.00	7.00

On May 18, 1992, Turkmenistan's Parliament adopted a new Constitution, making it the first Central Asian state to enact such a document after the dissolution of the USSR. It guarantees in theory the protection of basic rights and liberties, equality under the law, and the separation of religion and state. Although it also envisages a quadripartite division of power, the broad powers delegated to the president obscure the authority of the legislative and judicial branches, which act as rubber stamps for the president's policies. Amendments have been made to the Constitution since its original adoption, including eliminating the two-term limit for the president, prohibiting the holding of dual citizenship by citizens of Turkmenistan, and redefining the status and function of the People's Council.

Unchanged since the Soviet era, the court system in Turkmenistan consists of a Supreme Court, six regional courts (including one for the city of Ashgabat), and, at the lowest level, 61 district and city courts. In addition, the Supreme Economic Court hears all commercial disputes and cases involving disputes between state enterprises and ministries. Because all military courts were abolished in 1997, criminal offenses committed by military personnel are tried in civilian courts under the authority of the Office of the Prosecutor-General. While formally independent, the court system has no impact on the observance of human rights but rather acts as an important instrument of repression for the regime.

All judges are appointed for five-year terms by the president without legislative review. The Office of the Prosecutor-General dominates a legal system in which judges and lawyers play a marginal role. As in the former Soviet Union, convictions are based on confessions that can be extracted by forcible means, including the use of torture and psychotropic substances.

Despite its accession to a number of international human rights agreements, which theoretically have precedence over state law, Turkmenistan has perhaps the poorest human rights record of any former Soviet republic. In December 2002, widespread concern about human rights violations prompted 10 participating states of the OSCE to invoke for the first time in 10 years the so-called Moscow Mechanism, which provides for the establishment of a fact-finding mission of rapporteurs to investigate reported violations.

The OSCE report, released in March 2003, was harshly critical of human rights practices in Turkmenistan, even calling for the UN General Assembly to reexamine its 1995 recognition of Turkmenistan's status as a neutral country. In addition to the OSCE, the European Parliament, the United Nations Human Rights Commission (UNHCR), and the UN General Assembly adopted separate resolutions in 2003 condemning Niyazov's regime for its human rights

violations. In April 2004, the UNHCR adopted a second resolution expressing grave concern at the persistence of political repression and restrictions on freedom of information and expression in Turkmenistan. The government of Turkmenistan rejected the resolution as tendentious and indicated that it would seek to have it struck from the record. In November 2004, the UN General Assembly adopted its second resolution condemning continuing and serious human rights violations by the government of Turkmenistan.

Arbitrary arrest and detention remains a widespread practice in Turkmenistan, despite laws prohibiting it. Prison riots are a relatively common occurrence, apparently provoked by inhumane conditions. The Turkmen government has admitted to chronic overcrowding in cells, which has led to prisoners being stifled to death in extreme summer heat. Food and water remain in short supply, and prisoners are not generally provided with medical aid. Poor sanitary conditions have precipitated outbreaks of cholera, tuberculosis, and other infectious diseases. Human rights organizations have reported that inmates are routinely beaten and tortured. In November 2004, the government released an estimated 9,000 inmates under an annual amnesty mandated by a 1999 law and presidential decree. Although individuals convicted of serious crimes are theoretically ineligible for amnesty, those who can pay bribes—excluding political prisoners—are generally freed, regardless of the type of crime they were imprisoned for. While the annual amnesties serve temporarily to relieve overcrowding, prisons quickly fill up again owing to the overall high number of arrests.

In 1999, Turkmenistan became the first CIS country to embark upon the establishment of a visa regime inside the territory of the former USSR. In March 2003, the president restored the compulsory exit visa regime for its citizens wishing to cross state borders, although the requirement had been rescinded only a little over a year before in January 2002. However, in January 2004 the exit visa regime for citizens of Turkmenistan was again abolished, although in its stead the government implemented a number of unofficial measures to prevent free travel, such as the drawing up of an extensive “black-list” of citizens who are prohibited from leaving the country, the arbitrary confiscation of passports, and the closure of border checkpoints. In March 2004, the president issued the decree *On the Improvement of Exit Procedures for the Citizens of Turkmenistan*, after which it was reportedly somewhat easier for citizens to travel abroad. Niyazov’s formal abolition of the exit visa requirement was intended to stave off possible punitive action by the United States under the Jackson-Vanik amendment, which allows for the imposition of trade sanctions against states that deter freedom of emigration.

In line with other post-Soviet states, Turkmenistan has accorded a *de facto* higher status to its titular population, ethnic Turkmen, and has legitimized the adoption of policies and practices that promote their specific interests. Higher education and jobs in the public sector have been effectively closed to non-

Turkmen. Members of ethnic minorities are not allowed to apply for positions in the judicial system, in law enforcement and security agencies, or in financial and military organizations. Senior state officials must be able to demonstrate ethnic purity by tracing their Turkmen ancestry back several generations.

The president has attempted to eliminate the use of Russian as the main language of communication with either the outside world or among ethnic communities within the country. The Russian media are inaccessible, and Russian has been excluded from virtually all spheres of education. While in 1991 Turkmenistan had nearly 1,500 Russian-language schools, in 2004 there was only 1, located in the Russian embassy in Ashgabat. Following the suspension of Russia's Radio Mayak in July 2004, the government mouthpiece, *Neitral'nyi Turkmenistan*, remains the only Russian-language media source of information for the country's Russian-speaking population, which includes ethnic Armenians, Jews, and Ukrainians, among others.

Ethnic Uzbeks have been particularly affected by these discriminatory practices. Since the end of 2002, several thousand people, primarily ethnic Uzbeks, have been forcibly relocated from the Turkmenistan-Uzbekistan border areas to desert regions in northwestern Turkmenistan. This policy presumably serves the dual purpose of reducing irredentist sentiment among Uzbeks in Turkmenistan while increasing population density in scarcely populated regions of the country. Schools with Uzbek as the primary language of instruction have been gradually forced to switch to Turkmen. By the end of 2004, virtually all ethnic Uzbeks in high- and middle-level administrative positions in Dashoguz *velayat*, located on the Uzbek-Turkmen border, had been removed from their positions.

Even in areas of Turkmenistan where ethnic Uzbeks constitute the majority of the population, they no longer serve as district governors, farm chairmen, or school principals. In March 2004, former chief mufti Nasrullah ibn Ibadullah, an ethnic Uzbek, was charged with treason and sentenced to 22 years in prison. While Ibadullah was tried in connection with his alleged role in the coup attempt of November 2002, it was widely believed that he was removed from his position because of his ethnicity and his opposition to the use of mosques for the display and praise of Niyazov's quasi-spiritual code, the *Ruhnama*.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	6.25	6.25	6.25	6.25	6.50

The actual dispensation of power in Turkmenistan is determined by the vast machinery of patronage that has created local constituencies and regional alliances rather than by the rule of law. Political elites have traditionally

built up local power bases by allocating key posts and opportunities to their loyalists. These informal networks, which have survived the demise of the Soviet system, are frequently referred to as “clans,” although they are based on patron-client relationships, often with links to extended families, rather than on actual blood ties. The existence of patronage networks as the basis of power has inevitably given rise to a political culture of bribery, nepotism, and embezzlement.

Organized crime in Turkmenistan has been able to flourish largely as a result of corruption in state institutions. Regional governors at all levels are directly or indirectly appointed by the president to carry out his instructions and can be replaced at his discretion, thereby engendering a strong degree of personal loyalty within the system. Significantly, regional governors have direct access to state revenues, which they use to buy the loyalty of subordinates.

Before 2000, dismissed officials as a rule were not imprisoned or sent into exile. In recent years, however, the dizzying pace at which governmental officials are replaced, coupled with an increased fear of arbitrary reprisal, has meant that newly appointed officials attempt to acquire perks and exploit the privileges of their positions in record time. As a consequence, corruption, particularly embezzlement and bribe taking, has been rising steadily.

In April 2004, it was revealed that public sector workers were owed nearly US\$290 million in back wages. The build-up of wage arrears threw into question the ability of the government to fulfill its plan to raise public sector salaries, pensions, and benefits by 50 percent effective January 2005. The use of military conscripts as a source of free labor and the introduction of fees for certain medical services provided further evidence that the state was having difficulty funding its huge public sector. Since 2002, approximately 20,000 to 30,000 conscripts have been sent each year to work in various sectors of the economy, such as farming, transportation, and health services, as part of their military service. In practice, the conscript army is used in many instances as a source of free labor for the state, with soldiers replacing, for example, the traffic police and most medical assistants.

News of the wage arrears was especially surprising, as it came on the heels of official reports announcing the country's record foreign trade surplus. While President Niyazov sought to pin the blame for the accumulation of back wages on his subordinates by accusing them of mass embezzlement, a more likely explanation for the budget shortfall is the continued diversion by Niyazov of ever larger sums from gas, oil, and cotton revenues to a special presidential fund, which is located in European and other bank accounts. This foreign exchange reserve fund (FERF), which does not form part of the state budget and is under Niyazov's control, is estimated to be worth at least 60 percent of the country's gross domestic product. Export payments provide its main source of inflow, although observers of the regime have suggested

that sudden increases in foreign reserves are also related to Turkmenistan's position as a transit point for drug-trafficking operations.

A significant portion of the FERF is used to fund prestige construction projects. More than US\$1 billion has been spent during Turkmenistan's independence on such projects, including a palace of congresses and arts, an independence park, two stadiums, a national museum, a series of luxury hotels, and a horse-racing center. The construction of a national theater of music and drama, new library and exhibition center, children's attraction park, oceanarium, zoo, and even an ice palace and funicular railway are under way. The construction of Central Asia's largest mosque, located in Niyazov's hometown of Gipchak, is estimated to have cost US\$86 million. Furthermore, Niyazov has undertaken the construction of a gigantic artificial lake in the Karakum Desert, with a planned capacity of twice that of Central Asia's entire reservoir.

Numerous reports, including those investigated by the Russian State Duma, have alleged that Niyazov's regime ran an international narcotics-smuggling operation from Afghanistan during the late 1990s in cooperation with the Taliban, with whom Niyazov maintained cordial relations. In the Afghan cities of Herat and Mazar-i-Sharif, Turkmenistan opened consulates that were reported to operate as a cover for secret drug deals conducted by Niyazov's government with money laundered in the United Arab Emirates. This lucrative trade was pointed to as one of the primary reasons that Niyazov unilaterally ended Turkmenistan's treaty with Russia on border cooperation in 1999.

Following the removal of the Taliban, Turkmenistan was purported to have continued to act as a transshipment point for illicit drugs from Afghanistan to Western Europe. Reports from the opposition in exile, including former members of the secret services, claimed that even after the arrival of U.S.-led coalition forces in Afghanistan in 2001, heroin continued to arrive by the truckload in Turkmenistan, where it was stored in the basement of the old presidential palace. Estimates of the amounts procured by Turkmenistan's government ranged from 80 to 120 tons a year. In addition to charges of drug trafficking, several Turkmen officials have been accused of organizing gasoline smuggling routes into and out of Uzbekistan.

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Ukraine

<i>Capital</i>	Kyiv
<i>Population</i>	47,800,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$4,870
<i>Private sector as % of GDP</i>	65%
<i>Ethnic groups</i>	Ukrainian (78 percent), Russian (17 percent), other (5 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	3.25	3.50	3.50	4.00	4.50	4.00	4.25	3.50
Civil Society	4.00	4.25	4.00	3.75	3.75	3.50	3.75	3.00
Independent Media	4.50	4.75	5.00	5.25	5.50	5.50	5.50	4.75
Governance	4.50	4.75	4.75	4.75	5.00	5.00	5.25	n/a
National Democratic Governance	n/a	5.00						
Local Democratic Governance	n/a	5.25						
Judicial Framework and Independence*	3.75	4.00	4.50	4.50	4.75	4.50	4.75	4.25
Corruption	n/a	n/a	6.00	6.00	6.00	5.75	5.75	5.75
Democracy Score	4.00	4.25	4.63	4.71	4.92	4.71	4.88	4.50

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

In 2004, Ukraine overcame an extraordinary challenge to return to democratic political development and, ultimately, triumphed as an impressive success story for democracy in Eastern Europe. During the previous 14 years of independence, Ukraine had remained a hybrid regime in which authoritarian and democratic features coexisted. Since independence in 1991, Ukraine witnessed four presidential (1991, 1994, 1999, 2004) and three parliamentary (1994, 1999, 2002) elections. Now, the third president and the fourth Parliament are in power. The Constitution, adopted in 1996, introduced a presidential model, according to which the president appoints and dismisses government officials and regional governors. Recent constitutional reforms (adopted on December 8, 2004) have introduced the move toward a mixed parliamentary-presidential model of power. This reform is scheduled to be implemented either September 1, 2005, or January 1, 2006 (two options provided by provisional regulations).

The economy of Ukraine has grown rapidly since 2000 (up 12 percent in 2004), and real wages are increasing (the average monthly salary is approximately US\$120 as of late 2004). However, the country still lacks real structural reforms and suffers from corruption. Lack of media freedom has been considered one of the major problems in Ukraine's democratic transition. Oligarch groups close to President Leonid Kuchma have controlled not only state-run television, but also television channels considered on paper to be independent.

The trend of national development was changed dramatically in November–December 2004, when presidential elections followed by what has become known as the Orange Revolution took place. The people voted for democratic changes and after massive fraud in the second voting (November 21) efficiently protected their choice in peaceful rallies from November 22 to December 8. The falsified vote was canceled by the Supreme Court, and pro-Western democratic leader Victor Yushchenko was elected at the revoting on December 26 with 51.99 percent of the votes. Victor Yanukovych, Kuchma's "official successor" and representative of the eastern Ukrainian "Donetsk clan," a consolidated group of business and nomenclature leaders from Donetsk which was the most powerful political-economic lobby in Ukraine during the late Kuchma period, lost with 44.2 percent of the votes. These events—called the Orange Revolution for the color of Yushchenko's

campaign—opened a way to positive changes in the political, social, and economic life of Ukraine.

