

TREND REPORT

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Barriers and Obstacles in the Process of Awarding and Implementation of EU Funds in Poland. Systemic Analysis*

Abstract: The article deals with the issue of structural and cohesion funding by the European Union in Poland. Although all funds for the first programming period 2004–6 were allocated, the process did not occur without problems. Therefore, in our paper we point to the weaknesses of the system and some of the crucial barriers that hindered efficient fund allocation: faulty institutional and legal framework, bureaucracy, corruption and personnel deficits. We base our findings on research of interviews carried out in four regions of Poland. Referring to Niklas Luhmann's theory of autopoietic system, we sketch an image of an unevenly differentiated political system, in which administration and politics prevail over the underdeveloped and weak public, incapable of counteracting trends of politicization and expanded

* Our article is based on the results of qualitative research conducted during 2006–2007 in three communes of Polish Voivodships—Śląskie, Podkarpackie and Świętokrzyskie, and also the City of Kraków. The research was funded from a grant by the Polish Ministry of Science, and was supervised by Grażyna Skapska. During our research of interviews with representatives of public administration institutions (of self-government and state levels), and of beneficiaries—public and non-governmental (communes, NGOs), as well as private entrepreneurs. Data gathered from interviews were complemented with independent reports of the Supreme Chamber of Control and Transparency International. We owe foreign readers a brief description of social, political and economic context of Poland's integration with the European Union and implementation of regional policy through structural and cohesion funds. After several years of continuous growth, 1998 saw a slight economic breakdown owing to a crisis in Russia. While in 1999 the level of growth of GDP of Poland made 4.5%, in 2001 it fell to 1.1%. Yet, due to, among others, accession processes, the economic growth rate started to increase from 3.8% in 2003 to 6.5% in 2007. Concerning political integration, one shall consider that the crucial documents, such as the National Development Plan, which were subjects to negotiations with the EU (Community Support Framework), were prepared by the euroenthusiastic left-wing SLD (Democratic Left Alliance) governments (first of Leszek Miller, followed by Marek Belka, with Jerzy Hausner as deputy prime minister). It was also under the left-wing government that Poland accessed the EU on May 1, 2004. However, funds in the first programming period (2004–2006) were distributed by the right-wing PiS (Law and Justice) administration (In 2005, PiS won Parliamentary and Presidential elections. From from October 2005 to November 2007 PiS governed in coalition with Samoobrona [Self-Defence] and Liga Polskich Rodzin [The of Polish Families' League]. It manifested a distanced approach to the EU, with one of its wings, ZChN (the Christian National Union), more skeptical, while the other, former PC (Centre Agreement), moderately in favor of integration. In turn, the PiS government prepared documents for the second programming period 2007–2013, which have been carried out by the new liberal PO (Civic Platform) authorities, which won the election in 2007. As for the social context, Poles turned out to be exceptionally euroenthusiastic. In the 2003 national referendum, with the turnout of 58.85%, 77.45% of Poles were in favor of Poland's accession to the EU. After the 2004 accession, an estimated wave of 2 million emigrants started.

bureaucracy. By showing evolution and reproduction of the system, we relate to its deficits and their importance to future use of the flow of EU funds.

Keywords: European integration, EU funds, systems theory, Niklas Luhmann, administration, bureaucracy, political system, politicization, corruption.

Introduction

Poland, alongside other seven Central-Eastern European states, entered the European Union on May 1, 2004, opening a whole new set of developmental possibilities. As we learnt, one of the most visible benefits of joining the Community was help from structural and cohesion funds. Previously underestimated and overlooked, they turned out to be a major factor in social, infrastructural and civic development.

The first capital infusion came with the pre-accession Phare fund, that Poland benefited from 1990 to 2004. A broader stream of financial aid started flowing in 2004, making Poland the largest recipient of Structural Funds and the Cohesion Fund among new member states. During the first programming period, covering the years 2004–2006, Poland received almost 8.6 billion Euro under the EU Structural Funds and 4.2 billion Euro under the Cohesion Fund, which represented approximately 1.8% of Polish GDP for that period (EU Press Releases 2006, IP/06/833). An even more impressive allocation of 67 billion Euro for the years 2007–2013 is currently underway. To put it in perspective, an average annual allocation of 9.6 billion Euro constitutes 20% of the total investment level in Poland in 2005 (*Gazeta Wyborcza* 2006). It is also more than the 7.6 billion Euro of total direct foreign investments in Poland in 2005 (Narodowy Bank Polski [National Bank of Poland] 2006).

Despite problems and pessimistic predictions, Poland managed to allocate all funds available in the first programming period. It is especially important considering the new allocation programme starting in 2007, requiring even more effort and coordination throughout the following seven years. Yet reports and our own data gathered during empirical research among Polish public, private and third sector beneficiaries, as well as local and regional officials suggest some problems which proper allocation and use of EU funds pose.

Four years after Poland's accession to the EU, a common belief has been established that the most rational and measurable effect of European integration is help granted within the EU funds. Subsidies to regions, self-governments or private entrepreneurs worth billions of Euro have become, on the one side, one of the key factors in infrastructural, economic and social modernization, and an aspect of Poland's integration with the EU on the other. We propose to treat the use of EU funds in terms of Niklas Luhmann's inter-systemic communication. In the light of his theory, it's not the sole material help (in funds flowing from the Community), but the accompanying semantics in the form of general principles and rules of funds allocation and implementation, and control of these processes (such as the principles of subsidiarity, partnership, concentration, programming, additionality, monitoring) that constitutes the real basis for integration. In the course of such communication, each Member

State makes its own (re)interpretation of the EU semantics, which it incorporates into its inner systemic reproduction processes.

The aim of our article is to show mechanisms of systemic reinterpretation of EU aid semantics by the structures of the Polish state. In our paper we will use the examples of most recurring barriers and problems involved with EU fund implementation in the first programming period (2004–2006) and indicate results of specific reinterpretation for the system and its environment. For us, the administrative sub-system will be especially interesting due to its key role in the process of fund implementation, but also because of its high potential to be sociologically analysed.

We assume that the administrative system is in the course of transition between two distinct phases of reproduction. At the starting point, we find the bureaucratic system still excessive and sluggish, highly centralized, and yet sectorally fragmented. In its systemic reproduction, old elements (inflexible bureaucratic structures of a centralized state—ministries, state agencies, complicated law) coexist with new ones, linked by an almost decade-long pre-accession period (including self-governmental regional institutions, professional personnel in some governmental agencies and regional institutions, national development strategies). EU principles concerning funds redistribution may then be treated as an attempt of a communicative “entry” into the system that shall break its self-referential circuits of bureaucracy, centralization and formalization. These principles are assimilated by the administrative sub-system through its own self-referential mechanisms and autopoietic relations with its inner-systemic environment—politics and the public (Luhmann 1990b). In this article, our focus will be to see whether in the circular inter-system communication, the system changes its logic from centralized, formalized and politicized to decentralized, meritocratic and socialized management of funds, or rather closes its self-referential circuits (in accordance with the first, ‘old’ logic), leading to its intransparency and obscurity. Using the examples of barriers, we will then try to grasp the dynamics and evolution of the political system and shift in inner-systemic relations of administration, politics and the public.

In this article, we put forward a thesis that empirically proven problems with assimilation of the EU logics, as well as persistency of the bureaucratic model of reproduction result from a low level of functional differentiation of the social system (the public) that constitutes an element of inner-systemic environment for administration and political systems. Tardiness in functional differentiation of the public (both at the central, and regional levels) results, among others, in increase of regulations of the administrative system. It also causes a functional shift between the administrative and political spheres and leads to even greater centralization of funds distribution processes. Instead of penetration of EU semantics (thus rules of inner- and inter-systemic communication), we witness further reproduction of the bureaucratic (formal) and highly politicized pattern of reproduction.

To show the dynamics of systemic reproduction, that is the change between the bureaucratic and post-bureaucratic phases of reproduction, we want to grasp four different moments of this process. Firstly, we want to deal with inter-systemic reproduction in the starting phase, secondly, describe communication of the administrative

system with its inner-systemic environment, thirdly, show the elements of systemic reproduction (change of rules) and finally, sketch the entry into the new phase of reproduction.

Before that, let us briefly present some elements of Niklas Luhmann's functional theory of welfare state and the scheme of the aforementioned phases of its reproduction.

Niklas Luhmann's Systemic Theory, Evolution of the Welfare State and EU Structural Politics

To grasp the idea of Luhmannian welfare state, one must precisely analyze the way that the notion of a system is understood. According to the author of *Differentiation of the Society*, its nature lies in its relations with the environment. A system tends to reduction of complexity of its environment, which involves the way a system chooses particular options from its environment and how it reduces the number of possible alternatives to choose from. The process of inner differentiation of a system is one of the possibilities of reduction of complexity of the environment (Luhmann 1982: 213–217). Social systems differ from other systems in a way that reduction of complexity takes place in a process of communicating meaning (in a subjective selection of sense) (Luhmann 1990a: 21–85).