National Democratic Governance. The nontransparent nature of national governance overall was a major problem before the Orange Revolution, creating a gap between formal and shadow decision-making procedures. The president of Ukraine is still at the center of the power hierarchy that dominates the executive branch's activities. President Leonid Kuchma finished his second term and left office despite the controversial December 2003 Constitutional Court decision to allow him to ballot again. It is hoped that newly elected president Victor Yushchenko will dedicate considerable effort to ensure a more transparent functioning government. The administration of the president had been the strongest policy-making body, working as a parallel government without any constitutional responsibility, until Yushchenko liquidated this body. Political parties will have a direct impact on the government's formation after constitutional reforms come into force either September 1, 2005, or January 1, 2006. The parliamentary-governmental coalition (pro-presidential) that was established in 2002 lost a real majority in the Parliament after the group Center and Agrarian Party faction left it. However, this had no impact on the government of Victor Yanukovich (prime minister since November 2002). The Parliament is the only plural and democratic institution in the central government in which the whole spectrum of political views is represented. *Ukraine's new rating for national democratic governance is set at 5.00 as the new government of Victor Yushchenko–Yulia Tymoshenko is launching its reforms in 2005 and their impact will not likely be seen until the end of the year.*

Electoral Process. The presidential campaign was conducted according to the Law on the Election of the President of Ukraine, amended in 2004. More advanced than the previous version, the amended law provides details about free and fair voting practices and an opportunity for officially registered contenders to submit representatives to all local and territorial polling commissions. However, the new law formally excludes nongovernmental organization (NGO) representatives from observing elections at the polls. The Central Election Commission (CEC) staff was rotated in 2004. Serhiy Kivalov, a parliamentarian from pro-presidential circles, was appointed CEC head. Only 4 out of 15 members of the CEC represent the opposition. International and domestic observers noticed numerous violations during the presidential campaign, voting, and counting of votes. The first round of elections enjoyed unprecedented voter turnout—75.5 percent. The second round was even higher at 80 percent; however, this figure reflected a false turnout in eastern Ukraine. This radically fraudulent vote was canceled by

the Supreme Court in response to mass rallies of public protest. Seventy-seven percent of voters took part in the revote on December 26. *Ukraine's electoral process rating improves from 4.25 to 3.50 as the ultimate revoting in the presidential election became more free and fair, according to domestic and foreign observers, which has opened opportunities for democratic changes in the country.*

Civil Society. Despite the unfavorable legal framework for NGOs and the authorities' efforts to discredit foreign-funded organizations, the third sector in Ukraine has grown significantly. The presidential campaign determined the appearance of a number of NGOs aimed at ensuring a free and fair election. In October, before the first round of voting, law enforcement bodies made an attempt to charge some NGO activists, mainly those from the Pora initiative, with the preparation of terrorist attacks. The evidence presented by the police was quite doubtful, but some activists were arrested for the short term. The 2004 presidential campaign achieved the highest level of civil engagement in Ukraine since the country's independence. Self-organized civil energy played a crucial role in the Orange Revolution, which was a response to massive election fraud on November 21. These large-scale expressions of public protest took place November 22–December 8 and were organized and promoted primarily by civil activists. *Ukraine's rating for civil society improves from 3.75 to 3.00 owing to the explosion of self-organized civil activity during the presidential campaign and Orange Revolution.*

Independent Media. Most nationwide media are privately owned in Ukraine, but before the Orange Revolution all were under the strong control of oligarchs close to the Kuchma regime. During the presidential campaign, most television viewers had very limited access to balanced and fair information about the major candidates. The three television channels with the largest coverage (1st National, 1+1, and Inter) broadcast an aggressive campaign against opposition leader Victor Yushchenko. The practice of the government issuing instructions designed to control the content of media broadcasts continued during the campaign. In early 2004, Radio Dovira, under pressure from its new owner, broke a contract with Radio Liberty (RL); as a consequence, RL lost access to the nationwide FM audience. Radio Kontyent, which broadcasts the British Broadcasting Company and Deutsche Welle, lost its license as well. At the same time, repression against the media was less active in 2004 than in previous years. Despite problems and interference from the authorities, Channel 5 was the only television channel that represented opposition views and even managed to expand its audience (up to about 25 percent nationwide). Its ratings have increased five times since 2003. Some small and medium-size channels and TV companies

(such as Tonis, Era, and STB) provided more or less fair and professional information on politics. No progress was made in the official investigation of the murder of journalists Heorhiy Gongadze and Ihor Aleksandrov. The November–December events, however, could hardly have happened without a breakthrough in the media sphere. Channel 5 and Era became a voice for the people’s campaign. In late November, some of the largest TV channels (such as 1+1 and partially 1st National) refused to accept censorship and resumed a balanced news policy. *Ukraine’s rating for independent media has increased from 5.50 to 4.75 owing to the progress of independent media and the role of media in the Orange Revolution.*

Local Democratic Governance. Governors of the executive in the regions are appointed by the president, as are the *raion* (district) executive heads. Mukacheve’s radically falsified mayoral elections in April 2004 demonstrated the most severe problems of local governance in Ukraine. This case emphasized the lack of efficient mechanisms to ensure the rights of territorial communities in Ukraine. The situation may change in the future if the Law on Regional and Local Elections, adopted in March 2004 to introduce proportional voting, is actually implemented; however, implementation is no insurance that democratic development will itself occur. On December 8, the draft constitutional amendment to develop local and regional governance was approved in the first reading, yet the amendment content is still far from perfect. *Ukraine’s new rating for local democratic governance is set at 5.25 as local governance remains one of the weakest points in Ukraine’s democracy, even after the Orange Revolution.*

Judicial Framework and Independence. The Constitution of Ukraine adopted in 1996 fully guarantees freedom of expression, freedom of conscience and religion, freedom of association, and business and property rights. However, the proper and sufficient implementation of these guarantees is obviously lacking. In practice, the state selectively respects fundamental political, civil, and human rights. Equality before the law remains doubtful. The presidential elections illustrated the dramatic lack of any real implementation of these laws. Torture in Ukrainian prisons has been a point of special interest to Ombudsperson Nina Karpachova in recent years; however, no decrease has been observed, and no reliable statistics are available. The key judicial decision of the year was the cancellation of the November 21 second presidential vote by the Supreme Court on December 3 due to massive fraud. This case has shown the limitations of government pressure on the judiciary system. Additionally, last-minute amendments to the Law on Presidential Elections caused widespread problems in adjudication during the revoting. *Ukraine’s rating for judicial framework and*

independence improves from 4.75 to 4.25 owing to increased independence, reflected particularly in the role of the Supreme Court in the aftermath of the November 21 election fraud.

Corruption. Corruption remains Ukraine's biggest problem and is pervasive in society. Transparency International's 2004 Corruption Perceptions Index placed Ukraine 122 out of 146 nations, with a score of 2.2 (the same as for Kazakhstan, Kyrgyzstan, Niger, Sudan, Bolivia, and Guatemala). Anticorruption rhetoric was widely exploited during the presidential campaign. However, no consistent policy on this issue has been implemented. Over-regulation of the economy provides a ground for illegal bureaucrat income, which in many cases is much higher than official wages. Bribery remains key to authority decision making on different levels. The Office of the Prosecutor-General ignored numerous calls for open proceedings against top executives suspected in corruption. The only case against opposition leader Yulia Tymoshenko is clearly motivated by politics and has progressed with the support of Russian law enforcement bodies. The Ministry of the Interior, led by Mykola Bilokon, appeared to be the most biased in following all requests of President Kuchma and his head of administration, Victor Medvedchuk, in particular pressing militia (police) staff to take part in the presidential campaign on the side of the "official successor," Victor Yanukovych. *Ukraine's corruption rating is unchanged at 5.75 as the old corrupt government and the regional and local administrations remain in office until the end of the year.*

Outlook for 2005. The Orange Revolution opened a new window of democratic opportunity for Ukraine. It is foreseeable that the new government will likely follow basic democratic values: media censorship will be abolished, anticorruption measures and deregulation of the economy will undermine the existing relations among the state, business, and society; and administrative reform will be launched. Governmental policies will become more open and transparent. The 2006 parliamentary campaign will begin in a more fair and free atmosphere than the presidential elections of 2004. Ukraine has definitely returned to the democratic, European path of development. Constitutional reform adopted in December 2004 is likely to be implemented; however, the second phase addressing local and regional administration remains uncertain. The very process of reform remains controversial, as it reflects bargaining and tactical compromises within the ruling elites. For the midterm future, Ukraine will preserve some of the features of a hybrid regime. The ultimate consolidation of democracy will take several years, maybe a decade. Corruption is unlikely to disappear in Ukraine in the near future, but its level will certainly decrease.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.00						

The Constitution of Ukraine was adopted in 1996 and established a presidential system in which the executive strongly subordinates the other two branches of government, with the president at the top of the power vertical. All ministers, regional executive heads (governors), and local administration heads are appointed and dismissed by the president and dependent on him personally. The president also appoints the chiefs of the state tax administration, the customs service, the security service, and other governmental agencies.

Before the Orange Revolution, Ukraine existed in the “gray zone” between democracy and authoritarianism. The country’s major problem was the nontransparent nature of national governance overall and the gap between legal and actual decision-making procedures. On the one hand, abuse of power and corruption were widespread, the government was overcentralized, and checks and balances were often ineffective. On the other hand, the constitutional framework was based on the checks and balances principle, the political system remained pluralistic, the opposition was active and achieved considerable successes during elections, some media provided independent information, and civil society was viable and actively developing. After the change of power on December 26, these democratic trends will, it is hoped, prevail.

Leonid Kuchma finished his second term as president and left office in 2004 despite the Constitutional Court’s controversial decision in December 2003 to allow him to run for a third term. The administration of the president remains Ukraine’s strongest policy-making body, working under the president’s sole decree as a parallel government without basis in the Constitution or any constitutional accountability. Since Victor Medvedchuk assumed the position of administration head in 2002, this body has played the role of supreme government with numerous, mostly informal tools and procedures. Still, there are some concerns about its unconstitutional influence on governmental activities.

The Verkhovna Rada (Parliament) is a relatively pluralistic and democratic institution in which the whole political spectrum is represented, excluding ultraradical views. However, the Parliament’s control over the executive has been mostly formal. The Parliament’s only means to affect the government directly is through a majority no confidence vote, which leads to the dismissal of the government. A second option is through the budget

process, yet the Parliament has proved to be inefficient as a control over the real expenditures of the government. The Parliament does not have any influence on appointments within the government.

Despite Parliament-wide representation of political views, public confidence in the institution is relatively low: according to polls, only 6–8 percent of voters fully trust the Parliament (less than the president and government). For the most part, the public views it as inefficient. This situation began to change during the Orange Revolution, when the Parliament proved its ability to deal with political crisis. Political parties have no direct impact on the executive's formation, although the key figures in parliamentary committees often keep strong ties with the presidential administration to protect their own business or political interests, and the influence of this dependence is frequently reflected in their voting record. The parliamentary-governmental coalition (pro-Kuchma), which was established in 2002, lost a real majority in the Parliament after the newly established group Center left the Parliament in summer 2004. The Agrarian Party, led by Speaker Volodymyr Lytvyn, also suspended its membership in the coalition in September.

Victor Yushchenko's Our Ukraine reformist faction preserved its position as the biggest party in the Parliament (101 members of Parliament [MPs] out of 450 as of late December 2004). After the change of power, most former pro-Kuchma forces supported President Yushchenko, which led to the eventual creation of a coalition of more than 300 MPs loyal to Ukraine's new leadership. This provisional coalition is likely to be relatively stable until the parliamentary campaign of 2006.

The activities of the Victor Yanukovych government were mostly non-transparent. In the last few months before the elections, the government implemented populist measures aimed at attracting voters to Yanukovych. One of these measures was a radical increase in pensions (up to 80 percent) that expanded the budget deficit. Likewise, under Kuchma's authority military and security services proved to be mostly nontransparent. Any attempts to control the expenditures of the Ministries of Defense and the Interior as well as the security service failed. The Law on Civil Control over the Military (adopted in 2003) is not yet fully implemented, and a widely announced reform toward the formation of a professional army has slowed down.

Until December 2004, any attempts to change the Constitution were unsuccessful. In 2000, President Kuchma tried to increase the Constitution's power through a referendum, but his efforts were blocked by the Parliament. After 2002, Kuchma changed his strategy—the president's efforts were concentrated on transferring power to the Parliament to ensure the institutional status quo after he left office. The leftist opposition (members of the Communist and Socialist parties) backed these projects, hoping to increase their factions in the Parliament in the event that proportional voting was introduced (instead of the existing 50 percent proportional/50 percent majoritarian mixed system).

The reformist opposition led by Victor Yushchenko opposed this project, considering it an attempt to limit his future power as the most evident candidate for the presidency. The first draft failed to be adopted on April 7, when 294 (out of 450) MPs voted for it (300 votes were needed). Ultimately, during the Orange Revolution the consensus version of the reform passed through the Parliament on December 8 as part of a “big legislative compromise” between the winning opposition and outgoing president Kuchma.

The system of relations inside the president/Parliament/government triangle presented in the approved reform draft differs from that in both the existing legislation and the initial draft. The government steps down before a new parliament, not a new president. During the month following the opening of the first session of the Parliament (or collapse of the previous coalition), the Parliament must create a majority coalition (from the factions that collectively hold 226 or more votes out of the total 450). The coalition proposes candidates for the prime minister to the president. Within 15 days, the president must submit this candidate for the Parliament’s approval. Ministers are appointed and dismissed by the Parliament as proposed by the prime minister. The president proposes candidates to the Parliament for defense and foreign ministers and the head of the security service. The Parliament, but not the president, may dismiss individual ministers or the entire cabinet. The tenure of the Parliament (beginning with the next one) has been increased from four to five years. MPs can lose their mandates and be expelled from the Parliament if they refuse to join the faction or bloc on whose list they were elected. The president is popularly elected for a five-year term.

According to the reform, a portion of the president’s power will be shifted to the prime minister. The president maintains the right to appoint regional governors and to summon the Council of National Security and Defense (consisting of chief ministers). The president also maintains a veto right in the existing legislative framework, with the exception of constitutional laws. Also, the president can stop decrees by the cabinet of ministers, yet these decisions must be endorsed by the Constitutional Court. Consequently, with this model Ukraine could develop into a parliamentary-presidential system with a comparatively powerful prime minister. However, the president will remain a strong figure.

Finally, the adopted reform draft preserved two points specifically criticized by the Council of Europe’s Venice Commission—namely, a binding mandate for MPs and an extended mandate for the prosecutor-general. The reform is to be taken into force on September 1, 2005, if the second round of constitutional changes (addressing local and regional administration reform) is adopted by that point. If not, the reform is to take effect January 1, 2006. The December 8 reform may become an issue for the Constitutional Court, as procedural violations during the reform process could be used as an argument to avoid reshaping Ukraine’s power structure in the immediate

future. It is possible that the court may recognize the reform as illegitimate and cancel it.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
3.25	3.50	3.50	4.00	4.50	4.00	4.25	3.50

Ukraine under Kuchma witnessed the gradual decline of electoral democracy and the degradation of election procedures. After relatively free and fair presidential elections in 1994 (Kuchma's first win), the parliamentary elections of 1998, presidential elections of 1999 (Kuchma's second term), and especially the parliamentary campaign of 2002 proved that Ukraine was moving away from democracy. Interference by the authorities into the electoral process (so-called administrative resource) and discrimination in the media became major factors in Ukraine's decline in democracy. Legislative measures were unable to prevent increasing violations.

In late March 2004, the Parliament adopted new legislation on parliamentary and local elections that introduce proportional voting for MPs (instead of a 50 percent proportional/50 percent majoritarian mixed system) as well as the deputies of regions (oblasts), districts (*raions*), and local deputies. The Law on Parliamentary Elections will be applied in the 2006 parliamentary elections and is expected to improve the political structure of Ukraine by developing the party system, as parties and blocs of parties will serve as the only platforms for advancing candidates. The new law decreases the parliamentary electoral threshold from 4 to 3 percent, which can help smaller and "younger" parties gain access. As of December 2004, 104 political parties are registered to compete.

The presidential elections of October 31, November 21, and December 26, 2004, were major political events in Ukraine that determined a decisive change in the country's development. The widely held perception is that these events, followed by the Orange Revolution, presented a key challenge for democracy in countries that are part of the Commonwealth of Independent States and perhaps even for the future of Europe. Victor Yanukovych and Victor Yushchenko, two "big" candidates, exemplified very different political visions and social values. The former represents post-Soviet and pro-Russian thinking, which lacks any sentiment for democracy, the rule of law, and human rights. With a mission to promote European values, the latter is strongly determined to fight corruption, promote media freedom, and advocate for more transparent political decision making.

Victor Yushchenko worked in banking until 1999, and as the head of the National Bank (1993–1999) he became the father of the Ukrainian national currency, the hryvnia (introduced in 1996). Yushchenko was prime minister from 1999 to 2001, during which time the country's economy began to

recover from a long-term depression. After his resignation, initiated by the Parliament (and supported informally by President Kuchma), Yushchenko became leader of the democratic coalition Our Ukraine, which won the majority position in the 2002 parliamentary elections.

Victor Yanukovich was strongly linked to the Donetsk region before the 2002 elections. He was imprisoned twice on criminal charges in the late 1960s to early 1970s. Yanukovich's career was rehabilitated under strange circumstances in the late 1970s. In the 1980s to the early 1990s, he was chief of the state automobile enterprise in Donetsk, then governor of Donetsk (1997–2002). Next, he was prime minister of Ukraine from November 2002 to December 2004 and leader of the Party of Regions since 2003. Economic growth continued during recent years, which was a strong argument in Yanukovich's campaign for president.

Twenty-six candidates officially registered as contenders for the presidency, double the number of candidates in the previous elections in 1999. Three of these later withdrew. However, among the 23 remaining candidates, only 4 were credible contenders: Victor Yushchenko, former prime minister and leader of Our Ukraine, the biggest opposition faction in the Parliament; Victor Yanukovich, then prime minister; Oleksandr Moroz, leader of the Socialist Party of Ukraine; and Petro Symonenko, leader of the Communist Party of Ukraine.