Autopoiesis and autopoietic systems are the central categories introduced in the Luhmannian systems theory. When encountering an environment, possibly endangering their autonomy, autopoietic systems process and interpret it in such a way, that it contributes to strengthening and increase of their own autonomy. It happens in a process of self-reproduction and self-reference, which lead to an operative closure of a system (Maturana, Varela 1980; Maturana 1981). Orienting itself to categories of events, systems undergo functional differentiation. In a process of inner differentiation, a multitude of issues and events is replaced by a number of functionally differentiated subsystems. A system does not directly react to its environment, but to an internally created vision thereof. Each interaction of a system with its environment, is in fact, a reaction to an inner-systemic representation of the environment created by and within the system. Thus, environment serves to self-observation of the system (self-referentiality of the system). In turn, self-referential mechanisms allow for further adjustment to the rapidly changing and uncertain environment. For Luhmann, inner environment of a system is constituted by other subsystems, towards which it orients itself in the self-reproduction process. Therefore, paradoxically, it is the system that creates its own inner environment by reducing complexity of other subsystems according to its inner logic of reproduction (Luhmann 1990a: 1–20; Luhmann 1995: 176–209).

Let us now relate to Niklas Luhmann's vision of a welfare state. Analyzed as a self-referential system, in which it operationally refers only to itself, it is differentiated threefold into sub-systems—politics, administration and the public (see Luhmann 1988, 1990b). For each, the other two constitute its own inner-system environment

that it orients itself to in the course of autopoietic reproduction. In an advanced welfare state, cyclical dynamics of communicative mechanisms are created. In such a system politics sets the policy, organizational and personal premises for administration (Luhmann 1988), “sets the boundaries and priorities for administrative decisions (of course, always implied to include legislation). The administration uses the decisions to bind itself and the public, while the latter, in turn, can react to the decisions through political elections or other expressions of opinion based on them” (Luhmann 1990b: 48). Yet because of overburdening of complexity and the need to secure systemic stability, the cycle of power had to forthwith include a counter cycle, where “administration drafted bills for politics and dominated parliamentary committees and similar institutions. Politics, with the help of its party organizations, suggested to the public what it should vote for and why. And the public exercised its influence on the administration through various channels, like interest groups and emotional appeals” (Luhmann 1990b: 49).

The administration can affect its public in ever more domains if the latter is ready to cooperate, provide information and can affect its own wishes. Increasingly, political decisions can be made by the administration only on the basis of a tiresome sifting of alternatives. And, in practice, most of the time it accepts or rejects decision proposals that are presented with no alternatives. Everything else would mean overburdening with complexity (Luhmann 1990b: 49–50).

Constant self-reference of the political system is interrupted by ‘externalizations’—environmental references to the outside of the system, a way of articulating how the political system adjusts to its (inner) environment. For the relation of the public and politics, environmental reference occurs through public opinion, represented by the mass media. As for the relations between politics and administration it is targeted towards persons (who, holding offices, change political premises into administrative decisions), while law fulfils such an externalizing function for the relations between administration and the public (Luhmann 1988: 163; 1990b: 60–61).

According to Luhmann, evolution of political systems of modern societies involves ever-greater dependence of social development upon politics, a phenomenon that he calls political inclusion. We put forward a thesis that we are now witnessing a new phase in state development, where the superior role of the political function is weakened (evolution of the phenomenon of political inclusion), changed for greater balance between the three basic sub-systems of the welfare state. Increasing equilibrium between politics, administration and the public is a result of two tendencies: 1) increase of mutual infiltration of the three sub-systems, and 2) a more precise way of drawing borders between them. Increase of mutual infiltration signifies, among others, borrowing inner reproduction rules. What may at first glance seem like a paradox, at the same time sub-systems draw their boundaries even more precisely. A new form of public sphere management, public-private partnership, can be a good illustration of both tendencies. On the one side, it involves closer cooperation between administration and the public (in economics), and on the other, the formula precisely determines mutual relations of the partners (Pastuszka 2005).

Many authors stress that in the late 20th century in many developed western countries, a new and principal change in the organization and functioning of public

administration at the state and local levels has occurred (John 2001; Hambleton 2003; Hausner 2004). “In the long historical process of decentralization and deconcentration [the state] is being transformed from a centralized and monolithic form into a decentralized and diversified form, from a hierarchical into a polyarchic structure” (Hausner 2004: 425). New principles of public administration management, often termed “managerial model” have emerged. This model includes:

- “outer” orientation of public administration actions towards a citizen-client or citizen-user, unlike, in a bureaucratic model, orientation towards “inner” legal-bureaucratic rules,
- stress put on control of results, through managerial contracts, and not control of procedures,
- increase of autonomy and importance of state bureaucracy by introduction of political influence-free “civil service,” which takes over, partly on its own account, realization of state activities,
- separation of central bodies, responsible for a given public policy, from bodies introducing this policy on a local level,
- delegation of social service work to competing, non-state public organizations,
- establishment of joint control mechanisms of decentralized units: direct public control, managerial contracts; creating quasi-markets and competing public administration units,
- outsourcing of supplementary and auxiliary activities—public procurement that guarantee competing bids (*ibid.*: 430–431).

Evolution of the administration system in highly developed societies can be traced by looking at changes of EU regional politics, including subsidiary programmes that the European Union has carried out in the last years towards its own member states and in the form of pre-accession aid. The real breakthrough, however, comes in the assumption of EU structural politics for the years 2000–2006.¹

For the first time in EU documents the notion of competitiveness, was not only referred to business entities, but also to administrative and political units—states and regions. Main goals of development have also been reformulated; socio-economic coherence has become the fundamental goal of structural politics, and strategic development planning—the base for redistributive politics. According to the Council Regulation 1260/1999 from 21 June 1999 laying down general provisions on the Structural Funds, to be able to make use of structural aid, each member state is obliged to formulate the Community Support Framework (CSF), based on the National Development Plan (NDP), where the CSF determine directions and quantity of support from structural funds. The CSF consists of four parts involving: 1) context and analysis of regional development issues, 2) regional development strategy and forms of aid,

¹ *Europe 2000. Outlook for the Development of the Community's Territory* (1991) Commission of the European Communities, Brussels-Luxembourg; *Europe 2000 Plus. Cooperation for European Territorial Development* (1994) European Commission, Brussels-Luxembourg; *European spatial development perspective. First official draft* (1997) European Commission, Noordwijk, Brussels-Luxembourg; *European Spatial Development Perspective. Towards Balanced and Sustainable Development of the Territory of the EU* (1999) European Commission, Potsdam, Brussels-Luxembourg.

3) financial plan, 4) realization of the development strategy. Based on that, operational programmes—sectoral or regional were prepared.

New frameworks of structural policy have become the new systemic semantics within the EU that constitute the base for financial aid transfer to member states. Changed principles of regional development financing were also aimed to trigger new inner mechanisms in beneficiary states, which we will deal with in the next sections.

The Elements of Reproduction of the System (the first programming period) Inner-systemic Mechanisms of Reproduction and Relations with Inner Environment

1. Allocation of Funds—Project Selection Scheme 2004–2006 (UE Regulations and Polish Law)

Structural funds were allocated through seven different operational programmes serving to fulfill the assumptions of the 2004–2006 National Development Plan: Integrated Regional Operational Programme (IROP) and six Sectoral Operational Programmes: Human Resource Development (SOP HRD), Improvement in Competitiveness of Enterprises (SOP ICE), Transport (SOPT), Restructuring and Modernization of the Food Sector and Rural Development, Fisheries (SOPF) and Technical Assistance (TAOP). The largest share of structural funds, a total of almost 3 billion Euro, was allocated through the Integrated Regional Operational Programme, established by the Regulation of the Minister of Economy and Labour on the 1st of July 2004. The IROP encompassed four priorities. 1—development and enhancement of infrastructure to enhance the competitiveness of regions (accounting for 59,4% of the entire IROP funding), as well as priority 3 (24.5% of the entire funding)—local development were co-financed from the European Regional Development Fund (ERDF). 2—human resources development was co-financed by the European Social Fund (ESF) and accounted for 14.8% of the entire funding. And 4, accounting for only a marginal 1.3% of IROP's total funding was supplying technical assistance. EU funding accounted for 72% of all Integrated Regional Operational Programme's expenditure (see: Zintegrowany Program Operacyjny Rozwoju Regionalnego 2004–2006: 446–483).