These four effectively represented the whole political spectrum in Ukraine: the party of power—namely, Party of Regions and the wider nomenklatura-oligarchy coalition (Yanukovich); the right-centrist liberal-reformist opposition (Yushchenko); the left-centrist opposition (Moroz); and the radical leftists (Symonenko). The remaining 19 candidates represented small, often marginal political groups and parties; indeed, some established themselves as political figures only at the start of the campaign, playing the role of “technical candidates,” which will be explained shortly.

On March 18, 2004, the Parliament approved amendments to the Law on Presidential Elections that essentially changed the former law adopted in 1999. The amended law limits presidential campaigns to four months (instead of six months, as under the previous law) and provides an opportunity for candidates to officially delegate two representatives at each local polling commission.

Updated legislation also provided a legal status for observers, including parties, presidential contenders, the media, and international organizations. While greater transparency was made possible by the presence of candidate representatives on the local and central election commissions, independent Ukrainian nongovernmental organizations (NGOs) were not allowed to observe the elections, as MPs thought it would increase exponentially the number of observers. In actuality, this move expressed distrust in NGOs, which do not back any party but only observe the fairness of elections. This exclusion cannot but limit the credibility of the process and erode the legiti-

macy of electoral results. NGO activists, however, found a way to get around the new measure by registering as media observers. On the polling day, the *Tochka Zoru* newspaper (published by the Committee of Voters of Ukraine) delegated 10,000 special correspondents to polling stations.

There were other drawbacks to the new law: First, the procedure for lodging electoral violations is complicated. Second, the law prescribes the procedure for nullifying elections only at the constituency level (where 10 percent of ballots are recognized as invalid), not at the national level. This latter drawback could theoretically lead to a situation where elections are announced null in constituencies where the opposition is winning. The massive vote fraud on November 21 proved that the existing law was not sufficient to counter “administrative resource.” After the Supreme Court recognized the fraud, lawmakers on December 8 introduced changes that limited voting with absentee ballots and voting at home—a special opportunity for invalids and old people who can request to vote from home by having three members of the polling commission visit with a small ballot box. According to Yanukovych’s team, these provisions prevented hundreds of thousands of people from voting. Independent observers did not confirm this statement.

Empowered by the Law on the Central Election Commission, the Central Election Commission (CEC) is a permanent state body that, in accordance with the Ukrainian Constitution and laws, ensures the preparation and conduct of elections for the Ukrainian president and deputies and for nationwide referendums. The CEC comprises 15 members assigned to office, and their powers are terminated by the Parliament upon recommendation of the Ukrainian president.

The law sets a five-year term limit for CEC members, and in 2004, 11 out of 15 members were rotated. The selection process was not transparent enough to guarantee fair political and professional representation. As a result, only 4 CEC members out of 15 represent opposition parties (2 from the Communist Party, 1 from the Socialist Party, and 1 from Our Ukraine). Other members were selected under the control of the president’s administration. Serhiy Kivalov, a representative of President Kuchma’s entourage and former head of the Supreme Council of Justice, replaced Mykhailo Ryabets as CEC chairman.

Territorial election commissions (TECs) in the 225 districts were appointed by submissions of official contenders. The responsibility of TECs is to collect data from polling stations, summarize them, and send the results to the CEC. TEC headquarters positions were distributed among representatives of all candidates; however, this process was not transparent enough to ensure fair representation. The selection procedure was announced as automatic (by computer), but most headquarters positions were secured by Yanukovych’s team and his satellites.

Forming polling station commissions (PSCs), which are responsible for the most basic level of elections and counting votes, remains a significant chal-

lenge to the election process. By law, each candidate has the right to appoint two PSC members. During the month before the election, however, a large number of appointed PSC members resigned or refused to perform their duties. This created instability and uncertainty in the run-up to the election, according to an interim report published in late October by Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

As for the campaign, it was definitely not free and fair. Independent observers, the Committee of Voters of Ukraine, and leading NGOs noted the following violations:

Governmental interference in the election process and evidence of “administrative pressure.” Governmental bodies took an active part in the campaign, even though this is strictly prohibited by law. Officials from the central and regional authorities worked openly for the “official candidate,” Victor Yanukovich. There was direct use of law enforcement against the opposition press and citizens involved in the campaign, and observers reported numerous instances where the local state administration openly supported the Yanukovich candidacy. There were widespread allegations of pressure applied to workers in both the public and private sectors to campaign and/or vote for Yanukovich, and students and teachers were compelled to attend pro-Yanukovich campaign events.

Discrimination in the media. Television channels were blatantly biased in favor of the “official candidate” in a variety of ways. According to the monitoring data of the Institute for Mass Information, Yanukovich received more TV coverage than all the other candidates collectively before the first round of voting on October 31. In addition, the coverage of his activities as prime minister was overwhelmingly positive, in contrast with Victor Yushchenko, who received critical coverage almost exclusively.

The “technical candidates” problem. Among the 23 remaining contenders on voting day, there were at least 15 who had not actually conducted a campaign to pursue the presidency. Instead, it appeared that they had merely offered technical support for the “big” candidates by providing additional agitation and seats in election commissions. These pseudocandidates had been able to influence the composition of polling commissions at different levels. Observers suggested that 12 to 13 of these technical candidates had real ties to Yanukovich, yet it appeared that he controlled an absolute majority of commissions.

The presidential campaign was marked by significant interference from the “Russian factor,” which played a greater role than in previous elections. Russian media, which are available to the majority of Ukrainian voters, provided a strong campaign against Yushchenko and in favor of Yanukovich. President Vladimir Putin personally arrived in Ukraine several days before

October 31 to participate in a military parade standing next to Yanukovich. He addressed an interview to Ukrainian TV viewers through three major TV channels, praising the Yanukovich government for improving Ukraine's internal situation as well as bilateral Russia-Ukraine relations. Between the first and second rounds, President Putin came to Ukraine again on November 12–13 to publicly wish Yanukovich success and to arrange secret talks with President Kuchma in Crimea.

According to a preliminary statement by the ODIHR mission published on November 1, 2004, *“The 31 October presidential election in Ukraine did not meet a considerable number of OSCE, Council of Europe, and other European standards for democratic elections. This election process constitutes a step backward from the 2002 elections.”* The election process was characterized by significant shortcomings: Yanukovich's failure to distinguish between resources owned or managed by the incumbent political forces and those of the state; overwhelming bias in favor of Yanukovich in the state media; interference by the state administration; the existence of so-called *temnyky* (media guidelines) issued by the government to control media policy; the dissemination of inflammatory campaign materials from anonymous or unclear sources; inaccuracy of voter lists and confusion in the formation of PSCs, impeding voters' ability to check their entries; numerous errors and/or omissions on voter lists that challenged the principle of universality of the vote; and the inefficiency of the CEC in uniformly applying the law.

Noteworthy positive aspects included real political pluralism and competition; real campaigning opportunities for candidates; television debates among the candidates; constructive activities of civil society; cooperation between state structures and observation missions; and an unprecedented number of foreign observers (up to 12,500 at the revote on December 26).

The returns of the first round (October 31) reported by the CEC were as follows: 39.87 percent in favor of Victor Yushchenko and 39.32 percent for Victor Yanukovich. The turnout for the first round was the highest in Ukraine's period of independence—75.5 percent. The data include votes of 27,897,559 persons, although some people voted “against all” candidates or for candidates not listed below.

First Round Election Results

Candidate	Number of Votes(%)	Number of Persons
Victor Yushchenko	39.87	11,125,395
Victor Yanukovich	39.32	10,969,579
Oleksandr Moroz	5.81	1,621,154
Petro Symonenko	4.97	1,388,045
Natalia Vitrenko	1.53	426,897
Anatoliy Kinakh	0.93	260,890

The second vote on November 21 demonstrated further deterioration of electoral procedures and an even more complete violation of law. Official data from the CEC showed a turnout of 80.4 percent: Yushchenko—46.61 percent of the votes; Yanukovich—49.46 percent, which would mean ultimate victory for Yanukovich.

The European Union, the United States, and the governments of European states declared the election fraudulent and nondemocratic, and Ukrainian society reacted to the radically corrupt counting with the Orange Revolution. The second-vote returns were canceled on December 3 by the Supreme Court of Ukraine, which confirmed massive fraud proved by the “added turnout” of about 1.2 million votes that appeared some hours after polling stations closed. Uncontrolled absentee balloting (one person could vote at five or more polling stations with absentee ballots) and false voting at home were also noted as tools of election fraud. Falsification was noticed primarily in the Donetsk region, where turnout on November 21 was fixed at 96.64 percent of voters (78.08 percent in the first vote on October 31), and four polling stations reported more than 100 percent turnout (with 97–99 percent of the vote going to Yanukovich).

After canceling the second vote, the Parliament passed amendments to the Law on President’s Elections to limit the issue of absentee ballots and voting at home. CEC, TEC, and PSC staff were changed to ensure the balanced representation of both candidates. Serhiy Kivalov was dismissed from the position of CEC chief, and the neutral Yaroslav Davydovych replaced him. These changes prevented election fraud in the December 26 revote.

Turnout at the December 26 revote was 77.3 percent. The final returns were Yushchenko—51.99 percent; Yanukovich—44.20 percent. Observers from the OSCE, Council of Europe, and other international institutions recognized the vote of December 26 as making remarkable progress in Ukrainian democracy. January 23, 2005, is the scheduled inauguration date for President-Elect Victor Yushchenko.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
4.00	4.25	4.00	3.75	3.75	3.50	3.75	3.00

Ukraine has had evident success in developing a civil society, which as a result has become increasingly vocal, active, and influential in the development of democratic institutions and behavior. Various organizations are involved in the democracy-building process in Ukraine, and the number of NGOs is increasing. In 2004, more than 37,000 NGOs had legal status, according to Counterpart Creative Center (a Ukrainian organization), but following different estimations, 20,000 to 25,000 of these exist only on paper. The legal framework for NGO activity remains underdeveloped. For instance, legislation

does not provide a clear definition of “NGO” or “nonprofit activity.”

NGOs included in the official Register of Nonprofit Organizations enjoy partial tax benefits such as an exemption from paying value-added and profit taxes. At the same time, most income—excluding grants, donations, and member fees—is considered business activity, which imposes tax obligations on NGOs as business enterprises. NGOs cannot sell their products or provide services, even those aimed at supporting their work, without the risk of losing their nonprofit status. Attempts to pass a special Law on Nonbusiness Activity and NGO Regulation were unsuccessful; therefore, the third sector is still regulated by the outdated 1992 Law on the Organizations of Citizens. A draft Law on Nonprofit Organizations passed its first reading in October 2000 but has not yet been taken up by the Parliament. The latest draft of this law was submitted to the parliamentary committee in April 2002 on the initiative of NGOs, but the committee has been passive on the issue. The state budget provides no governmental support for NGOs, and taxes are not reduced for those who donate to the third sector. NGO activists were discriminated against in the new Law on Presidential Elections, which formally excludes them from observing electoral procedures at polling stations.

Nevertheless, Ukrainian NGOs are faced with the seemingly insurmountable problem of establishing ways to receive financial support from the various groups whose interests they represent. Although small and medium-size business is developing, Ukraine’s economic arena is still dominated by big-business oligarchs. Therefore, the Ukrainian third sector remains dependent on Western funds, a factor that has often been used by Ukrainian authorities to undermine the credibility and public legitimacy of NGOs. In particular, the Parliamentary Investigative Commission on NGO Funding (led by Communist MP Valeriy Mishura) was obviously biased to prove that NGOs are dependent on Western money and are therefore agents of foreign influence that undermine Ukraine’s security.

Nongovernmental advisory boards at the ministries are inadequate and have little influence. Some of them exist on paper only. For instance, during 2004 there was no meeting of the NGO Consultative Council at the Ministry of Foreign Affairs. Advisory councils in parliamentary committees, in particular the Committee for European Integration and the Committee on Media Freedom, acted much more regularly and efficiently.

The presidential campaign spurred the appearance of a number of civic movements and NGO coalition initiatives aimed to ensure a free and fair election. Pora (It’s Time), Studentska Chvylya (Student’s Wave), Chysta Ukraina (Clean Ukraine), and Znayu (I Know) were among them. These NGOs were determined to mobilize voters, especially young ones, to protect their voting rights and to raise citizen awareness. NGO coalitions such as New Choice 2004 and Freedom of Choice consolidated their efforts to make use of the expertise gained in previous elections.

International donors provided special support for NGOs involved in the election-monitoring process. In particular, a consortium of Western donors provided funds for an election exit poll. Led by the Democratic Initiatives Foundation, the national exit poll proved to be a success despite tensions that appeared among polling organizations within the project. Special election-oriented donors' programs were provided by the International Renaissance Foundation (Ukraine's Soros Foundation) and the National Endowment for Democracy (U.S. donor organization).

In October, before the first round of elections, law enforcement bodies tried to accuse some NGO activists, mainly those from Pora, of preparing terrorist attacks, but the evidence presented by the police was quite doubtful. Some activists were arrested for the short term, and there was visible conflict between activists and the authority. As the International Helsinki Foundation for Human Rights said in October, "A recent tendency reported by Ukrainian NGOs is the use of police action in hundreds of cases against individuals and organizations believed to support the opposition, for example in unsanctioned searches of premises, arrests, and beatings."

Civil campaigns and protests not related to the political campaign encountered obstacles. In the regional center Sumy in August, a student protest of a proposed university merger (to create Sumy National University by combining three local universities) and the appointment of a principal led to short-term detentions of more than 30 people. Out of 40 trials convened during this period to hear civic groups' petitions about restrictions on their right to peaceful assembly, only 2 cases were resolved in favor of the rally organizers. In fact, most cases involved local governments appealing to courts to ban a rally after organizers had provided due notification. There are often violations of due process with evidence presented only from the side of local administrations. Court decisions often made reference to the "probability" of clashes or "fear" of clashes among rival political forces as a reason for denying rally permits, although clashes are more likely to happen with police when demonstrators proceed with unauthorized protests. At the same time, civil protests occasionally appear to be successful. In the case of the university merger, Sumy students achieved their goals; as a result of the student protests, President Kuchma cancelled plans to unite three different universities into Sumy National University.

Trade unions remain mostly dependent on the state. The biggest, the Federation of Trade Unions (headed by Oleksandr Stoyan), openly supported Prime Minister Yanukovich during the presidential elections, which proved its total dependence on the state. Independent trade unions, like the Independent Miners Trade Union (led by MP Mykhaylo Volynets), were not strong enough to compete. It is worth noting that a newly emerged independent trade union of journalists is playing a role in the public campaign for free and fair media coverage of the political process.

It is obvious that the state interferes in the education system with propaganda, especially during elections. The most noteworthy violation occurred at Sumy Agrarian University, which is one of the three local universities that would have been merged into the Sumy National University, in which the administration demanded that students present a filled ballot before being allowed to place it into the ballot box. Other cases where university administrations interfered with students' freedom of choice were registered in Cherkasy and Rivne (caught on videotape). All of these cases were shown on television (Channel 5) and increased the public's resistance to the so-called administrative resource.

Self-organized civil activism played a crucial role in the Orange Revolution. Civil activists, not party leaders, were primarily responsible for promoting massive public participation at the events of November 22 to December 8. Up to 3 million people participated in different meetings, actions, and marches across the whole of Ukraine during this period. Thousands of people provided money, food, and clothes to shelter participants in tent cities. Self-determination and self-organization appeared to be a key precondition for peaceful and efficient actions in Kyiv. Protection of liberty and civil and political rights (not just sympathy for Yushchenko) was the core slogan of the campaign. The Orange Revolution provided a strong impulse for further development of civil society, which can lead to the formation of new, democratic, institutionalized, and transparent relations between government and society in Ukraine.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
4.50	4.75	5.00	5.25	5.50	5.50	5.50	4.75

The media sector in Ukraine remains structurally weak. There is a lack of independent media based on media business as an independent area of the economy. The most popular media are still under the control of business groups, which consider them a PR tool rather than separate, self-sustained business projects.