The fund awarding scheme for IROP's priorities 1 and 3 (except 1.6 and 3.4) starts with a call for applications, which are collected by the Voivodship self-government body—the Marshal Office. There, applications are formally appraised and forwarded to content-related appraisal by the Panel of Experts. The panelists are experts separately enlisted by the Marshal Office, the Voivodship Office and by regional non-governmental bodies. In the case of larger projects an additional expert, representative of a suitable Ministry is appointed. Applications are reviewed by experts with regard to their significance to regional development and creating new employment possibilities, chances of financial and technical project completion, cohesion with IROP priorities and influence of the project over environmental protection, equal chances and information society. All projects awarded with at least 60% of maximum available score are ranked and the ranking list is forwarded to the final selection stage

by the Regional Steering Committee. The RSC may promote projects in the ranking based on their importance for and coherence with the suitable regional development strategy. Projects are recommended to the Voivodship Office and selected by the Voivodship Board. In the final step of application procedure, funding agreement is signed by the Voivod with the beneficiary.

Selection of projects under the ESF fund for human resources development is implemented by the Final Beneficiary—Voivodship Labour Office and Voivodship self-government. Based on the regional Framework Plan, Final Beneficiary organizes a call for projects. Selected projects are checked with relation to their content and approved by the Commission for Projects Appraisal. The final ranking list is forwarded to the Voivodship Board. Finally, Project Promoters sign contracts with the Voivod.

The ESF-funded IROP priority 2 projects are implemented by the Voivodship Labour Offices as Final Beneficiaries who organize calls for projects according to the annual Framework Plan signed with the Intermediate Body (Voivodship Office). Potential Project Promoters apply to the Voivodship Labour Office, which appraises projects with respect to their formal requirements. Content-related appraisal is then performed by the Commission for Projects Appraisal. The ranking of projects is approved and forwarded to the Regional Steering Committee. Finally, agreements granting funding are signed by Project Promoters (eg. district [Powiat] Labour Offices, NGOs and other organizations) with Final Beneficiaries, which enable the start of execution of the project.

The selection scheme of projects was designed to be centered around a number of principles. Firstly, it was the principle of decentralization, implemented by shifting the major stream of funds distribution to the regional level of Voivodships, represented by the Marshall Office and Voivodship Office. Secondly, the process is subject to the principle demanding transparency of procedures, mechanisms and rules. Thirdly, the equilibrium between the administrative, political and professional bodies is ensured through designing distinct phases of project appraisal and selection scheme. Finally, the social element (the public) is included in the process. Its aim was to ensure objectivity and counterpart possible domination of administrative and political factors. The social element was introduced through the inclusion of independent partners into the appraising Panels of Experts and the Regional Steering Committees.

It was clear that distribution of EU funds was supposed to be based on several principles: decentralization (through shift of most of the process to the regions), transparency (of procedures, mechanisms, rules), securing equilibrium between administration, politics and professional elements (by several phases of project selection scheme), as well as higher degree of social participation and objectivity (by introducing the social element—RSCs).

2. Obstacles in Effective Use of European Funds

2.1. Reinterpretation of EU Regulations in the Context of Inner-systemic Reproduction

Although all funds for the first programming period were allocated by the end of 2006, this process did not happen flawlessly. Potential beneficiaries and officials en-

countered numerous problems at every stage of the procedure—during the selection process, as well as while implementing their awarded projects. Let us have a look at some of the most recurring and significant barriers and irregularities that are commonly experienced by potential beneficiaries and public officials involved.

Complicated legal procedures

One of the main problems of the whole system of EU-funds implementation lies in the ever-changing and complex legal regulations. As the Supreme Chamber of Control (NIK) signals in one of its reports, implementation of IROP in 2005 was hampered among others by incoherent and unstable regulations and directives (NIK 2006a). Our respondents commonly point out to complicated and changing procedures as the main obstacle in applying for EU funding. New ministerial regulations, as well as new versions of Implementation Procedures Guide were issued on a regular basis. As one of our respondents working in the Marshal Office in Silesia mentioned:

There were some problems. At the beginning we had no clear guidelines. There was no Implementation Procedures Guide, then it was published, but its versions changed constantly. New directives were even issued during selection processes and there was a problem whether to apply them to ongoing calls, to projects which were being appraised or to new proposals. Changes in guidelines and modifications of the whole programme caused a lot of problems.

Legislation is so complicated and subject to various interpretations that adherence to the letter of the law may constitute a problem for both officials and beneficiaries. One of our interviewees went as far as describing the situation “chaotic.” Such accounts were backed by another independent report of NIK, which blames complicated and unclear procedures and guidelines for worryingly frequent mistakes in project applications (NIK 2006b: 8). Similarly, one of our responders working for a non-governmental organization engaged in various EU- and non-EU-funded projects argued:

The worst thing is that these officials who require something from us are not really sure how it should be done! It's also not entirely their fault. It's because these procedures are often not properly interpreted or not clear, or changed in the midst of the selection process. (...) Proposals are called for, all applications are filed but it's unclear how to deal with them, really.

More similar examples were mentioned, such as this first-hand account of conflicting legal interpretations given by officials:

You speak to two persons and get three different versions. We are now working on a payment application and one lady from the accounts department told us one thing, while her subordinate told us a completely different thing. Same office, same department and two different interpretations of provisions.

As another respondent working for a Regional Financing Institution expressed, the level of complexity is an important issue here as well, and in this respect we have overly complicated procedures. Another difficulty was how these procedures kept changing and that they were incoherent. Imprecise expressions allowed various interpretations. And that is a major problem.

Complex, rigid and unstable legal regulations can be attributed to Polish legislation being more complicated and procedurally demanding than EU directives and guidelines of the neighbouring new Member States. Several respondents gave accounts

of trans-regional cooperation with foreign, Slovakian or Czech partners according to their own local procedures. In comparison with those regulations, convoluted paperwork, complexity and the time-consuming nature of applying and implementing projects was most striking in Poland. As one respondent noted,

the EU law doesn't constitute a problem. It's the Polish law that is a problem that poses barriers for those applying for support. (...) Our law is being made so complicated that it's difficult to get support, while it's exactly the opposite in other countries. (...) We actually create problems for ourselves. Their law is for beneficiaries, in Poland law works against them.

These obstacles were hardly present in the neighbouring countries, where regulations are easier and less complex.

When we do the same project, let's say, a swimming pool, it does not pass the formal approval stage, not to mention content-related appraisal, and in Slovakia the same investment is financed easily. Our applications must have, let's say, 30 pages, and theirs—5 or 6.

Such an unstable and complex judicial situation, as it was pointed out, was especially painful in the first years of EU-funds implementation. Yet it may actually occur that frequent legal modifications also bring some benefits. A general tendency of simplification of procedures and improvement of the selection process is observable. Such an opinion was expressed by an official EU funds consultant for entrepreneurs from Southern Poland, who spoke about changes in legal regulations:

It seems for me that they are easier and easier. For example from the first calls at the end of 2004 to these last in 2006 procedures were somehow modified (...). I would say they were improved. The whole procedure was similar, but still improved.

Paradoxically, not everyone is unhappy with the overregulated, inflexible and intransparent system of EU funds management and implementation. This system seems to be in line with the model of Polish administration. The best indicator might be the reception of the 2005-initiated correction programme, that we will discuss later in the paper. To its utter surprise, the Ministry of Regional Development ran into difficulties with its programme. As Minister Grażyna Geśicka admitted, public administration strongly opposed attempts of de-regulation and de-bureaucratization of the system: "It is not surprising, as decrees in a way let officials hide behind a legal technicality and take responsibility off themselves" (Debata o usprawieniu... 2006). We will come back to this problem of Polish administration's condition in following sections.

Public Procurement

Another obstacle to efficient use of EU funds is constituted by public procurement procedures—rigid, complicated and prone to various interpretations. Easy access to appeals and review have for years led to long-term blocking of investments, while frequent mistakes in procurement procedures result in cancellations of tenders.

It's not really the EU law but Polish regulations that bother us. It's our internal law and its complexities in terms of tax law and other regulations (...) and this unfortunate public procurement law—this setting, all that you cannot foresee in the beginning when you create a project.

Tender procedures are long-lasting and energy-consuming and require highly-qualified staff:

There's this whole procedure involved in public procurement that one cannot cut. There is some time after announcing a tender, it requires a huge bureaucratically-technical machine (...), administration machine inside an organization to deal with it. I would say that for public procurement in one project one needs a separate post. So staff in an organization either has this experience and knowledge to struggle through procurement procedures or it must employ somebody. And if it was not foreseen in the budget—it's a major problem.