As the media sphere is usually vulnerable to political circumstances in new democracies, 2004 opened a new horizon for media freedom in Ukraine. The positive developments of November–December dramatically changed the media landscape, which witnessed an information war before, during, and after the electoral campaign. The new government has already announced an intention to establish real public TV and radio broadcasting.

Though there is public demand for free, fair, and balanced information, the Orange Revolution merely created the initial preconditions for mature media freedom. Current problems in the information sphere are determined by structural issues, such as transparency of media ownership, independence

of media business, and the capacity of journalists to effectively defend their professional interests. Ukraine is still lacking all three parameters.

Article 34 of the Constitution protects the right to freedom of expression and information, and Article 15 prohibits censorship. However, censorship existed in a variety of forms in Kuchma's Ukraine, which was clearly proven by the 2004 presidential campaign. Article 277 of the new civil code of Ukraine, which came into force January 1, 2004, establishes that "negative information disseminated about a person shall be considered false." "Negative information" can be understood as any form of criticism or description of a person in a negative light. This provision is not only a clear breach of the right to freedom of expression, but also turns reality on its head: something that is true but negative will be considered false. This formula was pushed by pro-Kuchma factions to limit media rights and to provide a legal tool to punish media when they are "too" critical.

Of the total number of television stations (over 800), only 1.7 percent are state owned and 35.2 percent are partially state owned. However, the influence of the state is much more substantial, as many private television stations are effectively not functioning or not influential. In addition, the main television channels are all owned by or under the influence of pro-presidential forces. The head of National Channel 1 was also appointed by the president.

In recent years, some of Ukraine's wealthiest individuals and prominent political figures have come to directly control or heavily influence all major Ukrainian television stations, except National Channel 1, which is state owned. Victor Pinchuk, son-in-law of President Kuchma and an MP, maintains a heavy investment in Novyy Kanal (New Channel), STB, and ICTV, as well as the Dnipropetrovsk Channel 11. Pinchuk's other media holdings include Ukraine's largest daily newspaper, *Fakty i Komentarii* and the Ukrainian News news service. Circumstances at these media lead to the total dependence of information policy on the owner's opinion and current preferences, which essentially reduces information quality and prompts a constantly biased style of journalism. Novyy Kanal and STB also receive significant Russian investment, according to Human Rights Watch.

Social Democratic Party-united (SDPU[u]) figures Hryhory Surkis and Ihor Pluzhnikov have total control over Inter, and SDPU(u) chiefs (primarily Victor Medvedchuk, head of Kuchma's administration) have full control over the information service at Studio 1+1. These last two channels are the most popular in Ukraine owing to their nationwide coverage and rather high entertainment programming standards. But for a long time they were the most biased—the reason why most Ukrainians could not receive balanced information. Medvedchuk also maintains financial commitments and influence over these stations as well as National Channel 1. The above-mentioned SDPU(u) leader, Hryhory Surkis, owns TET, an important Kyiv local and regional station that reaches 12 percent of the nation.

National Channel 1, owned by the National Television Company of Ukraine, is the only truly national television station, covering more than 98 percent of Ukrainian territory. The five other major stations broadcast over a significant portion of Ukrainian territory and are thus considered “national”: Studio 1+1 has 95 percent coverage; Inter has up to 80 percent coverage; and Novyy Kanal, STB, and ICTV each maintain up to 40 percent coverage. The three stations with the largest coverage, National Channel 1, Studio 1+1, and Inter, account for nearly 90 percent of television advertising profits, with the remaining 10 percent divided among the other 828 stations. Regional stations enjoy a much smaller market share and largely broadcast programs relevant to local interests. Russian channels such as ORT, RTR, NTV, and TV-6 air via cable and satellite, and some programs are retransmitted on Inter and other regional stations. Western Ukraine receives Polish, Czech, and Hungarian television programs.

The government interfered directly in the operation of the media by issuing “guidelines” for reporting known as *temnyky*. These were reportedly sent to media outlets on a regular basis from the information policy department of the presidential administration. This form of censorship was established when Victor Medvedchuk became head of the presidential administration. *Temnyky* included recommendations on the content of news programs mainly on key national television and radio stations, but also in print media. *Temnyky* first appeared at Medvedchuk-controlled channels in late 2001 and were transformed into government policy in summer 2003.

State-controlled TV, particularly National Channel 1, consistently misinformed the public on the presidential candidates in news and other programs, promoting a positive impression of Prime Minister Victor Yanukovich and airing only limited and largely negative coverage of his main opponent, Victor Yushchenko. This was standard policy at all times and most aggressive on the eve of the elections.

There was massive discrimination against the opposition. From May to August, the government’s candidate received eight times more airtime on national television than the main opponent (the campaign formally started on July 4, but the propaganda machine was switched on long beforehand). The latter was accused of harboring extremist views and of being allied with extremist organizations. Recently, the media were used to present opposition figures as terrorists and criminals, before any court had had a chance to decide on the matter.

One of the few independent television stations of national importance, Channel 5, faced closure in what appears to be a politically motivated defamation case. The station’s workers initiated a hunger strike to express their protest. The TV station Era, which broadcasts on National Channel 1 at night and in the morning, was warned that it would be taken off the air days before the elections. However, none of these attempts to close any

TV channel or change its ownership by pressure succeeded in 2004. Channel 5 and Era played a crucial role in the Orange Revolution by providing live TV marathons with leaders of the opposition and civil activists from Maidan (Independence Square). Owing to the determined efforts of these TV channels, millions of people were kept informed about events in Kyiv.

In 2004, serious violations of media rights occurred on the eve of the presidential campaign. On February 17, privately owned Radio Dovira stopped Radio Free Europe/Radio Liberty (RFE/RL) broadcasts after new management assumed control of the station. When Radio Kontyent picked up RFE/RL, the transmissions were reportedly jammed. On March 3, Ukrainian authorities confiscated Radio Kontyent's transmitter on grounds that it lacked a valid license. Radio Kontyent has been allegedly broadcasting illegally for several years. The timing of this seizure—just after it started broadcasting RFE/RL and at the beginning of the presidential election campaign—gives rise to concern that the act was politically inspired, since RFE provides independent news coverage as well as political analysis.

Separately, there were credible reports of a significant increase in selective harassment by the state tax administration (STA) of journalists who did not support pro-presidential forces and of companies that belong, or are presumed to belong, to opposition supporters. These reports include but are not limited to frequent tax inspector visits to companies and newsstands of Ostrov editor Yevhen Talyshev; a tax case against the journalist who published articles in Ostrov critical of the Donetsk oblast tax administration; and increased tax investigations against the regional daily *Lvivska Hazeta* following publication of articles critical of the former head of the Lviv oblast tax administration Serhiy Medvedchuk.

As positive developments, one can mention the shared broadcasting of independent Hromadske Radio and Era FM and the launch of the independent FM broadcasting project NART–Chesna Hvylya (Fair Wave), which provide all of them balanced political information.

The Internet remains an important source of independent information. A March survey by GfK-USM (Ukrainian Surveys & Market Research) reported the high number of 6.4 percent for “active Internet users,” or 3.1 million Ukrainians. The survey also found that 9 percent (4.32 million Ukrainians) had access to the Internet. The Security Service of Ukraine (SBU) has attempted to take control of Ukraine's “ua” domain, probably to limit and/or control the huge growth of Internet resources in Ukraine. In May, the most secret department in the SBU, the Special Telecommunication Systems and Defense of Information, prepared a government resolution that would transfer the administration of “ua” to the newly created SBU-run Ukrainian Internet Information Center. This project is likely to be withdrawn now, as a result of the Orange Revolution.

More than half (55 percent) of Ukrainian Web sites are run by media outlets and news agencies; 23 percent belong to political parties; 14 percent host forums and news sites; and 8 percent are personal pages. Ukraine has more than 320 online newspapers and journals, and most major print media have online versions.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	5.25						

The existing system of local governance in Ukraine is hybrid and does not guarantee real and full local self-governance. Ukraine consists of 24 regions (oblasts), the Autonomous Republic of Crimea (ARC), and 2 cities with oblast status (Kyiv and Sevastopol). Each oblast is divided into districts (*raions*). Municipalities (usually villages or small towns up to 30,000 inhabitants) may be subordinated to a *raion* or an oblast (for medium-size cities, between 30,000 and 200,000 inhabitants). Big cities (more than 200,000) are also usually divided into *raions*.

Heads of the executive in the oblasts and *raions* are appointed by the president. On the other hand, top executives of cities, towns, and villages are elected by the people. This duality creates a precondition for permanent competition between appointed and elected officials at the local level. Regional appointed leaders generally try to establish full control over elected yet typically dependent mayors.

Elected mayors exercise their power in a more independent manner than appointed heads of the executive at the oblast and *raion* levels, and this was clearly evident during the presidential campaign. However, their resources (including budgets) are limited, as city executives are subordinated to either *raion* or oblast. The majority of taxes, including value-added tax (20 percent) and profit tax (30 percent), are redistributed through the central budget, which causes regular complaints from those regions with relatively higher gross domestic product per capita (that is, the eastern industrial regions). Oblast and *raion* budgets are not sufficient to guarantee appropriate levels of social spending, which hinders the development of local infrastructure.

Lack of self-governance was used in the presidential campaign by the losing Yanukovich team to push the idea of federalization in Ukraine. The very idea of federalism is currently used by eastern and southern elites who fear losing their ruling position and property and advocate for independence from Kyiv. The ARC enjoys substantial autonomy from central authorities, having a relatively independent budget. Unlike other regions, the ARC council alone elects the prime minister of Crimea. The political situation in the ARC remains stable despite the manipulation of ethnic issues during the election campaign.

The current oblast and *raion* councils were elected by single-mandate vote in 2002. Most of the regional and local deputies were fully loyal to Kuchma. The Lviv oblast council, controlled by the pro-Yushchenko opposition, was the only non-Kuchma oblast council in Ukraine. However, during the Orange Revolution some oblast councils (including those of Lviv, Ivano-Frankivsk, Volyn, Ternopil, Khmelnytsky, Chernivtsi, and Kyiv), following the popular vote in those regions, recognized Yushchenko as president. It was a political, symbolic, and moral act with no legal grounds.

The Mukacheve case demonstrated the most severe problems in local governance and proved to be one of the most challenging and troubling subjects in Ukraine in 2004. After President Kuchma appointed Myroslav Opachko as acting mayor in the Transcarpathian city of Mukacheve in December 2003, the town's new election commission scheduled a vote for a new mayor to be held April 18, 2004. The election pitted Our Ukraine bloc lawmaker Victor Baloha against Ernest Nuser, who was supported by the SDPU(u) and presidential administration chief Victor Medvedchuk. The campaign was far from free and fair, and the election day and night displayed an extreme level of political hostility and electoral fraud. According to Our Ukraine and confirmed by an exit poll, Baloha won a decisive victory, with 19,385 votes to Nuser's 13,895. However, the city's election commission allegedly robbed Baloha of his victory, instead awarding Nuser 17,416 votes and Baloha 12,297.

The vote itself seemed to take place in a relatively peaceful manner, observers said, even though groups of hooligans—with shaved heads, leather coats, and combat boots—moved around the city in packs or stood in front of polling stations, intimidating voters. When the election ended, those groups reportedly attacked, burglarized, and even destroyed some polling stations in apparent reaction to the publicized results of an exit poll that predicted a landslide victory for Baloha. Many local police officers were either too scared to react to the attacks or turned a blind eye. Notably, none of the rampaging hooligans was arrested. Attacks intimidated some polling station commissions to the extent that they were unable and/or afraid to sign polling station protocols for several hours. However, judging from the results authorized by the protocols from 35 polling stations, the Our Ukraine observers were all but certain of a Baloha victory at midnight and even began to celebrate. Several hours later, they were informed that the city's election commission had announced Nuser the winner. A group of Our Ukraine lawmakers tried to obtain information on the decision at the city's election commission headquarters, where they were met by riot police.

A parliamentary commission established to investigate the Mukacheve case and led by Oleksandr Zinchenko came to the conclusion that the results of the elections were distorted by the switching of 12 polling station protocols as they were on their way to the city election commission after the conclusion of the ballot. Law enforcement bodies proved to be biased; nobody was pun-

ished for the Mukacheve falsification, which was intended to ensure victory for the Kuchma-loyal contender. This case has shown that there are no efficient mechanisms to ensure the rights of territorial communities in Ukraine.

The structure of oblast and *raion* councils may change after 2006 when new councils are elected according to the new Law on Regional and Local Elections (adopted in March 2004), which will introduce proportional voting. However, the voting system itself does not guarantee that the entire system of self-governance will become more transparent and democratic. Political voices that oppose the proportional voting system at the local level are growing by emphasizing weaknesses in the party system.

In addition, the “second round” of constitutional reform, approved in the first reading on December 8, implies an increase in oblast and *raion* council capabilities. This draft abolishes heads of *raion* administration (appointed by the president) and passes more power to councils. At the oblast level, the head of administration will be preserved. However, the council will be able to vote no confidence, which can lead to the head’s resignation with a two-thirds vote from the council.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
3.75	4.00	4.50	4.50	4.75	4.50	4.75	4.25

The Constitution of Ukraine, adopted in 1996, fully guarantees freedom of expression, freedom of conscience and religion, freedom of association, and business and property rights. However, the lack of proper and sufficient implementation is obvious. In practice, the state selectively respects fundamental political, civil, and human rights, and equality before the law remains doubtful. The presidential elections emphasized the dramatic lack of real implementation of the country’s laws.

The Constitutional Court showed its bias by recognizing Kuchma’s second term as a first one in December 2003. This case, as further developments demonstrated, essentially undermined public trust in the Constitutional Court as a body responsible for supreme decision making in the sphere of constitutional rights.

Equality before the law is far from perfect, because none of the data about crimes and violations committed by Kuchma’s entourage or regional administrations have been transferred into criminal proceedings. For example, none of the massive fraud facts registered during the Mukacheve mayoral elections were investigated properly in court. Instead of opening a criminal case against the local election commission, the Office of the Prosecutor-General started an investigation against opposition activists who presented evidence (protocols with signatures and seals) of falsification, accusing the activists of submitting false evidence.

In the past few years, torture in Ukrainian prisons has been a point of special interest to Ombudsman Nina Karpachova. It is recognized that Ukrainian law enforcement services sometimes use torture and inhumane treatment during investigation and due process. However, very few cases are proved through the courts.

Ukrainian legislation provides access to a fair and public hearing, access to independent counsel, and access to a public defender. However, in practice these norms are limited by the courts, militia (police), and/or informal rules. Legislation has also introduced jury trials, but the related law is not yet fully implemented. In some cases, there is a lack of competitive trial processes between prosecutors and advocates. For example, although the law permits it, in practice the defense is often not allowed to contact clients at the initial stage of an investigation, i.e. immediately after arrest.

Constitutional reform initiated by Kuchma was one of the major topics debated in Ukraine in 2004. The task of the draft legislation is to limit the president's power and transfer the formation of government to the Parliament. The first draft failed to be adopted on April 7, when 294 (out of 450) MPs voted for it (300 votes were needed). The second draft was finally approved on December 8 in the framework of a "grand compromise" between the winning opposition and the outgoing Kuchma team. Before the compromise was achieved, the opposition claimed the authority wanted to shift power from the president to the Parliament on the eve of elections to maintain the status quo in the event the democratic candidate won. The Council of Europe suggested postponing reform until after the elections. Despite its formal democratic aims, constitutional reform remains a heated issue in Ukraine. One of the most controversial reform elements is granting "general supervision" over human rights provisions to the Office of the Prosecutor-General, despite warnings from the Council of Europe's Venice Commission.