Over and above faulty legislation, irregularities constitute a major problem in the tender process. When detected by EU funds control, they can only be dealt with by the Public Procurement Office (PPO). The process of control and payments to beneficiaries are further delayed by lengthy procedures in the PPO. As an employee of the controlling department in one of Voivodship Offices illustrated,

we cannot really (...) invalidate a tender. (...) There's some grain of nonsense in it, that if we ascertain some irregularities in the tendering process and we think it can determine that some costs are not eligible, then it's really up to the President of the Public Procurement Office. And if a beneficiary appeals it and the President affirms that it was not a gross breach of public procurement procedures, then we must retract our decision. (...) We have no authority to control what we control! We have to check eligibility of costs, their accordance with the public procurement law, while only the PPO President has this power.

However, some positive legislative changes have been undertaken in order to simplify and shorten public procurement procedures. Improving the level of EU funds allocation was the primary reason for such changes, corroborating the numerous opinions of our respondents about the positive aspects of recent legal changes.

Red Tape

Another major barrier in the efficient allocation and use of EU funds was bureaucracy. Excessive formal requirements for project applications demand enormous efforts by potential beneficiaries. Numerous certificates, intricately detailed, unified and complicated forms are especially tiresome and require a significant amount of time, attention and funds spent on each single application. Especially at the beginning of the first programming period, excessive paperwork was necessary to prepare a project. At the same time very strict and rigid regulations made it almost impossible to correct any mistakes. Strict requirements precluded any amendments even in the case of minor miscalculations, use of improper ink colour or lack of some attachments. One of the respondents from a third sector organization working in Southern Poland gave such an account of red tape in the selection processes:

It's certainly all created above, all these procedures, controls, excessive controls, paperwork and details, all the attachments in applications for funding or payment. So, why does one have to, for example, attach a whole pile of documents if one doesn't really even know if he signs a contract or not. Costs [of applying for funding] are incredible! I suppose nobody cares about it when they create such procedures. If I have to prepare a whole book of more than a hundred pages as an application, and the procedures guide says that attachments have to be separated by coloured sheets of paper, labeled in the upper right or left corner, then this is really crazy!

Another interviewee gave a similar account of bureaucracy and its effects upon the selection process:

It's all about those details. One can have a good project, but if you forget about one single attachment, if you don't pay attention to get it quickly enough—you may not make it with completing your project documentation in due time if you just don't have it.

The bureaucratic barrier manifests itself in two related problems. Firstly, one has to work through rigid and inflexible procedures involved with the project selection and implementation processes. Secondly, the elaborate path of using European funds causes extensive delays during project selection, fund transfers and expenditure control. NIK's audit revealed delays at several levels, due to red tape, lack of personnel and a multitude of parties involved in selection of projects. Holdups during the appraisal process were indicated as most commonly occurring: in 2005 NIK controllers found them in 15 out of 16 Marshall Offices (NIK 2006a: 8). In one of them, the average length of selection procedure was as long as 140 days (NIK 2006a: 25). Delays were also a problem in Voivodship Offices, where already approved and highly ranked projects were again checked in respect to their formal and content-related correctness. Need for verification and supplementing of applications caused common violations of the 30-day limit for signing contracts with beneficiaries (NIK 2006a: 27). Yet the most obvious bottleneck and cause of long delays was found at the ministerial stage, where a project awaited final funds transfer and an application for reimbursement of expenditure as well as protests against formal appraisals were filed. At early stages of structural funds implementation, several month-long delays occurred as necessary ministerial regulations and institutional solutions were still lacking. As a governmental administration official implied:

It's really about frequent changes of guidelines. First calls for applications were announced in Silesian Voivodship in May 2004, two weeks after Poland's accession to the EU, while a decree allowing Voivods to sign contracts was issued in October, so we have a five-month holdup. And only then were the first contracts signed, while projects were selected in June or July. Already a delay. So then one has to annex the contract, change project schedules. And I can understand the irritation of people responsible for the procedure. And it's really such a bureaucratic machine that we have here...

Necessary documents and regulations were not ready in time for early stages of the programme. Guidelines for project appraisal and the IROP scheme were often modified as a selection procedure was underway. As a result, procedures were stalled while awaiting new interpretation and clarifications of regulation from the managing authority.

A complicated selection scheme was indicated as a major obstacle creating long delays in funds allocation by an official responsible for formal project appraisal in one Marshal Office:

The problem lies in the fact that contracts for financial aid are signed by the Voivod, and not the Marshal in case of the first and third priorities. So we forward applications to the Voivod and they check it again there. And it very often takes some time and some corrections are made again. The whole scheme is badly designed. We do formal and content-related appraisal, we know these project, so why does the Voivodship Office have to sign contracts?

Duplication of administrative tasks involves doubling of competences by the Marshal and Voivodship Offices. Applications are double-checked: firstly during the selection process and then again before signing funding agreements with Voivods. Such

a prolonged procedure causes delays in contract signing and most importantly in funds transfer. Both according to our respondents and the NIK report on financial control of EU-subsidized projects, doubled competences diffuse responsibility of officials, and hence create problems with accountability of particular bodies and functionaries (NIK 2006b: 28). As a result, mistakes are common in project applications and payment applications, causing further delays.

During the project implementation phase, the most acute bureaucracy is linked with excessive delays involved with applications for payment submitted by beneficiaries. Such delays may be attributed mostly to, as indicated earlier, insufficient personnel and complex regulations, but also frequent mistakes in a multitude of payment applications. The biggest problems seem to actually lie in numerous detailed requirements, invoicing and labeling schemes that demand much time and experience. First-time applicants, small self-governmental bodies and small companies are especially affected. Well-trained additional employees should actually be assigned to deal with very complicated EU funding management. As one of our respondents pointed out: “the biggest problems in proper use of funds lies in the smallest details.”

Long-lasting reimbursement procedures may constitute a grave problem. As a private sector consultant noted:

Waiting for reimbursement takes too long. There can be several reasons for that. Institutions usually blame it on lack of personnel. They say it officially at meetings with beneficiaries. They have 2 people who deal with reimbursement in a huge institution, and they have to work through 100 payment applications. The question is, what will happen when we have 6 times more the money than now, when they have to deal with 1000 or 1500 applications next year. When one has to wait at least 2 months now, and actually it's 4–5 months, it means the end of many companies.

Months-long delays coupled with the pre-financing rule are especially problematic to non-governmental bodies and underdeveloped communities, whose cash flow is significantly obstructed by hold-ups at ministerial and regional levels.

The financing method just kills non-governmental institutions. There are procedures up there, all our applications and papers are somewhere out there and we have to pay interest every month. (...) And they are not in a hurry! They don't care (...) and we're dying here.

Complexity of guidelines and amounts of paperwork involved, insufficient social capital and inadequate knowledge of implementation procedures among often first-time beneficiaries lead to a multitude of payment applications sent in with mistakes, additionally intensifying delays. A Voivodship official indicated that

there could be delays of up to several months. They're caused not only by the Paying Authority—though such a number of applications and insufficient staff must cause them—but also by the fact that submitted payment applications are not complete and need changes. They must be sent back for complementing. Beneficiaries don't always do everything in due time. For them time is ticking from the moment when the first incomplete version is submitted, and for us it's since the final application is submitted.

General guidelines for administration entail red tape and delays. Much paperwork is involved in every phase of project design and implementation. Invoices and meticulous documentation of the whole procedure are thoroughly controlled. An interviewed highly-ranked official elaborated on red tape and the general condition of Polish administration:

That's the administration model that we actually chose. (...) It results in work having to be done for longer, with more time and a bigger number of officials involved. And it's all really much more costly.

Another one, working for a third sector non-governmental body also pinpointed some of the major drawbacks of Polish local and governmental administration:

And this is where all problems arise—all problems in project implementation are due to the condition of institutional framework, of administration. We deal with courts, we deal with administration officials—with all the necessary permits, all those unnecessary things when we do some investments. We have to go through all the procedures involved in public procurement (...) etc. And (...) it also depends on the condition of local community—local institutions, as some things can be done quickly and in other places it takes much longer.

Effective structural funds absorption is also hampered by other institutional malfunctions, such as excessive delays in implementation of the SIMIK IT system responsible for registration, monitoring and financial control of projects. The system, supposed to be ready in time for early allocation of funds is still not fully functional at the beginning of the second programming period. As NIK and the European Commission auditors noted, lack of the SIMIK system functionality hinders the ongoing monitoring, as well as proper management and allocation of funds (NIK 2006a: 33), leading to further delays and compounding the flawed functioning of the system.

Summing up, delays, excessive paperwork, need for numerous certificates, complicated procedures and very strict and inflexible requirements for applications were indicated as the main bureaucratic obstacles which discourage potential, as well as present beneficiaries. Moreover, beneficiaries encountered further problems at the stage of project implementation, mostly linked with complicated reimbursement procedures, delays of refinancing and lengthy controls.