The key judicial decision of the year was the cancellation of the November 21 second presidential vote by the Supreme Court on December 3 due to massive fraud. By this decision, the Supreme Court proved to be a relatively independent body. This mandate was upheld despite statements by President Kuchma and Prime Minister Yanukovich that there were no excessive violations, or at least that violations existed on both sides. The case showed the limitations of government pressure on the judiciary system. The Supreme Court's decision was not solely judicial but also political (based on constitutional supremacy without proper procedure and legal background), which drew criticism of Ukraine from some quarters.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	6.00	6.00	5.75	5.75	5.75

Corruption remains the strongest obstacle to Ukraine's post-Communist democratic and market transformations. The very nature of Ukraine's national politics and economy keeps corruption at the core of the country's social, economic, and political life. Transparency International's 2004 Corruption Perceptions Index placed Ukraine 122 out of 146 nations, with a score of 2.2 on a scale of 1 to 10 (1 = most corrupt). Ukraine shares the score and position with Kazakhstan, Kyrgyzstan, Niger, Sudan, Bolivia, and Guatemala.

Ukraine's system of inter-relations among government, business, and society ensures the vitality and strength of corruption. Over-regulation of the economy provides a ground for illegal bureaucrat income, which in many cases is much higher than official wages. Bribery remains key to authority decision making on different levels. Rent seeking, a corporate strategy of the nomenklatura to maximize personal profit, is considered a major motivation in bureaucratic careers. Since wages are relatively low, state officials use their positions and authority to get rent, which is an illegal bonus several times their official income. Rent seeking usually grows from ordinary bribery; however, unlike bribery, rent seeking is regarded by the nomenklatura not as unethical or even illegal, but as an appropriate professional strategy of the privileged *chinovniki* (social class).

Among the most corrupt bodies and agencies, according to public perceptions, are the Ministry of the Interior, the STA, and the customs service, as they exploit direct links between state machinery and business. Different official institutions are responsible for issuing licenses and permissions for business, which makes their activities illegally "profitable." All bureaucratic functions are subordinated to the so-called presidential vertical, which serves as the core of the entire rent-seeking system.

Over-regulation makes business, including small business, dependent on the state. In 2003, a project to register small businesses known as "one window" was initiated but has not been fully implemented. This would provide a simplified taxation system (united tax) for private entrepreneurs, a measure that the tax administration has previously attempted to cancel. The amended Law on Personal Income Tax, introduced January 1, 2004, is a flat tax rate (13 percent instead of 20–30 percent) intended to encourage citizens to report income and pay taxes. However, the success of this law is still limited because the high pension tax (32 percent) remains a reason for both employers and employees to hide wages. Even so, the share of the shadow economy related to income taxes has decreased slightly.

Anticorruption rhetoric was widely exploited during the presidential campaign by both major contenders. Victor Yushchenko's team accused the Kuchma-Yanukovich regime of aiding and abetting corruption. The campaign's famous slogan was "Gangsters must be imprisoned." On the other side, Yanukovich's team tried to attract attention to a criminal investigation against Yulia Tymoshenko in Ukraine and Russia. Beyond political rhetoric, no consistent policy or initiatives on corruption have been implemented. The Office of the Prosecutor-General has ignored numerous calls to open proceedings against top executives suspected of corruption. The only case against opposition leader Yulia Tymoshenko (now prime minister of Ukraine) is clearly motivated by politics and has moved forward with support from Russian law enforcement bodies.

Public actions by Prosecutor-General Henadyj Vassilyev, appointed in October 2003, demonstrated a deepening dependence on the president. The Ministry of the Interior, led by Mykola Bilokon, appeared to be the most biased in following requests of President Kuchma and his head of administration, Victor Medvedchuk, in particular pressing militia staff to take part in the presidential campaign on the side of the "official successor," Victor Yanukovich. The most remarkable public statement by Minister Bilokon was: "To say 'militia is beyond politics' is wrong. Militia is a military unit of authority. And we will do everything to protect it."

Owing to the efforts of the Parliamentary Committee on Anticorruption (led by Volodymyr Stretovych), Ukrainian society is becoming better informed about the suspicious activities of certain people from Kuchma's entourage, such as Ihor Bakay (then chief of the State Department of Affairs, the special body managing state property) and Victor Pinchuk (Kuchma's son-in-law). Law enforcement bodies, however, have not responded to this public information.

Corruption in privatization processes remains a major obstacle for foreign investors. A remarkable scandal took place in May, when the privatization tender for the biggest metallurgy plant, Kryvorizhstal, was announced. The conditions of the tender were formulated to exclude even the theoretical possibility of having foreign investors participate. Finally, the consortium of companies created by Renat Akhmetov, the richest oligarch from Donetsk, and Kuchma's son-in-law, Victor Pinchuk, got the job without any real competition. President Kuchma called this practice "protection of national economy." The result of such discrimination was a huge loss for the state budget. Pinchuk and Akhmetov paid US\$800 million for Kryvorizhstal, whereas American and Russian investors proposed more than US\$1.5 billion.

Corruption stories in Ukrainian media serve primarily as tools of war among groups of media owners, then secondarily as a field for journalistic investigations. On television, only Channel 5 promotes a regular program, *Zakryta Aona* (*Closed Area*), designed with professional standards of inves-

tigatory journalism. The subject of the program varies, from falsification of the Mukacheve mayoral elections to the corrupt activity of the State Department of Affairs (Derzhavne Upravlinnya Spravamy), which operates with state-owned property.

Tolerance of “small” corruption remains a critical social problem. While strongly criticizing “oligarchs” and other high-ranking corrupt figures, ordinary Ukrainians often consider small bribery as a useful tool to speed the pace of securing needed and favorable official decisions. For ordinary citizens, bureaucratic procedures appear to be an obstacle to economic and other activities, and they often prefer to pay bribes rather than waste time in bureaucratic corridors.

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Uzbekistan

<i>Capital</i>	Tashkent
<i>Population</i>	26,400,000
<i>GDP/capita (PPP 2002 US\$)</i>	\$1,670
<i>Private sector as % of GDP</i>	45%
<i>Ethnic groups</i>	Uzbek (80 percent), Russian (6 percent), Tajik (5 percent), Kazakh (3 percent), other (6 percent)

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	6.25	6.50	6.50	6.75	6.75	6.75	6.75	6.75
Civil Society	6.50	6.50	6.50	6.50	6.75	6.50	6.50	6.50
Independent Media	6.50	6.50	6.50	6.75	6.75	6.75	6.75	6.75
Governance	6.00	6.25	6.25	6.00	6.00	6.25	6.25	n/a
National Democratic Governance	n/a	6.50						
Local Democratic Governance	n/a	6.25						
Judicial Framework and Independence*	6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.25
Corruption	n/a	n/a	6.00	6.00	6.00	6.00	6.00	6.00
Democracy Score	6.35	6.45	6.38	6.42	6.46	6.46	6.46	6.43

* Formerly Constitutional, Legislative, & Judicial Framework

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Uzbekistan remains one of the strongholds of authoritarianism in the former Soviet bloc. Although the 1992 Uzbek Constitution enshrines a number of fundamental human rights and democratic principles, the heavily centralized political structure of the state places exclusive powers in the hands of the executive. The president makes ultimate decisions on important state matters and appoints the government, regional governors, and judges. Meaningful political debate is absent in the Parliament, which consists entirely of pro-government political parties. Generally, Uzbekistan's legal framework reflects international human rights standards, but in practice the government severely restricts political and civil rights, leaving the opposition out of the political process. The authorities continue to control nongovernmental organizations (NGOs) through tight financial restrictions and arbitrary denial of registration to most human rights groups. Religious persecution against moderate Muslims, who found themselves caught in the government's fight against terrorism and rising radical Islam, is one of the country's major human rights concerns. Local human rights activists reported that police and National Security Services officers, acting under pressure to break up Hizb ut-Tahrir cells, frequently detained family members and close associates of suspected members, even if there was no direct evidence of their involvement. Authorities made little distinction between actual members and those with marginal affiliations, such as persons who had attended Koranic study sessions with the group.

Although censorship has been banned, the media remain largely under government control. The judiciary is not independent, with court proceedings still dominated by prosecutors, though 2004 saw modest progress in addressing some judicial and human rights problems. Corruption gravely impedes the judicial and administrative systems. The central government controls all local governing structures through financial dependence and presidential appointment of regional governors. The state continues to use the traditional *mahalla* (community self-governing unit) as an instrument of control and a vehicle for regime policy.

In 2004, newly emerged terrorist threats and growing Islamic radicalism hardened government policies against the opposition and further limited space for political pluralism and civic activism. Fears that civil resistance similar to the postelection protests in Georgia and Ukraine could be re-

peated in Uzbekistan and threaten the power of the authorities prompted Uzbek officials to introduce more restrictions for domestic and international civic organizations. The parliamentary elections in December 2004 failed to offer real political contest because the government denied registration to all opposition political parties. The European Bank for Reconstruction and Development (EBRD) suspended loans to Uzbekistan for failing to fulfill commitments to human rights. The U.S. government also withdrew assistance to the central government of Uzbekistan for lack of “continuous and substantial progress” in implementing democratic reforms. On the positive side, Uzbekistan made its first steps in addressing the systematic use of torture by introducing stricter internal mechanisms for oversight of law enforcement agencies and the penitentiary system, instigating provisions for inadmissibility of coerced evidence and opening a dialogue with human rights activists to map out concrete measures for the prevention of human rights abuses.

National Democratic Governance. The governing system of Uzbekistan is authoritarian and highly centralized. The legislative, executive, and judicial branches lack transparency and public accountability. The executive branch dominates and directs the Parliament and the judicial system. All important decisions are made by the president, who has excessive control over all spheres of public life in the country. Although civilian oversight of the military and security services is in place, these sectors remain largely nontransparent. The government has difficulty controlling the country’s borders and resorts to placing mines along the borders of neighboring countries to prevent the smuggling of weapons, drugs, and goods. Rampant corruption, however, helps militant Islamists and terrorists import weapons and explosives. In March–April and July 2004, a series of suicide bombings by militant Islamists shocked the country, threatening Uzbekistan with internal destabilization. Although the population feared a massive crackdown on opposition leaders and Muslims who practice outside of the state-supported Islam, the government focused its investigation on a narrow circle of suspects and generally avoided widespread repressions. By the end of the year, the government had made some progress in combating torture. However, the EBRD decided in April to limit investment to the private sector owing to the lack of progress in political and economic conditions in Uzbekistan. The U.S. government also withdrew assistance to the central government for the lack of “continuous and substantial progress” in implementing democratic reforms. Protests against the newly imposed restrictions on small traders erupted in several cities, and the government failed to respond to the public’s demands. Although the Uzbek Constitution provides for separation of power among the executive, legislative, and judiciary branches, in practice the government dominates the other two institutions. *Uzbekistan’s rating for national democratic governance*

is set at 6.50 owing to the lack of consensus among political groups and citizens on democracy, the absence of democratic mechanisms for meaningful citizen participation in political processes, and the ineffective system of checks and balances among legislative, executive, and judicial authority.

Electoral Process. Parliamentary elections were held on December 26, 2004. These were the first elections since Uzbekistan adopted a two-chamber Parliament in the January 27, 2002, referendum. The new legislative (lower) chamber includes 120 seats elected in single-mandate districts, reduced from the previous 250 seats. The new upper chamber includes 100 senators—84 elected indirectly by regional councils and 16 appointed by the president. Although the electoral campaign was more vibrant than in previous elections and the electoral debate received wider coverage by the media, opposition parties were denied participation. Two unregistered political parties, Erk Democratic Party and Free Farmers' Party, called on voters to boycott the election. By restricting the electoral contest, the Uzbek government missed a chance to establish a record of promoting free and fair elections. *Uzbekistan's rating for electoral process stays the same at 6.75.*

Civil Society. Civil society in Uzbekistan remains weak and undeveloped. Political parties are not fulfilling their role as the main pillar of civil society because the government stifles political pluralism. Uzbek legislation permits independent civic groups to operate in the country, but the Ministry of Justice limits freedom of association through the registration process of local NGOs and political parties. During 2004, there were no registrations of human rights groups, and since independence only two human rights organizations have been registered (following international pressure). International organizations faced difficulty renewing their registrations in Uzbekistan in compliance with new government regulations imposed at the end of 2003. The Open Society Institute was denied registration and subsequently expelled from Uzbekistan. Following the postelectoral protests in Georgia, which served as a warning to the governments of Central Asia about the power of well-organized civil societies, Uzbek authorities created obstacles for local NGOs that receive grants from international donors, effectively stifling their work. In 2004, however, there have been noteworthy developments that demonstrated a relative willingness on the part of the government to interact with civil society on some of the gravest human rights issues in the country. *Uzbekistan's rating for civil society remains at 6.50.*

Independent Media. Media in Uzbekistan operate under tight government restrictions. Freedom of the press is severely limited by an unofficial censorship regime, and journalists are pressured not to write critically. No independent

local media outlets exist. The Uzbek government has closed or threatened to close key media and civil society institutions that engage in reporting on political, economic, and security issues in Uzbekistan. The London-based Institute for War and Peace Reporting has not been able to reopen its office in Tashkent since 2003. The government has refused to register the Brussels-based International Crisis Group and denied visas to its staff. In September 2004, the Uzbek government suspended the work of the locally registered Internews-Uzbekistan and audited the Tashkent office of the U.S.-based Internews-International. Uzbek media are severely underdeveloped and lag far behind those of most of the countries in the former Soviet Union. Professional standards are unchanged from the Soviet era, and journalistic ethics are largely disregarded. *Uzbekistan's rating for independent media remains at 6.75.*

Local Democratic Governance. Local self-governance remained superficial in 2004, with the central authorities controlling economic and social development. The president, who appoints the regional governors, exercised his exclusive power to dismiss two governors for failing to improve the local economy, which included not fulfilling the state quota for cotton production. The regions of Uzbekistan are expected to be better represented in the national bicameral Parliament with 84 indirectly elected members of the lower chamber. *Mahalla* (self-governing community) committees were used by the government to control political dissent and religious Muslims practicing outside mainstream Islam through community policing, reporting to the authorities, and extrajudicial trials. *Uzbekistan's rating for local democratic governance is set at 6.25 owing to the insufficient decentralization of substantial government powers and responsibilities and the inability of local authorities to exercise their powers freely and autonomously apart from the central government.*

Judicial Framework and Independence. The judiciary is not independent, and the executive branch dominates the court system through the Office of the Prosecutor-General. The president appoints all judges, including those on the Supreme Court, Constitutional Court, and Higher Economic Court. The judicial system is undergoing reforms at a very slow pace. The human rights record of Uzbekistan remained poor, although the government took some important steps to address the issue of torture. The Ministry of the Interior, the National Security Services, the Supreme Court, the Office of the Prosecutor-General, and the ombudsman started to cooperate with one another and with international organizations to establish an independent investigation commission of serious human rights abuses. With international help, monthly coordination meetings on individual human rights cases were instituted among these agencies. Preparations began on amending the legisla-

tion to introduce habeas corpus and transfer issuing arrest and search warrants from the prosecution to the court. According to the Uzbek government, 57 officials were criminally prosecuted in 2004, and 18 of them were charged with committing torture. The right to freedom of assembly was still severely restricted, particularly on the eve of the national elections in December 2004. *Uzbekistan's rating for judicial framework and independence is raised from 6.50 to 6.25 in 2004 to recognize the government's first steps toward addressing some of the country's gravest human rights concerns.*

Corruption. Corruption in Uzbekistan is endemic and affects all levels of the society. Important government positions continue to be traded or distributed among family members and clans. The complex Uzbek regulations code provides numerous opportunities for officials at all levels of government to profit from their public responsibilities as gatekeepers to various services and licenses. The educational system is seriously affected by corruption, lowering the quality of education. The media also suffer from corruption, and many journalists are paid bribes to write particular stories. The media are practically unable to provide objective coverage on this social phenomenon. *Uzbekistan's rating in the area of corruption remains unchanged at 6.00.*

Outlook for 2005. Uzbekistan is likely to make small steps toward democratization in 2005, but the president's approach to building a "regulated democracy" and "regulated market economy" will not produce significant results that impact public life. Poverty and corruption will remain top problems for the vast majority of the Uzbek population. Authorities have started making progress in the area of human rights, which is likely to be enhanced and expanded in 2005. Some of the recommendations of the special rapporteur on torture might be implemented (most probably introducing habeas corpus, allowing detained persons access to defense lawyers and family members, and abolishing the death penalty). However, unless the political opposition is allowed to operate legally in the country, radical Islamic groups will remain the only outlet for public discontent. If the government is to prevent further terrorist acts or popular upheaval, it must ease its grip on the opposition, the media, and civic groups. The government has already expressed the desire to address religious freedom in the dangerous political context of growing radical Islam and existent terrorist threats. A more vigorous debate on this issue is expected with both civil society and the international community. The government must permit freedom of the media so that Uzbek citizens may receive information on political, security, and economic issues. The country needs genuine decentralization that would give more authority to local governments. The amendment to the Constitution reducing the role of the president as the head of state should be fully implemented.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.50						

Uzbekistan is a republic under authoritarian presidential rule. Excessive power is concentrated in the hands of the executive branch, which is largely unaccountable to the country's citizens. The system of checks and balances among the executive, legislative, and judiciary is for the most part superficial. The highly centralized government is incapable of communicating effectively with the public or facilitating public participation in the decision-making process. This trend is particularly dangerous during national crises, which Uzbekistan twice faced in 2004.

Uzbekistan is not a stable state. Although the government's tight grip on the political opposition and criminal groups creates a false sense of stability, serious internal security challenges and the growing influence of radical Islam threaten the country with internal destabilization. Terrorist attacks, including suicide bombings, shook the country in late March–early April and July. The first spate of violence, in Tashkent and Bukhara, claimed 47 lives by official count—33 alleged terrorists, 10 police, and 4 civilian bystanders. The suicide bombers, including young females, specifically targeted the police, the Office of the Prosecutor-General, and the U.S. and Israeli embassies. The attacks in late July killed the 3 bombers and 4 Uzbek police and security officials.

Uzbek prosecutor-general Rashid Kadyrov announced at a press conference in Tashkent on August 9: "The investigation can state on the basis of irrefutable evidence that behind these terrorist acts stand international radical and extremist organizations, including Hizb ut-Tahrir." In November 2004, Kazakhstan's National Security Committee announced that it had broken up a terrorist group with links to Al-Qaeda. Its leader, a former fighter of the Islamic Movement of Uzbekistan, stated that the group managed to recruit 50 Uzbek and 20 Kazakh citizens over the last two years and was involved in terror attacks in Uzbekistan during the spring and summer. Later in November, the Uzbek authorities announced that the three suicide bombers in the second series of attacks were citizens of Kazakhstan.

Some analysts believe that the government's repressive policies against political dissent have resulted in increased public support for radical Islamic movements, a number of which use violent tactics. Some blame the government for its failure to prevent the penetration of Middle Eastern interpretations of Islam that advocate the use of violence. In addition, growing poverty and the public's dissatisfaction with the country's lack of economic progress threaten to lead to spontaneous unrest, particularly

in the Ferghana Valley. The complete suppression of political opposition eliminates the opportunity for legitimate representation of public discontent before official institutions. Endemic corruption affecting all levels of life in Uzbekistan is another potentially destabilizing factor.

Uzbekistan emerged as an independent state from the former Soviet Union on September 1, 1991. The president is the head of state and is granted supreme executive power by the Constitution. Islom Karimov, former first secretary of the Uzbek Communist Party, has controlled the presidency since March 1990, when the Uzbek Soviet Republic's Parliament first elected him president. He has officially committed to democratic reforms but has largely failed to take steps to transform the stifled Soviet-type system into a democracy.

The postindependence Constitution, adopted in December 1992, officially creates a separation of powers among the presidency, the Oliy Majlis (Parliament), and the judiciary. In practice, the principle of separation of powers is not respected. Although the language of the new Constitution includes many democratic features, it can be superseded by executive decrees and legislation.

The president has the exclusive right to appoint members of the government, Constitutional Court, Supreme Court, and Higher Economic Court (subject to approval by the Parliament), as well as all judges in the lower courts. He also appoints the chairman of the Central Election Commission and the governors of each of the 12 regions of Uzbekistan.

The republic's unicameral Parliament consisting of 250 members changed to a bicameral formation in January 2005. A 2002 amendment to the Constitution created a second chamber, which was established through elections in December 2004. The new legislative (lower) chamber consists of 120 members elected in single-mandate districts by popular vote. The new upper chamber, the Senate, comprises 100 seats—84 elected indirectly by regional councils and 16 appointed by the president. Both chambers are elected for a five-year term. The president has the power to dismiss the legislative body with the concurrence of the Constitutional Court.

The Parliament adopts and amends the Constitution, schedules elections, and enacts legislation initiated by the executive branch, the high courts, the prosecutor-general, or the government of the Autonomous Republic of Karakalpakstan. Although the Constitution gives broad powers to the legislature, most of its work during the two regular annual sessions is focused on passing draft laws prepared by the executive branch and ratifying presidential decrees. Genuine political debate is absent in the Parliament.

All political parties represented in the Parliament are pro-government establishments that do not present real political alternatives. The parliamentary parties neither question nor criticize governmental or presidential decisions. Two of the most influential political parties, the People's Democratic Party

(PDP) and the Self-Sacrifice (Fidokorlar) National Democratic Party (SNDP) are considered to be personal vehicles that enhance the president's influence over the legislature. Two other political parties, the Justice (Adolat) Social Democratic Party (JSDP) and the National Revival (Milliy Tiklanish) Democratic Party (NRDP), are smaller but equally silent with respect to criticizing government policies. In the December 2004 elections, the newly established Liberal Democratic Party of Uzbekistan (LDP), formed in the fall of 2003 with the blessing of the president, gained 41 seats and became the biggest political party represented in the Uzbek Parliament.

Uzbek legislation provides for civil oversight of the military. The minister of defense is a civilian. Since 2001, the Ministry of Defense and the Joint Staff of Armed Forces have had separate functions and responsibilities. The joint staff is responsible for operational and strategic planning and combat use of forces, while the Ministry of Defense carries out administrative supervision and management of its subordinate troops and ensures the pursuit of state policy in the sphere of defense and military construction. The president is commander in chief of the armed forces and may declare a state of emergency or war. Analysts have testified before the Helsinki Commission that as a result of cooperation within NATO's Partnership for Peace, the Uzbek military has made a successful transition to professional civil oversight, human rights violations have sharply diminished, and officers are training young recruits in their proper role in an open civil society.

The Ministry of the Interior, notorious for police brutality and corruption, took important steps to address torture and improve police accountability during the year. The ministry established preliminary procedures for investigating and disciplining officers for human rights abuses and started training policemen and prison guards in human rights. The government is currently examining the possibility of transferring the penitentiary system to the Ministry of Justice. The Ministry of the Interior has cooperated with human rights groups to eliminate torture, but in many cases police beat, abused, and harassed persons. There were credible reports of confessions extracted by torture from persons accused of participating in the terrorist bombings.

The media and civil society groups lack information about military and security matters and are unable to provide oversight of the military and security services. This fact was clearly demonstrated during the terrorist attacks in the spring when the delivery of information to the media was significantly delayed, allowing for the spread of rumors. The authorities handled media relations in a better way during the second wave of attacks in the summer and provided timely information to the public.

Experts and the public alike expected the terrorist attacks to result in massive arrests and imprisonment similar to what took place following the bombings in Tashkent in 1999, when over 7,000 political activists and religious

leaders were imprisoned. The fact that these fears did not materialize gives hope that the authorities might have realized the need for public support in the fight against terrorism. In addition, a dialogue between government agencies (Ministry of the Interior, National Security Services, and the Office of the Prosecutor-General) and human rights defenders, which started shortly before the first wave of bombings, contributed to reducing cases of human rights abuse in the aftermath of the attacks.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005
6.25	6.50	6.50	6.75	6.75	6.75	6.75	6.75

The authority of the Uzbek government is not based on universal and equal suffrage. Although the country has held regular parliamentary and presidential elections since independence, the will of the people has not been expressed in a free and fair manner. Parliamentary and presidential elections have been marred by irregularities and violations of domestic electoral laws. International observers have characterized the elections as falling short of international standards. Uzbekistan is nominally a presidential democratic republic, but in effect the political opposition does not have a fair chance in elections. Opposition parties are denied registration by the government and have not been allowed to participate in elections since the first postindependence presidential ballot in 1991. Most prominent opposition leaders have been in exile for the last 10 years. The signs of a slight political opening in 2003—when opposition parties Erk (Freedom) Democratic Party and Birlik (Unity) Movement were allowed to hold their assemblies, which had been banned for 10 years—did not evolve into genuine democratic progress. In fact, the regime became more stringent regarding political rights, prompted in part by two major events: the series of terrorist bombings in Uzbekistan in March and July 2004; and the peaceful postelection protests in Georgia that ousted President Eduard Shevardnadze in November 2003.

The new Uzbek Constitution, adopted in December 1992, enshrines broad provisions for the representative election of the president and members of Parliament. However, the highly centralized government system (intact after the Soviet era) paired with a lack of political competition stalled Uzbekistan's transition to an electoral democracy. In the first postindependence presidential election, Karimov allegedly gained 86 percent of the vote against Erk leader Muhammad Solih. The Uzbek opposition and the international community viewed Karimov's high electoral result with suspicion. Regardless of the oppressive policies of his government, Karimov managed to retain domestic popular support in the

following few years by projecting an image of stability and emphasizing public fears of Islamic revival. Under the terms of a 1995 referendum, Karimov's mandate was extended until the year 2000. Following the tendency of Central Asian autocrats to avoid direct election, Karimov called for another referendum in 2002 that further prolonged his term of office from five to seven years, with the prospect of another seven-year tenure after 2007.

The presidential election in January 2000 was another fiasco in Uzbekistan's attempts to appear democratic. Karimov claimed support of 91.9 percent of the electorate over his token rival, the People's Democratic Party (PDP) leader Abdulhafiz Dzhalalov, who reportedly admitted that he himself had voted for Karimov. The Organization for Security and Cooperation in Europe (OSCE) refused to send observers because of the absence of a credible choice available to voters. The U.S. government declared the election "neither free nor fair" and said it "offered Uzbekistan's voters no true choice."

The legal framework governing elections has been improved since 1994 but still falls short of international standards. One of the improvements in the electoral legislation was establishing a permanent Central Election Commission in 1999. However, since the president has the exclusive right to nominate the commission's chairman, the body is not impartial and remains highly dependent on the executive.

The Law on the Parliament was amended in 1998 to allow citizen initiative groups to nominate independent candidates. However, most of the candidates registered under this category in 1999 and 2004 were in fact supported by one of the pro-government political parties or were linked to the local governing bodies. An amendment to the law in August 2004 increased the requirement for an initiative group from 100 to 300 voters, which further complicated the registration of independent candidates. In addition, independent candidates were required to collect signatures from at least 8 percent of voters, proportionally distributed, in the constituency where they wanted to run. According to the amended election law for the parliamentary election in December 2004, political parties seeking to nominate candidates had to be registered by the Ministry of Justice six months prior to election day. Each political party was required to collect 50,000 signatures, with no more than 8 percent from any 1 of the 12 regions, the city of Tashkent, and the Autonomous Republic of Karakalpakstan. The registration of political party lists and independent initiative groups as well as their candidates remained highly controlled by the Central Election Commission. A positive amendment of the Law on Elections in 2004 instituted a 30 percent quota for women on the party candidate lists for the 2004 elections. Legislation for the 2004 parliamentary elections also limited the influence of regional governors on the electoral process by taking away the provision permitting the regional councils of representatives to directly nominate candidates for

the lower chamber. In 2004, governors and mayors sought office in the upper chamber instead. Although the amended Law on Financing of Political Parties permitted them to receive state finances for the election campaign, only pro-government parties and candidates benefited from this provision because real political competition was absent.

Parliamentary elections were held in 1994, 1999, and 2004. In the 1999 election, the former Communist People's Democratic Party (PDP) emerged as the largest single party in the Parliament, winning 48 seats. The Self-Sacrifice (Fidokorlar) National Democratic Party (SNDP) of President Karimov won 34 seats.

The Fatherland Progress Party, which later merged with the SNDP gained 20 seats, JSDP received 11 seats, and the NRDP gained 10 seats. Independent citizen groups won 16 seats. The largest bloc of seats (110) was held by local nominees, who do not belong to any party but were supported either by the registered parties or the regional governors. One seat remained vacant. In May 2000, President Karimov proposed the creation of a bicameral Parliament, subsequently adopted by a referendum on January 27, 2002. The legislative (lower) chamber comprises 120 deputies elected in single-mandate districts. The new Senate (upper chamber) has 100 members—84 elected indirectly by regional councils and 16 prominent citizens appointed by the president.

On December 26, 2004, 14.5 million voters out of a total population of 26 million were able to elect the 120 parliamentary deputies of the lower chamber as well as members of regional and district councils. A total of 489 candidates ran for the legislative chamber: 62 were elected in the first round on December 26, and 58 gained their seats in the second round on January 9, 2005. The 100-seat Senate was created in January 2005.

The newest political party among the competitors, the LDP, gained the largest number of seats (41). It was followed by the biggest political party, the PDP, which won 33 seats, including 3 party members nominated by independent initiative groups. The SNDP gained 19 seats, including 1 party member nominated by a citizen initiative group. The NRDP won 11 seats and the JSDP 10 seats in the Parliament, including 2 party members nominated by initiative groups. The official statement of the Central Election Commission maintained that 14 members of Parliament were elected from initiative groups. Out of 120 members of the lower chamber, 21 are women and 18 served in the former Parliament.

By not permitting genuine opposition parties to compete, the 2004 elections followed the pattern of the previous parliamentary election in Uzbekistan. In October, the unregistered Free Farmers Party and the opposition Erk declared a boycott of the elections. They also called on the international community to ignore the elections completely. The OSCE refused to deploy a full team of observers, stating that by preventing opposition parties from

participating, Uzbekistan had failed to honor commitments to make the parliamentary elections free and fair. The OSCE's limited observation mission concluded that the election fell significantly short of OSCE commitments and other international standards for democratic elections. The implementation of election legislation by the authorities failed to ensure a pluralistic, competitive, and transparent election, according to the OSCE.

None of the five registered political parties that competed in the December 2004 parliamentary election describes itself as opposition. The biggest Uzbek political party is the pro-government PDP, the successor to the Communist Party. The opposition claims that Karimov supported the establishment of loyalist political parties such as the JS DP, the NR DP, Fatherland Progress, and the SN DP.

The newest pro-government party, the LDP, was registered on December 3, 2003. It seeks to appeal to professional workers, private entrepreneurs, and farmers. Prominent Tashkent banker Qobiljon Tashmatov became its chairman. The name of the party and its targeted constituency are strikingly similar to those of the opposition Party of Agrarians and Entrepreneurs. While President Karimov was quick to endorse the LDP (also called "the party of the bankers") on the National TV station immediately after it was founded in October 2003, the opposition Party of Agrarians and Entrepreneurs was denied registration two times in 2004.

Uzbekistan's democratic political opposition has been effectively silenced over the past decade. The first opposition party, Birlik, was created in 1989 primarily by intellectuals under the leadership of writer Abdurakhim Pulatov. Like most of the first alternative groups in the former Soviet bloc, Birlik split shortly after its establishment. A group of its leaders left to set up another political party, Erk, under the leadership of Muhammad Solih.

In July 1992, the government began to crack down on the political opposition. Citing concerns about maintaining domestic stability while a civil war raged in neighboring Tajikistan, Karimov announced: "It is necessary to straighten out the brains of 100 people in order to preserve the lives of hundreds of thousands," reported Eurasianet. Arrests and the harassment of activists from both political parties forced many of the leaders into exile. Abdurakhim Pulatov now resides in the United States; Muhammad Solih was exiled to Norway before being sentenced in absentia to 15 years in prison for an alleged assassination attempt on the president in 1999. The government continuously presents Erk as having links with Islamic terrorists. The crackdown on political and religious leaders after the bombings in Tashkent in 1999 resulted in the imprisonment of many opposition activists.