The duplication and distribution of authority over various administrative bodies was implicated as a major factor of inefficiency of EU funds use. In addition delays are caused by unspecified authority of the various institutions and incredible bureaucracy involved in their cooperation.

Human Barriers

The third major barrier to proper use of EU funds involves a so-called “human factor.” With the first financial aid flowing from the Community with Phare funds, it was soon obvious that one of the main obstacles in its proper use was lack of skilled and experienced personnel. Despite this initial pre-accession training, the personnel situation was still difficult as structural and cohesion funds were to be allocated with the eastern enlargement in mid-2004. Yet one can clearly speak of a speedy learning process that has been going on since the difficult entry into the EU funding system, as indicated by many specialists or the emergence of numerous public and private consulting agencies. New skills are quickly being acquired by both potential beneficiaries and officials involved in implementation of funds. As an interviewee working for a Regional Financing Institution in Silesia explained:

Then with every new call for proposals we got more and more applications. I think it's about the experience of applicants, but also the experience of those in charge of appraising projects. It's like the system was at

an early stage of implementation and both sides had to learn. Also us. And then new interpretations also resulted from experience. It just turned out that when appraising projects, one can not simply do it as it's written in guidelines.

However, as indicated by our respondents and several other independent reports, the key point still involves lack of personnel. The Supreme Chamber of Control points out to insufficient staff dealing with the selection, allocation, control and evaluation processes. The number of officials involved in the managing authority (Ministry of Economy and Labour, replaced on October 31, 2005 by Ministry of Regional Development), Voivodship Offices and self-government Marshal Offices was insufficient, causing delays in selection of projects and allocation of funds. For example, the control cell of the The Department for the Implementation of Regional Development Programmes in the Ministry of Economy and Labour employed two persons instead of the planned five positions, "which does not correspond to the level securing effective implementation of the programme" (NIK 2006a: 32–34). As NIK auditors pointed out numerously, both before and after Poland's accession to the EU, public administration was not properly prepared for handling a multitude of new responsibilities involved with EU funds allocation (see NIK 2005, NIK 2006a). According to the European Commission, to effectively use funds allocated for the second programming period for the years 2007–2013, Poland needs at least six thousand officials dealing with EU funds implementation, which means doubling the number of staff employed (see: Zdziechowska, Zieliński 2007).

Moreover, rotation of personnel constitutes a major problem. Officials with necessary skills and experience abandon their public administration posts for better-paid jobs in the private sector. Low pays seem to be the main single factor responsible. As a comparative pan-European Hay Group report on salaries in administration shows, "it's easy to start a job in a public office, but it's unprofitable to stay there for longer," as salaries of an entrant official are significantly higher than these for beginners in business enterprises (see: Raszewska 2006). Yet the situation changes considerably for trained higher-rank employees who, according to the report, earn only about 20% of salaries of their private business counterparts. In effect, well trained and most competent local and governmental officials are enticed into private sector posts (*ibid.*), leaving less qualified or new employees in public offices. Moreover, one may risk a thesis, that the State, by keeping low salaries and motivational structures almost non-existent, turns a blind eye on corruption, nepotism and other irregularities (Zdziechowska, Zieliński 2007).

Our interviewees expressed concerns about the number of staff dealing with project applications and flow of personnel to the private sphere. Head of department in charge of EU funds in one of Voivodship Offices summed it up:

Another thing is that to keep people in governmental or public administration, we need to pay them well. Now we can have a situation that we prepared really good staff, who, sorry to say, had to work through the whole integrated operational programme from the very beginning. And we can lose them to private subjects in the years 2007–2013, when we have much more funds. And again, administration invested in their training, in their experience, and the private sector will take profits. Maybe it's actually good that they do, but it's undoubtedly a loss for administration.

Such a uni-directional personnel rotation undoubtedly strengthened the public and increased the learning processes initiated with the first pre-accession Phare funds. Apart from adding to professionalism of the private sector, it also helps establishing mutual relations between business and administration. Interviewees suggested that for them seeing a signature of a former colleague on a project application ensures its high quality. Of course, on the other hand, the risk of cronyism can not be ignored.

Others also spoke of their own path from public administration to private sector, just as a respondent who quit his public official job to start working for a consulting company which helps writing applications and formally manages EU-funded projects:

I worked for a Labour Office for 10 years, I appraised European projects. The problem lies in the fact that an employee learns his work for the first two years, he learns how to appraise applications. Then he doesn't earn enough to keep on working there and quits to a private company which pays him much more. And then this office has to hire another person who will have to learn again.

This human barrier may actually be listed as one of the major and most persistent problems of Polish administration as a whole. Well-trained officials eagerly quit their posts and move to private business, where their skills and experience are better-paid and where career possibilities are broader.

On a more positive note, some indicators suggest that a gradual change in administration due to the sole use of EU funds is already underway. EU funding forces readjustment of basic administration procedures and principles, adding to the ongoing learning process. In effect, a much needed change of administration management gradually occurs. New quality of administration and new ways of perceiving administration slowly emerge:

When you have to apply for some external funds, it changes your logic completely. (...) When external funds are involved, one needs an idea first, and then this idea needs to be worked into a project, and only then can one apply for funding. (...) It's an absolute revolution in administration and some offices learn it quicker, and some slower. I think ours is just somewhere in between. And another thing is, that it forces goal-management and project-management, cooperation of a number of departments, active conduct, withdrawal of hierarchical model of administration to goal-achieving related to projects and not annual budgets. It is very difficult. And we are just undergoing this learning process. Slowly, but surely we go in the right direction.

First signs of such changes are visible, however a complete "revolution in administration" would require a paradigm shift in administration procedures and administration management by the state. Readjustment of public administration organization in accordance with the basics of EU funds allocation would be a necessary factor leading to its improvement.

2.2. Relations with Inner Environment

Besides the inner-systemic mechanisms, an important element of system reproduction are the relations with the inner environment.

Corruption and Other Irregularities

Paradoxically, this complicated and multi-level selection scheme designed to prevent irregularities also causes them by loopholes, lack of transparency and institutional

complexity. Several types of irregularities were mentioned by our expert interviewees. Cases of direct bribery resulting in improper allocation of funds seem to be isolated and rather exceptional. However, other forms of corruption and influence can be encountered in the project selection process. Lobbying in some cases takes on improper forms in terms of political influences and cronyism. Especially in the case of direct competition, it can be indicated as a major problem and an obstacle for less established, lesser known or not well-connected institutions. Personal favours or even antagonisms may play a role in biased allocation of funds. An example of a Voivod purposely delaying signing a funding agreement for an appraised project was given. Lengthy correspondence and numerous inquiries sent to the managing authority prolonged the procedure to the point where all funds had already been allocated for other projects. Personal long-term hostility of a high Voivod official towards the applying enterprise was indicated as the main cause of such an excessive and undue delay. As another interviewee argued,

there are a lot of inconsistencies. Procedures have become so complex, ways of interpreting particular provisions are so broad and vary throughout the state. The way a thing is done or if something is accepted or not is often based on one's discretion, and not some strict rules.

Despite detailed and complex regulations, subjective criteria can play a role in substantial appraisal of applications, especially at the levels of Panel of Experts and Regional Steering Committee. Transparency is lacking throughout the process, as their appraisals are not made public and all discussions are kept secret. Make-up of Panels of Experts may also pose a problem, as only one out of three appraising experts is assigned by independent regional organizations, while the other two are usually closely linked with regional governmental or self-governmental party-politics.

Duplication of administration tasks constitutes another major problem, as decisions of the self-governing Marshal Office can be changed by the Voivodship Office, which is not bound by previous arrangements. When one adds bureaucracy, complicated procedures and formalization, the path for subjectivity and discretion opens.

When you have such a bureaucratic procedure, which requires hundreds of pages of documents, all properly initialed, described, explained that this is this and not something else, then any non-objective action of officials may cause any project to pass easily. And some projects may just be treated in such a way, that they will go through it for so long that there won't be any more money—we know that example from the Śląskie voivodship, that a project passed the formal appraisal, content-related appraisal, was recommended by the steering committee and the Voivodship Board, and then it turned out that high voivodship officials have doubts whether this project should be implemented because of something, so what they did was they started to deliberate over this project, ask the ministry, at that time still the ministry of economy, if things are done properly, whether this project can be financed or not. And this correspondence took so long that they finally ran out of money. Eventually thanks to savings in procurement they collected enough money to finance it. (...) I'm not saying that officials only had doubts—they had the possibilities to prolong it which they used just perfectly.

Conflict of interest adds to the particularism, lobbying and favouritism that may be present during the selection process. A blatant account of conflict of interests was given by another high-ranked self-government official:

We have this example from Wielkopolska, where road construction projects were appraised by the director of the Voivodship Roads Management Board, who discarded all projects not done by his organization. It's an absolute scandal!