In April 2002, Karimov unexpectedly stated that he was prepared to meet with exiled opposition members who wanted to return to Uzbekistan, provided they did not engage in activities to violently overthrow the government. Birlik was permitted to hold a number of meetings and even

seven regional congresses, which raised expectations that the party might be allowed to register. In May 2003, the party held its national congress without interference from the government.

In October 2003, following international pressure for the detention of two Erk activists, the party was permitted to hold its first congress in nearly a decade. International observers viewed the event as a sign of a fresh political opening on the part of the government. However, the fall of 2003 saw a sharp negative turn in government policies triggered by the Georgian Rose Revolution. Restriction of the right to assembly and new decrees increasing government control over the activities and funding of domestic and international nongovernmental organizations (NGOs) affected opposition parties as well.

Although the series of terrorist attacks in Tashkent and Bukhara in March and July 2004 did not lead to an onslaught against political activists, the events appeared to harden the government resolution to block opposition parties from competing in the December parliamentary elections. The attempts of Birlik, the Party of Agrarians and Entrepreneurs, and the Free Farmers Party to obtain registration were obstructed and eventually rebuffed.

Unlike the oldest opposition parties, Erk and Birlik, which are perceived mainly as establishments of Uzbek dissident intellectuals, the two newer opposition parties, Free Farmers and Party of Agrarians and Entrepreneurs, target much larger social groups—farmers and small-business owners. With poverty and social discontent growing in Uzbekistan, these parties could potentially challenge the regime by attracting millions of disenchanting voters in a democratic election. The unrest in Kokand in November 2004, when angry merchants attacked police cars and tax offices over the government's limitations on trade in the popular open markets, demonstrated that the population is quickly reaching the point of revolt.

By suppressing any legitimate political movements that are outspoken against policies of the regime, however, the government is practically opening the door for radical Islamic groups to become the only outlet for social discontent and antigovernment sentiment. Islamic organizations such as Hizb ut-Tahrir are becoming more popular, particularly in the Ferghana Valley. Hizb ut-Tahrir advocates the nonviolent overthrow of the Karimov government and the establishment of an Islamic caliphate in Central Asia. It is banned by several governments in Central Asia and operates underground by disseminating literature and recruiting members. Internationally, Hizb ut-Tahrir is considered a radical Islamic organization that is nondemocratic and intolerant because of the openly anti-Semitic statements of its leaders.

In contrast with Hizb ut-Tahrir, the Islamic Movement of Uzbekistan (IMU), formerly Adolat (not to be confused with Adolat Social Democratic Party)—an Islamist party with a strong position in the Ferghana Valley—is openly associated with terrorist actions and allegedly connected

to the Al-Qaeda terrorist network. The IMU was suppressed in 1992, and its leaders fled to Iran and Afghanistan. Most of its leaders were jailed, but the organization later regrouped and consolidated its forces in Tajikistan and Afghanistan. It conducted armed incursions into Uzbekistani territory in late 1999 and 2000. The group was suspected of organizing the suicide bombings in Tashkent and Bukhara in 2004. In the fall of 2004, an IMU terrorist cell that was training suicide bombers, among them females, was discovered in southern Kazakhstan by the Kazak security services.

While Uzbekistan is predominantly Uzbek in ethnic composition, the country is home to many minority groups. Of these, only the minority Karakalpakstan population enjoys formal guarantees of representation in the political system. Other minorities, including Tajiks, Kazakhs, Kyrgyz, Turkmen, and Russians, enjoy representation in nationwide political institutions but do not have separate party representation based on nationality or ethnicity. All ethnic groups are entitled to cultural self-identification, the use of their native language, and the right of association, but political organizations based on ethnic criteria are discouraged, and none are registered as political parties.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005
6.50	6.50	6.50	6.50	6.75	6.50	6.50	6.50

Civil society in Uzbekistan is weak, undeveloped, and lacking in major components such as political pluralism and free media. Since political parties are considered the main pillar of civil society, the stifled political party system has effectively handicapped Uzbek civil society. The democratic opposition has been pushed entirely out of the political process, while pro-government parties fail to offer meaningful political alternatives, leading to a government that is practically unaccountable to the public.

While the Uzbek government is vigorously suppressing any political opposition and free media, its record with civil society groups was mixed in 2004. On the one hand, tightened control over domestic and international NGOs presented a setback for the country's democratic progress. On the other hand, a newly started dialogue and cooperation with human rights activists gave hope for establishing a mechanism to address some of the country's most serious social problems.

Although the Constitution guarantees freedom of thought, speech, and religion and protects the rights of political participation and freedom of association, in practice the authorities often violate these fundamental rights. Additional legislation introduced in January 2003 severely restricted freedom of assembly. Public gatherings of more than 100 people must be

authorized in advance by the local administration, which often bans them arbitrarily. The police are authorized to disperse peaceful assemblies in which citizens express their political views. In the summer of 2004, the authorities broke up several peaceful demonstrations, arbitrarily detained political activists, and stopped demonstrators from reaching protest sites by preventing them from leaving their homes.

According to the Uzbek Parliamentary Committee for Civil Society and NGOs, over 4,000 nongovernmental, noncommercial entities are registered in Uzbekistan. International monitors have also noticed an increased number of NGOs established in the country in the last few years. Uzbek legislation permits independent civic groups to operate, but the Ministry of Justice limits freedom of association through the registration process of local NGOs and political parties.

After the November 2003 events in Georgia, the government of Uzbekistan consciously moved to halt progress on democratic reform. In December 2003, the government adopted two internal decrees increasing control over the activities of international NGOs and asserting excessive control over financial assistance to local groups. The U.S. government insisted that registration of U.S. NGOs be carried out in compliance with the bilateral agreements with Uzbekistan. This approach was successful for most U.S. organizations except the Open Society Institute, which was practically expelled from Uzbekistan. Although registered, the National Democratic Institute, the International Republican Institute, and Freedom House received warnings that if they continued working with unregistered political parties and organizations, they would lose their status. The National Democratic Institute and the International Republican Institute received such letters for the second time on the eve of the December 2004 election.

According to some NGO leaders, in December 2003 the National Security Services established a separate department to monitor and control NGOs, particularly their contacts with international organizations. Similarly, the tax inspectorate is reported to have set up a new department in January 2004 to monitor grants and other NGO funding. The government forced all grant-making and grant-receiving organizations to conduct financial transactions through the Central Bank. Some local groups, which rely entirely on foreign donations, complained that the banks withheld their funding.

Only two human rights NGOs are officially registered, the result of strong international pressure on Uzbek authorities. During 2004, there have been no further registrations of human rights groups. The Independent Human Rights Society of Uzbekistan gained its registration on the eve of Karimov's official visit to Washington, D.C., in March 2002. Ezgulik (Goodness) was registered in March 2003, before the annual meeting of the European Bank for Reconstruction and Development in Tashkent. The Human Rights Society of Uzbekistan (HRSU), led by Tolib Yakubov,

remains unregistered (despite several applications), as do a number of other small groups. The Mazlum human rights group was denied registration twice in 2003. The registration of Mothers Against the Death Penalty and Torture was also declined, as was that of Democracy and Law. According to national legislation, unregistered organizations are considered illegitimate groups and can be brought before the court.

The government considers human rights activities to be highly political and has placed human rights defenders in the same category with opposition activists and banned religious movements. In addition, the chief human rights activists and groups have strong links with the Uzbek political opposition, and often their leaders also serve as political party leaders: Erk is associated with Mazlum, Birlik with Ezgulik human rights organization, and the Party of Agrarians and Entrepreneurs with the Independent Human Rights Society.

In 2004, however, there were a number of noteworthy developments that demonstrated a willingness on the part of the government to conduct dialogue with civil society on some of the critical human rights issues facing the country. With international facilitation, human rights activists started regular talks with law enforcement agencies, including the three most responsible for human rights abuses in pretrial detention: the Office of the Prosecutor-General, the National Security Services, and the Ministry of the Interior. As a result, the two sides established a rapid response mechanism to prevent torture. The penitentiary department of the Ministry of the Interior and human rights defenders reached an agreement for public prison monitoring.

Evolving relations between officials and human rights activists have resulted in more efficient remedies in several concrete cases, particularly during the investigation of the terrorist attacks in March and July 2004. By the end of the year, participants in the dialogue from both sides were pointing out concrete results in their attempt to reduce cases of police brutality and torture; these include responsiveness from the investigation department of the Ministry of the Interior (the MVD) to concerns of human rights defenders; notification of independent defense lawyers immediately after detentions by the regional MVD investigators in Andijan and Namangan (lawyers were called from legal associations supported by the American Bar Association); relative improvement of conditions in prisons; and reduction in the number of religious trials in the Samarkand region (particularly in the second half of the year).

An encouraging result of the dialogue with civil society is the decision by the intergovernment antitorture commission to establish a permanent independent commission on cases of death in custody and grave abuses of human rights. It is critical that such a commission include qualified Uzbek citizens who are actively engaged in human rights issues. These developments seem to demonstrate that the government of Uzbekistan is becoming more aware of the importance of addressing human rights abuses and undertaking

confidence-building measures with its own citizens. It is important to note, however, that these examples have not yet translated into systemic change. While the government appeared to be ready to address the issue of physical abuse, the situation with civil and political rights worsened during the year.

The media are generally not receptive to civil society groups as independent sources of information and infrequently cover civic initiatives carried out by independent groups. The mainstream media rarely cover human rights and never cite human rights defenders. However, since the number of government-supported NGOs is high, their activities are often noted by the state-controlled media. Some Internet-based media and numerous Web sites of independent NGOs and political parties provide substantial information based on reports from civic groups.

There are three policy institutes in Uzbekistan, but none of them is independent: the Institute for Strategic and Inter-Regional Studies (ISIS), the Academy of State and Society Building, and the Center for Studying Public Opinion. These institutions provide studies serving state ideology, promoting government policies, or training government officials. The ISIS operates under the Office of the President as a purely research institution, but its analysis is not available to the public; it is the most closed institution of the three. The ISIS coordinates its activities with the Office of the President and the National Security Services.

The Academy of State and Society Building also operates under the president's office. It succeeded the well-known Communist Party schools for training and educating Communist leaders during the Soviet era. After the fall of Communism, the academy became the main training venue for middle-level officials, including senior-level staff from the local government, heads of public associations and economic units, middle-level managers, and selected entrepreneurs. Its courses run from 1 to 12 months and include topics such as international law, national ideology, and foreign policy.

The Center for Studying Public Opinion was created under the Uzbek Cabinet of Ministers. The objectivity of the opinion research provided by the center is dubious, because respondents are often afraid to express their views. Manipulation of the research data and studies conducted by the country's think tanks leaves little space for modern education that is free from government propaganda.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005
6.50	6.50	6.50	6.75	6.75	6.75	6.75	6.75

Despite the official abolition of censorship (that is, mandatory prepublication review by the State Press Agency) in 2002, the media in Uzbekistan

remain highly controlled by the government and serve the ideology of the regime. The three national daily newspapers, *Pravda Vostoka*, *Halq Sozi*, and *Narodnoe Slovo*, are owned and controlled by the government. Some of the major newspapers are issued by pro-government political parties represented in the Parliament. Private independent media outlets hardly exist because of strictly controlled licensing requirements by the state board of publishing. Control of information is even tighter in broadcast media, which are dominated by 4 state-run television channels. Cable television offering independent international news is not affordable for most citizens. There are 30 to 40 private television stations and 7 radio stations, which despite the practice of self-censorship have more freedom to report critically on local government. However, regional journalists have limited access to official sources of information, which impedes the quality of reporting.

Journalists cannot criticize government policies, local officials, or the president because the law holds editors and publishers responsible for the content of articles that appear in their publications. The media cover only official events and provide little information on ordinary people's lives. Reports on human rights abuses, political opposition, corruption of government officials, problems with economic reforms, domestic violence, and child labor are taboo subjects. The media are profoundly undeveloped, professional standards are unchanged from the Soviet era, and journalistic ethics are largely disregarded.

Uzbekistan is ranked 142 out of 167 countries worldwide in the Reporters Without Borders annual Index of Press for 2004. The year saw increasing restriction of free speech and media freedom owing to stricter government controls on the dissemination of information on the eve of the December elections. Some international media organizations such as the Institute for War and Peace Reporting were not permitted to operate officially in the country. The government also refused to register and denied visas to the staff of the International Crisis Group after briefly detaining one of its researchers in 2003. In September 2004, the government suspended the work of Internews-Uzbekistan and audited the Tashkent office of Internews-International. The Radio Free Europe/Radio Liberty (RFE/RL) Uzbek Service and the BBC have faced accusations of biased reporting in Uzbekistan.

There were no reports of arrested journalists, and three imprisoned journalists were freed during the year. International pressure contributed to the release and subsequent departure from the country of Ruslan Sharipov, a critic of the regime who was jailed in 2003 on charges of homosexuality, which is officially a crime in Uzbekistan. *Hurriyat* correspondent Gayarat Mahliboyev, sentenced in 2002 for alleged membership in Hizb ut-Tahrir, was freed in June. Madzhid Abduraimov was released in April. However, journalists Tuhtamurad Toshev and Boimamat Jumaev remained in prison.

Although sufficient legislation regulating the media has been developed, contradictions among various provisions lead to the effective restriction of freedom of speech. The Constitution of Uzbekistan guarantees freedom of speech, but the criminal code provides penalties for insulting the dignity of the president, thus preventing any criticism of his policies. Another legal provision bars journalists from interfering in the private lives of politicians and government officials. This makes it impossible for journalists to cover corruption. In addition, libel is a criminal offense in a judicial system riddled with corruption.

There are numerous media-related laws, including the Law on Mass Media adopted in June 1991 and amended in December 1997. Other legislation relevant to the media deals with protection of state secrets (1993), protection of copyright (1996), protection of journalists (1997), and access to information (1997). Although there is no law governing electronic media, the government often adopts decrees to regulate radio and television broadcasts. The Agency for Communications and Telecommunications controls licensing so that only media outlets loyal to the government are on the air. The process of licensing is perceived as severely corrupt. Access to international media is also limited by the licensing agency. The government quickly revoked the license of a radio station that attempted to broadcast the BBC and RFE/RL.

There were practically no opportunities for citizens to receive independent viewpoints through broadcast or print media during the election year, and the authorities closed several newspapers before the December 2004 election. Editors and publishers still exercise self-censorship and are afraid to publish articles that could be construed as contrary to the government's official position. In addition, Article 15 of the Law on Elections states that media coverage "should not violate the rights and interests of the candidates, political parties, and initiative groups"—a provision that is believed to serve the government in accusing critical journalists of libel.

Despite these limitations, the OSCE assessment mission to Uzbekistan in September 2004 noticed that the "media blockade" previously enforced during elections had been lifted and that for the first time information about the candidates and political parties had been published in print media and broadcast on television. However, coverage included only government-supported candidates, while the major problem of the election—the fact that no opposition party was allowed to compete—was completely ignored. Citizens could find independent information about the elections only on the Internet, although the authorities occasionally blocked some Web sites carrying such information. Internet access is still expensive, and few ordinary people can afford it.

The level of professionalism in print and broadcast media is extremely low. Suffocated by strict government control, editors and publishers fail to understand the concept of serving the public and continue to direct their

attention to the authorities. Reporting is often one-sided, presenting only the official viewpoint; the style of writing has not changed since the Soviet era, with journalists using dry, formal language and totalitarian clichés. Censorship by editors and publishers is stricter in the capital city than in the regions, but local journalists lack resources and skills to deliver objective, accurate, and impartial reporting. They also experience problems obtaining information from local government officials. The Law on Freedom of Information adopted in 2002 is used by journalists to obtain information from the government; however, some of its provisions allow for banning information that is critical of societal values or that advocates for social change. The law is used mostly to strengthen Uzbek national consciousness and tradition.