The problem of conflict of interests in relation to EU funds allocation is actually not regulated by Polish law. The only legislative solution to this problem involves statements of impartiality that are signed by experts and RSC members before every session. No effective sanctions are stipulated for improper conduct.

Conflicts of interest may also take on a less obvious form of “local patriotism,” similarly rarely disclosed or even admitted. According to the head of EU funds department in one of Voivodship Offices,

it might result from our young democracy, as interests are not properly represented. People don't yet understand that they must think in terms of a Voivodship, of region. They rather consider particular interests of their local community (...). I'll give you an example. Before every Regional Steering Committee session we are given statements of impartiality (...), meaning that we will abstain from making decisions if they could in any way be linked with our interests. I've been to almost all Regional Steering Committee's meetings here. And it's only happened three times that people with vested interests in projects, linked with projects, even by being based in the same commune or municipality did not take part in ranking these projects.

Another area prone to abuse is constituted by project control processes. In the light of principles of transparency, openness and equal treatment, several major types of financial checks are conducted. Firstly, these are ex post financial controls of documents, concerning cost eligibility and proper invoicing. In accordance with the Commission Regulation 438/2001 from March 2, 2001, financial control must cover at least 5% of total eligible expenditure. Secondly, on the spot controls of project implementation are performed, possibly at any stage of project's life and at least once for every project. Thirdly, ex ante controls of public procurement procedures before contracting are carried out. A multitude of bodies has the power of performing substantial, formal and financial inspections of projects co-financed from the EU funds. They include, among others, the Regional Financing Institution, Voivodship Offices, Voivodship Labour Offices, Polish Agency for Enterprise Development, State Fund for Rehabilitation of Disabled Persons, Regional Development Agencies, Agency for Restructuring and Modernization of Agriculture, Ministry of Regional Development, Ministry of Finance, Ministry of National Education, Ministry of the Environment, Ministry of Infrastructure, Ministry of Agriculture and Rural Development, Treasury Control Offices, Regional Chambers of Audit, Public Procurement Office and Supreme Chamber of Control. Independently of Polish local control bodies, inspections may be carried out by the European Commission with a 1-day prior announcement, by the European Anti-Fraud Office (OLAF) and the European Court of Auditors. Long-lasting inspections hamper quick implementation of projects and are beneficiaries' worst nightmares. Controllers' accountability is minimal and their decisions final. Generally, inspections demonstrated a proper use of funds with few irregularities. Yet, as our interviews revealed, even on-the-spot inspections are strict and mostly concentrate on financial and formal controls, such as checking payment applications, necessary documents and proper location or size of information boards and logos of the UE and appropriate programme or funds. Substantial checks are underdeveloped and often carried by auditors with very limited professional knowledge of the matter controlled, as in the cases of road construction or sewage works that

were discussed in several of our interviews. Moreover, our respondents uncovered some abuse practices that occur during on-the-spot inspections. A private consultant working in a tourist area complained:

Controllers may come from Brussels as they want to see the Podbeskidzie region. It's not good to run a company in an attractive location, it's too risky as you can attract controllers. We know such examples, that controllers especially come from Katowice to see the region. What's more, there was this guy from Warsaw who came here on holidays for 4 days, and spent a day controlling a company. Of course officially it was a business trip for the whole 4 days, while he actually stayed for a long weekend in Wisła. This businessman was just unlucky that he was based there, in Wisła. That's what I can tell you when you ask about officials.

Though difficult to detect, the impact of abuse of office by controllers is severe, as their decisions are irrevocable and positive audit results are highly desirable for beneficiaries.

Apart from some isolated cases of direct bribery, favouritism, cronyism, nepotism, helping befriended companies, abuse of office and other particularisms were named as pathologies of the EU funds implementation process. Yet we have been witnessing improving legal regulations, higher awareness of and sensitivity to conflict of interest and corruption, especially in more developed urban areas. Rise in administration quality and accountability may also constitute an important factor. Due to such changes, mentioned irregularities may gradually fade and be exchanged by desirable "good practices," objectivity and responsibility throughout the selection process.

Political Pressure

The main goal of the four fund awarding principles listed earlier in the paper was to assure higher levels of objectivity and social participation in the project selection processes. The key element was its division into several succeeding phases: the formal phase, carried out by Marshal Offices; the professional phase, effectuated by Panels of Experts; the social phase, where a project is ranked by the Regional Steering Committees; and the political phase, when the final selection of projects was carried out by Voivodship Boards and contracts were signed by Voivods. The aim of introducing such a complex institutional design was to diffuse, balance and link various subjects engaged in the project selection process. As research proves, even these extremely sophisticated solutions did not prevent the Voivodship Board from dominating the process. It took the role of liaison between the political system, the administrative system and the public. It also plays an important part as a channel of communication between the three sub-systems of the political system.

Polish political parties were generally indifferent to and not interested in regions. The situation changed when considerable public funds appeared at the regional level after Poland's accession to the EU. Referring to Niklas Luhmann's systemic theory (Luhmann 1988, 1990b, 1995), the party systems acts as a broker between the etatist, quasi-welfare state (or the EU aid policy) and the public, highly dependent upon public resources. In this new state of affairs, when political parties have become involved at the regional level, their key aim is finding means of acquiring public resources (positions in administration, influence upon decisions concerning redistribution of

state and EU funds) that serve as a means of boosting political support. As one of Voivodships' Marshals bluntly expressed it,

I have the impression that the parties' activity in the region is all about fighting for offices for their members, by whatever means possible.

Political parties' interest intensified significantly before the 2006 self-government elections in Poland. It was especially visible through an impetuous electoral campaign. Such sudden focus on regional politics had its roots in several reasons. Firstly, the stake of regional political decisions grew due to the larger scale of public funds transferred to the regions. Secondly, the flow of EU funds presented a new possibility of accumulating political capital and reinforcing a previously weak political base in communes [gminas] and voivods. We shall even advance a thesis, that political parties (political system) reacted very swiftly to the rise of importance of the regions in Poland.

Our own research, as well as a recent report of Transparency International (Brennek 2007: 57–59) prove that the political factor strongly influenced the selection processes in the first programming period (2004–06), overshadowing the administrative and social elements in the course of selection, appraisal and final decision of projects.

The key channel of direct influence upon the distribution of EU funds has become the Voivodship Board. The previously quoted Marshal described the process:

So, I get the call: Look, you divide money there, for this and that, and that's our commune, you know, that's our man [authors' emphasis], so he needs to get it. If he doesn't, there'll be a big mess about it. So, what are you there for? What does it mean that Platforma [Obywatelska—then leading opposition party], if we have our men [in the Voivodship Board] will not get any?

Informal political influence also constitutes an advantage in the case of open competition of similar projects, which becomes discriminatory to project promoters without the support of political patrons. An account was given by a high local government official:

Sometimes there's this personality pressure—this positive kind of pressure. We are partners in one project which was contrived and lead by (former) prime minister X (...). There was this pressure that if this project is supported by X, then one cannot deny financing it. And we once met with some people from the University of Economics (...) who did a project that was not financed and they said "if only we knew that X was after that project, we would have not worked on ours, as it was obvious that we had no chance and that his project must be financed."

Such "personality pressures" are problematic, as they alter the procedural and official choice of the project selection scheme to an informal level of non-institutional selection. Regional Steering Committees, regional bodies, forum of social and economic partners and regional self-government are excluded from the selection process. What we deal with is a classical form of political patronage, where redistribution of public resources is dependent upon informal political and personal influences. This is, among others, what distinguishes the post-communist version of welfare state from

its well-established western counterparts.² Power is not exercised through official democratic channels (of elective bodies), but by informal personal influence over selection of projects and appointing personnel. Additionally, legislative means are used to influence administrative procedures, when RSC's proceedings are made secret or proper regulations concerning conflict of interests in RSCs are missing.

Through Voivodship Boards, political parties also influence other phases of the project selection scheme: Panels of Experts and the Regional Steering Committees. In case of the former, political influence did not play a dominant role only in these Voivodships, where academic circles were strong and independent of political arrangements. As an expert from the Małopolskie voivodship ascertained,

There were attempts at political influence upon experts, but they were not corrupt in their nature. It was done so that some village-mayor called and asked "how is our project, professor, or doctor." But these attempts were ineffective as these experts did not live on it [authors' emphasis], they were actually interested in these projects. You could feel some preferences though, an expert would say "it's a very good project," but it was never in a way that a completely silly project was supported. With time, time spent on appraising projects was shorter and influences smaller. The process was a bit deformed, but without any major irregularities.

Despite detailed and complicated legal regulations, unclear criteria of content-related appraisals and lack of transparency of Panels of Experts, all raise suspicions of resorting to political influence and informal arrangements:

I'd ask that somebody showed me the protocols of Panel of Experts proceedings, to know how each expert awarded points and why. When I'm showed that, I will say that the Voivodship and the Marshal Offices are transparent, see-through, and I don't reproach them anything. But as long as they don't show it, as long as it's hidden, it's in some aura of black magic, it's veiled, then anybody can say so. Because, you know, they rank it somehow, they divide money between various projects, to various places and one doesn't really know on what terms. It's clear in IROP that you can get points and what you can get them for. So what, if we don't really know if they appraise it in that way!

Lack of transparency of procedures is simply inscribed into the project selection process as Regional Steering Committees' members sign statements of impartiality, which forbid them from disclosing any details of the RSC proceedings. The composition of RSCs may also be a problem. As mentioned earlier, only one expert is assigned by independent regional institutions, while the other two remain in close ties with the self-governmental Marshal Office and Voivod, politically appointed by the

² Analyzing political transition processes in Poland after 1989, Antoni Kamiński points to two factors negatively influencing the functioning of Polish public administration (Kamiński 2004: 25–26). One of the main sources of its dysfunction lies in supremacy of particularistic values that stress the importance of informal commitments and reciprocity. In effect, external loyalty of officials prevails over loyalty to their office and orientation towards public good, which leads to clientelism, nepotism and cronyism. These, in turn, create favourable ground for corruption and as a result, trust towards the state collapses.

The other source of public administration disruptions involves the domination of the parliament over bureaucratic bodies, which leads to politicians using and abusing their positions to influence administration. As Eva Etzioni-Halevi argued in her research, scale of corruption is dependent on elite political culture and power structures. When political parties reinforce in power structures before public administration gains autonomy necessary to delimit its own competences and strategic interests, as was the case of Poland, party-politics interests and considerations pervasively interfere with bureaucracy (Etzioni-Halevi 1999: 287–304; Kamiński, Kamiński 2004: 262–265). In effect, political clientelism and colonization of administration by politics take place.

prime minister. As our respondents indicated, Voivods continue to play a significant role, which does not limit itself to signing contracts with beneficiaries.

As Transparency International pointed out in its report, not only is the social element of the RSC institutionally underrepresented, but often the choice of social-economic partners may raise eyebrows. Since Marshals and Voivods are left in charge of appointing SEPs, offices apply it in the way which is most convenient for them—undemocratically, arbitrarily. Few open calls would fail as SEPs were not ready to select their representatives (see Brennek 2007: 35). Moreover, most chosen SEPs were incompetent and inactive. An anecdotal example was given by a social-economic partner, who, when asked about the committee he worked in, answered: “I guess in the steering [committee], as I gather applications, but you really surprised me here” (ibid. 37).

Examples show two tendencies: a very low level of objectivity coupled with a high level of personalization in the course of choosing projects for EU financing. Both are aspects of the same process of weak institutionalization of social participation in the process of EU funds distribution. This leads us to a key barrier in this process, namely the domination of Voivodship Boards in the crucial phase of Regional Steering Committees proceedings. According to Transparency International, it constitutes a breach of law and the ideals of partnership. As symptoms of such influence, TI lists:

- Voivodship Boards lingering with appointing RSC members in accordance with the National Development Plan guidelines. In some cases delays were as long as seven month, which enabled exclusion and marginalization of social-economic partners and local government institutions.
- RSCs compliance with political decisions, as many RSCs astoundingly agreed with lists of projects presented by Voivodship Boards.
- In their proceedings, RSCs were not informed about previous rankings created by Panels of Experts, making those decisions almost obsolete.
- Informal influence of Voivodship Boards’ members upon RSC members (Brennek 2007: 57–59).

Political influence indirectly stems from the fact that the Steering Committees do not properly fulfill their given functions. This, in turn, leads to domination of political element contained in Voivodship Boards, mostly Marshal Offices, in the project selection process. As research shows, despite sophisticated institutional design, Voivodship Boards have become the key factors of regional funds distribution and project selection. As such, they took a liaison role between politics, administration and the public, while simultaneously serving as the main element of inter-system communication.

All the above examples prove that at the regional level, the public as the social system is still not sufficiently institutionalized, or in other words, is still at an early stage of functional differentiation. While territorial interest groups (local self-governments) have emerged, functionally (in the form of professional and social associations), regional representation of interests almost doesn’t exist. It leads to problems with proper project selection, as the public is not familiar with regional development strategies and priorities, and hence can not identify regionally important projects. Transparency

International's objections about RSCs' decisions being driven by costs instead of quality of projects result directly from institutional weakness of the social sphere. Moreover, as only party-politics (and persons involved) is represented by developed interest groups, politics created its own equivalent (or substitute) of social influence in the form of a political personalization of relations. Yet, such conditions intensify indecision making and contingency in terms of EU fund priorities in the regions. An insufficiently differentiated and weak public also impedes (central) administration, depriving it of feedback and clear guidelines, that can now only be given by politics. In effect, the regulations are faulty (as was the case with making RSCs' proceedings secret) or not issued when needed (as in the case of conflict of interest in RSCs). It is highly probable that politics had its stake in regulations making proceedings secret, supposedly issued to protect objectivity during the project selection processes.

Elements of System Evolution. Overcoming the Barriers—Prospects for the Future

Legal and administrative barriers, the effects of the inner systemic reproduction, overlapped with political developments. The new rulers, though moderately *euroskeptic*, saw the European funds as political capital. Due to that, soon after having gained the power, the PiS (Law and Justice) government assigned Grażyna Gęsicka, a politically independent well-known expert in regional development, as the new Minister of Regional Development. In such a way, a party with rather poor economic expert potential covered the path of EU funds with their people, thus simplifying the complex matters of regional development and European aid.

1. Simplification and Reform of the Administrative System

At the end of 2005, it was apparent that Poland's implementation of funds was underperforming. The risk of not using all the resources was critical. Soon it was circulated by the media, which published numerous articles about the low level of funds absorption in late 2005 and throughout 2006 (see: Bielecki 2005; Kozmana 2006; Wojtuch 2006). The last wave of practically apocalyptic publications appeared at the end of 2006 when European Commission's report pointed out that Poland and the Czech Republic were too slow with using EU funds. A "friendly warning" was issued, urging quicker implementation of programmes and simplification of the system (Nowakowski: Report KE... 2006). In the light of and with an awareness of pervasive obstacles, the Ministry of Regional Development took measures to improve the implementation of European funds by bringing forth the "Corrective Actions Programme to Increase the Absorption of Structural Funds within the 2004–2006 National Development Plan" (Szczegółowe założenia... 2005). The corrective programme was to encompass legislative reforms designed to simplify and advance implementation of EU funds, and also to improve public access to and perception of EU programmes. The administrative system reacted to signals from the public, transmitted by media at the national level and beneficiaries at local and regional levels. However, in a systemic sense the

“Corrective actions programme” meant, aside from simplification of regulations and provisions, increased centralization of control over EU funds in the first programming period.

In the final report on implementation of the “Corrective Actions Programme” (Raport końcowy z programu naprawczego 2006), a number of systemic actions aimed at facilitating the EU funds redistribution process, especially funds absorption, are listed. Among the most important ones, we find amendment of the National Development Plan (Dz.U. Nr 149, poz. 1074), which came into force on September 5, 2006. A novelty was introduced, that key documents, such as forms of contracts and reports, no longer had to be regulated by ministerial regulations. Less paperwork will be required for some programmes (like 16 Regional Operational Programmes or Operational Programme Innovative Economy), a staging from pre-selection to final selection of projects will be applied. It allows project promoters to submit applications, which are then appraised based on their key strategic features with regard to their content, and not compliance with formal requirements. Only pre-selected projects will have to submit necessary and costly documentation for final selection, which shall result in savings of time and money, and improve perception of EU funds in longer term. Steering Committees were eliminated, structural funds control rules were made clearer and reporting made easier. Thus, along simplifying elements, there are also ones that limit the role of the “social element” in project applications appraisal. It leads to further restraint of the public in the mechanisms of circular communication, which will undoubtedly cause further problems in the process of funds redistribution. Moreover, amendment of the Public Procurement Law, a bottleneck of project implementation, came into force on May 25, 2006. It adapted Polish procurement regulations to EU regulations, simplified procurement procedures below 60 thousand Euro (i.e. protests and appeals were blocked), protest procedures were renewed and clarified, and quicker forms of procurement were introduced.

2. Other Elements of the System’s Evolution

Paradoxically, outflow of qualified administration officials involved in project control, described as a barrier to implementation of funds, has its positive consequences for the process of social learning and changes in mentality. These former officials are often employed in private consulting agencies offering aid in preparing project applications as well as supervision and monitoring of project implementation.