The media work mainly in Uzbek and Russian, but the Russian-language media have been in decline since the breakup of the Soviet Union. However, the poor quality of all media operating in Uzbekistan prompts more people to watch Russian television because of its timely coverage of events in Central Asia. Tightly controlled by the government, the Uzbek media were extremely slow to report on the terrorist attacks in March–April and July 2004.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005
n/a	6.25						

The government of Uzbekistan has made a flagrant effort to promote local self-governance without relinquishing the exclusive authority of the president to appoint and dismiss the 12 regional governors (*bokims*). Although the local legislative bodies, which are elected by popular vote, must confirm these decisions, the power of the president is indisputable. The state's attempt to decentralize power has failed. Over the last few years, many traditional *mahallas* (neighborhood units) were effectively made into instruments of political control and repression by the government.

The country is divided into 12 provinces, 1 autonomous republic of Karakalpakstan, 156 regions, and 123 cities. The city of Tashkent has special status, as its local government operates independently of the regional authority. According to Uzbekistan's Constitution, Karakalpakstan is a self-governing autonomous republic and thus has its own legislature and local government bodies.

However, the central government exercises a large degree of control over the republic. Karakalpak officials are often excluded from meetings of heads of state to discuss the ecological problems of the Aral Sea, which is located within Karakalpakstan.

The regional *bokims* are extremely important to the central government because they wield significant control over the local economy and regional

clans. For example, if the regional governor sides with the local clans, the cotton produced by the region is not sold to the state but exported illegally, with profits benefiting shadow regional structures. This is the reason Karimov appoints individuals who are close to him or were formerly with the government. The central authority deals in a Soviet-era style with local *hokims* who have fallen out with the government. For example, at a session of the Syrdarya Regional Council that dismissed the local governor in November, Karimov openly criticized the region's failure to improve the economy and fulfill state quota for the supply of cotton, making clear why the *hokim* was fired. The *hokim* of Namangan region was dismissed earlier in 2004 for failing to mobilize enough citizens (mostly schoolchildren) to collect the cotton harvest. In the case of the dismissal of the *hokim* of Andijan, formal reports indicated that he had distanced himself from the people and their grievances.

Regional *hokims* appoint district and city *hokims*, thus strengthening the chain of central command from Tashkent. After the terrorist bombing in the spring and summer of 2004, there was a new trend to increase the appointments of former police and security service personnel in the local administration, particularly in the Ferghana Valley, where radical Islamic groups are more active.

Under the Constitution, the *hokims* head both executive and legislative powers at regional, district, and city levels. *Hokims* and the *hokimat* (executive apparatus) often serve as political tools of the government, particularly in the electoral process. They exercised overwhelming influence and interfered illegally with the electoral process for the Parliament in 1999. More than 70 *hokims*, their deputies, and *hokimat* staff were candidates in the elections. All 14 regional *hokims* who ran for office were eventually elected, and 44 percent of elected members of Parliament were state employees, according to reports issued by the OSCE/Office for Democratic Institutions and Human Rights. The December 2004 election was characterized with less political interference because the legislative councils were no longer able to nominate candidates for direct election in the lower chamber of the Parliament. Instead, local government representatives ran for the upper chamber in indirect elections by the regional legislative councils.

While *hokims* at all levels are appointed, the local legislative councils are elected by popular vote for five-year terms. On December 26, 2004, Uzbek residents elected 12 regional councils, which subsequently voted for 84 representatives of the upper chamber of the Parliament.

Local government bodies have little power to make and enforce local policies since all decisions must comply with national laws. There is also little financial independence given that the central government establishes uniform tax, lending, and monetary policy. Regions and municipalities are responsible for collecting revenues (taxes and other mandatory payments), but expenditures are decided at the national level. Local authorities are not

free to design and adopt institutions and processes of governance that reflect local needs and conditions. However, local officials exercise exceptional oversight powers in issuing government approvals, licenses, and permits needed by local businesses and private parties, which is a flourishing ground for corruption.

Although not officially part of the public administration, the *mahalla* is considered a form of community self-government. The *mahalla* is a traditional centuries-old autonomous institution based on family and community values. The Soviet government tried unsuccessfully to eliminate or submit the *mahalla* to the state. After independence, the Uzbek government began reviving the institution as one of the symbols of national independence. There are now approximately 12,000 *mahallas* in Uzbekistan, each containing between 150 and 1,500 households, notes Human Rights Watch. They are ruled by *mahalla* committees elected by citizen assemblies.

The role of the *mahalla* was identified in the 1992 Constitution as the elementary unit of political power, and the Law on Local Self-Government defines its role in local self-governance. After the 1999 bombings in Tashkent by members of the IMU, the government sought closer insight into, and control over, these traditionally closed family and neighborhood circles by institutionalizing their role in policing. The law was amended to allow tighter government control over the *mahallas* by bringing them into the state structure. Another law commissioned “neighborhood guardians” (*posbon*) to work within the *mahalla*. The *posbon* serve as civilian police and are paid by the state to work with the *mahalla* committee and the local police to prevent crime, maintain public order, and strengthen the social and moral environment as defined by the government. Similar institutions existed in the former Soviet Union.

In a controversial report published in 2003, Human Rights Watch concluded that although *mahalla* committees provide services and strengthen community and cultural life, they serve a critical function in enforcing the government’s policies of discrimination and persecution of disfavored groups within Uzbek society.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005
6.50	6.50	6.50	6.50	6.50	6.50	6.50	6.25

The Constitution generally provides for an independent judiciary, but the judicial system is still struggling with the early stages of reform. The courts are not independent from the executive power on either the national or the regional level. The procuracy’s excessive power creates frictions with judges and law enforcement. Defense lawyers rarely have equal standing with

prosecutors in court. Corruption is reported to be rampant. Low salaries, lack of secure tenure, and nontransparent methods of appointing, disciplining, and removing judges contribute to these problems. On the positive side, Uzbekistan has relatively strong procedures in place for training judges and ensuring their competency. The government's human rights record remained poor in 2004, although important first steps were made to address the use of torture and establish police accountability.

Although efforts to modernize the judiciary were more notable in 2004 as compared with previous years, there are still provisions in place that stall the reform process. Under the Constitution, the president appoints all judges for five-year terms and has the power to dismiss them, which solidified executive branch control over the judicial system. Judges rarely decide cases in favor of individual rights or against the interests of the state, although 2004 saw a few cases in which judges ruled out evidence presented by the prosecutors.

There are approximately 1,000 judges in Uzbekistan, divided among the courts of general jurisdiction, the economic courts, and the Constitutional Court. The president has the exclusive right to appoint the judges who sit on the Constitutional Court, Supreme Court, and Higher Economic Court (subject to approval by the Parliament). All judges are selected for a five-year term (subject to reappointment), which is considered an insufficient length of tenure by international standards. Since 2001, a qualification collegium, which is appointed by the president and reports to him, conducts the process of screening potential judges for the lower courts. Although qualification collegiums reduce political influence on the nomination of judges to some extent, the process of appointing and removing judges remains nontransparent.

The prosecutors issue all arrest and search warrants without judicial oversight. Legislation providing for judicial review of detentions (*habeas corpus*) has not been adopted, regardless of recommendations made two years ago by the UN special rapporteur on torture. Moreover, the courts typically follow the lead of the prosecutor in criminal prosecutions, and "not guilty" verdicts remain extraordinarily rare. This is the chief reason for the overall high rate of completed investigations and subsequent sentences in Uzbekistan.

The procuracy and investigative authorities also wield extensive powers during pretrial detention. Police may detain a person without a warrant or just cause for up to three days, at which time the detainee must be either charged with a crime or released. If a person is declared a suspect, he or she may be held for an additional three days before being brought before the prosecutor. A prosecutor's order is required for arrests but not for detentions. Often police and prosecutors seek to evade restrictions on the length of time a person can be held in custody without charges by detaining the individual as a witness rather than a suspect. In these cases, the detainee is

not allowed access to a lawyer and the arrest is not documented according to the internal procedures of the police.

Access to legal counsel is guaranteed by Uzbek legislation. A December 2003 Supreme Court decree stated that a defendant has a right to counsel from the moment of detention, but in practice these provisions are often disregarded. In many cases, the state appoints an attorney instead of the counsel chosen by the defendant. State-appointed lawyers often side with the prosecutors and do not represent their clients in a professional manner. While after the terrorist attacks there were reports, mostly from the city of Tashkent, that persons in custody were often held incommunicado or badly beaten by the police, in some geographic areas such as Andijan and Ferghana city, law enforcers were quick to call independent lawyers immediately to avoid being accused of abusing detainees.

Uzbekistan's judiciary faced serious challenges in the aftermath of the terrorist attacks in March–April and July 2004. The government arrested or detained for questioning several hundred people, most of them alleged members of the Hizb ut-Tahrir extremist political movement or connected to splinter groups from the IMU and other so-called Wahhabi groups. The police were consulting a list of about 1,000 individuals previously convicted of extremism and subsequently amnestied, according to the U.S. State Department. Human Rights Watch reported that in many cases the police made arrests without warrants and conducted unsanctioned searches of the individuals' homes. Some of the detainees were held incommunicado for days and even months, and their relatives and attorneys alleged that they had been physically abused.

In the aftermath of the 2004 attacks, 115 people were convicted of terrorism; religious extremism; acquisition of weapons and ammunition by robbery; the manufacture, possession, and storage of explosives; and smuggling under 18 articles of the criminal code of the Republic of Uzbekistan. They were sentenced to up to 18 years in prison. None of the defendants received the death sentence. Another 65 people awaited trials at the end of the year, most of whom are expected to face charges of unconstitutional activities for membership in Hizb ut-Tahrir. Human rights defenders documented limited access to courtrooms during trials and in some cases brutal treatment of defendants by security guards. The trials raised concerns relating to the presumption of innocence and the right to a defense. There was also concern that the prosecution's case was based entirely on defendant confessions, with the state-appointed defense failing to inquire at trial about the conditions under which such confessions were made.

In September 2004, the Supreme Court adopted a resolution that clearly prohibits the use of evidence obtained by illegal investigation. The resolution also ordered judges to respond to allegations of violations and to open criminal cases against alleged perpetrators. However, according to

trial monitors and defendants' families, magistrates, judges, and prosecutors have not routinely asked persons brought from custody how they have been treated. In many cases, judges were indifferent to the physical condition of people brought to them and in some instances ignored the defendants' allegations of use of torture in the investigation process.

It is difficult to estimate the number of political prisoners and prisoners of conscience in Uzbekistan, and no official data are published by the Uzbek government. The authorities consider extremists all persons who are sentenced for possession of Hizb ut-Tahrir literature or for attending teachings of the Koran outside the mainstream state-supported Islam. According to the U.S. State Department, some 5,000 to 5,500 suspected extremists, members of the secular opposition, and human rights activists are incarcerated in Uzbekistan. This represents a decline from previous years, as hundreds were amnestied by the annual presidential decrees and there were fewer arrests.

Uzbekistan and Belarus are the last two states in Europe and Central Asia that continue to apply the death penalty. However, in December 2004 President Karimov signaled that this might change by announcing that Uzbekistan should stop pronouncing death sentences. On September 13, the UN special rapporteur on torture accused Tashkent of executing two prisoners whose cases were reviewed by the UN Committee on Human Rights. According to the rapporteur, at least nine people were executed since 2002 despite the committee's requests to have their cases reviewed. Authorities commuted the death sentences of three men and gave assurances that Iskander Khudoberganov, convicted of involvement in the 1999 bombings in Tashkent, would not be executed while his case was under consideration by the UN committee. The Uzbek criminal code's provisions on the death penalty have been revised numerous times. Although the code initially included 13 articles providing for capital punishment, the death penalty now may apply only to crimes of first-degree murder and terrorism.

Although many of the laws generally contain human rights provisions, these aspects have rarely been implemented in practice. The past year saw a relative increase in the government's readiness to consider the human rights aspects of the work of law enforcement, prosecutors, and the judiciary. Uzbekistan's human rights record in the past included appalling cases of physical abuse and torture. The UN special rapporteur on torture said in his report in early 2003 that torture in Uzbekistan was systematic. Under international pressure, the government developed an "Action Plan Against Torture" that was published in early 2004. The government established an interagency human rights working group to implement the plan. Although the plan includes numerous studies of other countries, rather than actions to change the situation at home, the international community assessed it as a positive development. The government has begun to enact a number of its provisions, but progress has been slower than expected.

In early 2004, the Ministry of the Interior engaged in regular talks with human rights defenders on pressing human rights issues. The two sides established a mechanism for rapid response in cases of human rights abuses. Communication between them prevented many cases of abuse and harassment, particularly after the terrorist attacks. In May, the Uzbek government agreed to include international observers in the investigation of a case of death in custody where torture was suspected: that of Andrei Shelkovenko, who was imprisoned for robbery and murder. The inquiry was unprecedented in Uzbekistan, where every year several people die in custody under suspicious circumstances. The investigation ruled out violent death and torture, and it became clear that Shelkovenko committed suicide.

A week later, the Ministry of the Interior invited two Uzbek human rights defenders to oversee the investigation of another death in custody: that of Ilkolm Umarov in the Arnasay district of Jizzak. They confirmed eyewitness reports that Umarov died from asphyxiation during seizure. The investigation concluded that the police authorities were negligent in not immediately taking the detained person to a hospital, violating procedures by detaining Umarov as a witness rather than a suspect, and not allowing him access to a defense attorney. As a result of the investigation, the Ministry of the Interior disciplined several police officers, dismissed the district police chief, and brought criminal charges against the investigator.

International experts who participated in the Shelkovenko case suggested that Uzbekistan establish a special protocol on “death in custody.” This idea later developed into a plan for establishing an independent investigation commission on serious human rights abuses. Preparations began in 2004, but the commission is likely to be established in 2005. Prosecutors seem to be less open to introducing habeas corpus, transferring the issuance of arrest and search warrants to judges, and establishing an independent investigation commission, but in his speech before the newly elected Parliament, the president outlined these upcoming changes in the judicial system as a priority for the country.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005
n/a	n/a	6.00	6.00	6.00	6.00	6.00	6.00

Corruption in Uzbekistan should be viewed in light of the state’s tight control over the economy, media, education system, and civil society. Since independence, Uzbekistan has not substantially deviated from the Soviet legacy of a closed economy and endemic red tape. In effect, the Uzbek government has developed a shadow revenue system that feeds its bloated bureaucracy while supplementing state employee income and ensnaring the inchoate entrepreneurial class in a web of financial control.

Uzbekistan continues to cling to a closed, state-controlled economy, resisting the move to a functional market that might threaten the power status quo. The administration of President Karimov seems to move backward with every forward step—enacting cosmetic statutes to comply with international financial benchmarks while at the same time obstructing business opportunities for nonstate-affiliated individuals.

Cases in point have been the convoluted banking system and the latest import licensing requirements. While the country has implemented significant accounting reforms and agreed with the International Monetary Fund on currency convertibility in 2003, excessive regulation on bank transactions and arbitrary use of powers by tax officials with unrestrained access have discouraged foreign investors and opened a new, legally dubious source of revenue.

Similarly, the government in Tashkent endorsed the now infamous Regulation No. 387, claiming quality control of imports as one of its goals. As the newest in a series of measures targeting small-scale import traders, the regulation requires anyone selling foreign goods to import them personally. Traders say the law is sure to choke independent market entrepreneurs with exorbitant license prices and impossible bureaucratic hurdles. This regulation creates ground for bribery in exchange for licenses. It also protects businesses connected to political elites. In response, large-scale protests and violence against members of the tax police erupted in Kokand on November 1, 2004, and swiftly extended to several Ferghana Valley cities and other parts of Uzbekistan, such as the towns of Karshi, Bukhara, and Khorezm.

The Uzbek regulations code provides numerous opportunities for officials at all levels of the government to profit from their public responsibilities as gatekeepers. Uzbeks report difficulties in obtaining elementary services without bribes. Often cash inflows from corruption are used to maintain elaborate networks of loyalty and paybacks among officials, in part stabilizing the country's government. Three of the most affected areas are the educational system, law enforcement, and border control. For little money, border guards allow people and goods in and out of the country without sufficiently preventing the import of weapons and explosives.

Uzbekistan was ranked 118 out of 146 countries in Transparency International's 2004 Corruption Perceptions Index. The country is not a signatory to the Organization for Economic Cooperation and Development Convention on Combating Bribery.

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