The phenomenon of qualified officials passing to the private sector results in projects being prepared in a more professional way. By resorting to professional aid, applicants can avoid mistakes, which increases their chances of succeeding in receiving funding. This, in turn, results in a more positive approach to the EU.

This one-way exchange of personnel strengthens the public. It also reinforces the learning process started with the pre-accession Phare funds, which embraces both administration and social-economic partners. Respondents, who have moved from administration to business asserted that soon after Poland joined the EU, a specific demanding attitude was prevailing. With time it has faded and potential beneficiaries

have started looking for professional help in writing project applications instead of demanding it. What is missing is qualified assistance and support from officials, unable to supply the applicants coherent information.

The tendency of officials' outflow described earlier as a human barrier can also be seen as positive, when looked at from the point of view of economy and the public. They play an important role in creating and reinforcing new development opportunities for social-economic partners, as well as in building sound relations between administration and its social environment.

The New Phase of Reproduction

Both introduction of the "Corrective Actions Programme" and the Act on principles of conducting development policy (Dz.U. Nr 227, poz. 1658, 2006) show that the administrative system has entered a new phase of reproduction. What is characteristic of that phase, is gradual decline of the formal logic of public administration (independently of goals and sense of aid, administration acts based on formal bureaucratic criteria), to such way of arranging rules and procedures, that they can serve strategic goals of reforms: improvement of economic competitiveness of the regions and promoting equal chances for the worse-off regions, through innovation, human capital and work effectiveness development, according to the aims of the Lisbon Strategy. At the same time, the system is returning to the phase of centralization, as pictured by changes in regional development financing in the second programming period 2007–2013.

Changes in regional development financing were presented by Minister Gęsicka, among others, at a meeting at the Tischner European University on January 17, 2007. She claimed that from the 86 billion Euro destined for the cohesion policy, 43% will be given to largest infrastructural investments, to nationally increase cohesion in transport (roads, railways, airports), environmental protection (sewage treatment plants, storage reservoirs), healthcare (renovation of hospitals), culture (museums, cultural institutions). Only 28% of the funds is to be assigned to Regional Operational Programmes, and 13% to human capital. Overall, Poland would like to assign 60% of the funds to implementation of the Lisbon Strategy, i.e. to most important development programmes in economy, human resources, environmental protection and trans-European network of transport. Although the 60% minimum limit was introduced to the old members of the EU-15, Gęsicka claimed that Poland intentionally chose this option not to be left behind and to implement pro-development projects only. Symptomatically, despite European Commission pressures to spend at least 20% of the funds on human capital, Gęsicka admitted, that Poland arbitrarily reduced the number to 13%, assuming that such great funds could not be implemented, and instead Poland would be facing implementation of blown-up, unnecessary and ineffective projects. In the 16.5 billion Euro of funds flowing directly to regions, as much as 30% will be spent on key and large projects, implemented without competitions and written into the Regional Operational Programmes. The amount of funds assigned

to key and large projects, according to indicative lists of key investments, vary. In Śląskie Voivodship, for example, as much as 40% of all the funds will be spend on key and large projects (Śląski ROP), Warmińsko-Mazurskie (ROP Warmia-Mazury 2007–13) 36%, while Małopolska plans to assign only 9% of the funds to key projects (Małopolski ROP).

The situation is similar in the national operational programmes. In some of them, funds have already been distributed. The most obvious example is the OP Infrastructure and Environment, in which the estimated cost of approved key projects from the basic list exceeds the penned funds of 36 billion Euro. Adding to that projects being on the reserve list, we receive 47.2 billion Euro, which practically crosses out the possibility of any project competitions in this programme (Indykacyjny wykaz... 2007).

What are the long-term effects of such development financing strategy? Aside from economic arguments of costs rationalization, 60% of EU funds assigned to central investments in the regions actually makes the process independent of any political bargaining in the regions, thus decreasing the role of regional political actors and introducing a central, top-down logic of economic reforms. In such a way, Minister Gęsicka's rational policy of regional development coincides with political interests of her PiS [Law and Justice] patrons. Unable to directly influence distribution of EU funds in the regions (holding political powers only in 2, and forming coalitions in further 2 of the 16 regions), the ruling PiS gained central control over it through the Ministry of Regional Development.

Paradoxically, according to Minister Gęsicka, formal independence of the regions will be strengthened in the second programming period, as in the first programming period EU funds distribution was a *de facto* governmental programme. In the years 2007–2013, regions will be conducting their own, independent regional development policy in the Regional Operational Programmes. However, we shall stress that it will only be independent within the 28% of the funds assigned to them. What will the effects of new financing be for the public sub-system? Let us quote one of the interviewed experts from Małopolska:

What counts, are only large projects; small communities will be cut off from most funds. They assume that only project of 8–10 million zł [5–6 million Euro] will be financed. So, only big and experienced institutions will be favoured. It will lead to the fact that quantitatively the funds will be used, but qualitatively the success will be questionable, as it will bring about further disproportions. Kraków will make it, Nowy Sącz as well, but smaller towns won't. From Gęsicka's perspective, it's fully rational. Two attachments were introduced—large and key projects, of over 10 and 15 million Polish zloty. Małopolska has 1.2 billion Polish zloty for these large and key projects—and 60% is already distributed, assigned. These attachments are part of the ROP, so it's all assigned now—true autonomy of the self-government will be limited. And the second limit is sectoral assignment of projects according to the European Commission—at least 40% of the allocation must be given to broadly understood economy and economic environment—innovation, entrepreneurship, and so on. So the rest will be assigned in the remaining 40%. And in the case of, for example, Podlasie, who will consume it, if they haven't used it yet? This is money for technology and innovation, and there isn't really anybody to use it. Here, in Małopolska, the problem will be of lesser scale, but we'll also have it. It will all favour large, municipal subjects. The antidote could be horizontal agreements, but it doesn't look too bright here.

Taking the analysis to the systemic level, we can say that although in the new phase of reproduction the administrative system neutralizes the negative influence

of the political system upon EU funds redistribution process, it also causes further impairment of the social partner (the public as a system), increasing disequilibrium in the inter-systemic relations at the regional level.

Consequences of “Functional Lag” of the Public. Systemic Analysis

The goal of this article was to trace the way that the Polish administrative system assimilates principles of EU aid. Empirical observations were carried out concerning both horizontal and vertical functioning of the administrative system and the relations with its inner systemic environment: the public and the politics. Our research shows that in the process of EU funds distribution there appear specific distortions of communication between the administrative, the public and the political systems. We can observe such distortions i.e. in the way that the administration system reacts to signals from the public. From the public, characterized by a specific way of reducing complexity of public administration actions typical for mass media broadcasts, there flow contradictory communications taking the form of social panics. On the one hand, the administrative system receives from the public the problem of fund absorption. However, on the other hand, the public system reacts with panic to corruption in public funds distribution, to which the administrative system neurotically reacts with overgrowth of complexity and restrictiveness of legal provisions, which then leads to decrease in funds absorption. To bust out of these contradictory signals, thus to increase absorption without increasing corruption (in this case political corruption in the form of political bargaining for funds at the regional level), the administrative system tries to centralize funds distribution not through the decision-making process (decisions stay in the hands of regional authorities), but through legal regulations, by excluding biggest investments from the multi-level regional verification. In effect, the system indeed prevents political bargaining on the regional level, but it happens for the price of further hampering of the public, whose participation in the funds distribution process is lowered even further. This, in turn, stops EU semantics, basic rules of systemic reproduction present in the Community, from entering the system.

The reason for the given communication distortions, and so for systemic reproduction according to the logic showed earlier, is uneven functional differentiation of the sub-systems of politics at the regional level, crucial to EU funds distribution in Poland.

According to basic EU regulations, communication between the administration and the public is identified in both directions. In terms of regulations concerning EU funds, the administrative sub-system (at the national level) is guided by public opinion. On the other hand, the public (regionally) is supposed to be a partner, who shall support administration in the course of funds distribution by setting and facilitating development priorities. In both directions, rules of EU funding have been warped. At the same time the self-referentiality of the administration was reinforced, leading to further centralization and formalization of the administrative processes of fund distribution, instead of necessary simplification of law and procedures. Similar bilateral

relations occur between the administrative and the political systems. We identified two phases of equilibrium in their communication. In the initial phase, politics constrains administration from direct distribution of funds, while also withdrawing from the function of priorities-setting. Therefore, we may talk about a reversal of administration's and politics' functions. In the second phase, administration constrains politics from direct "fight over funds," but allows it to conduct allocation at the national level (in terms of programmes and priorities). In fact, the systems is centralized. Equilibrium, disturbed by local self-governmental elections lost by the nationally ruling PiS party, is re-established.

We ascertain that the wrapped semantics and the resulting systemic reproductions are due to unequal functional differentiation of sub-systems at the regional level, crucial in EU funds distribution in Poland. According to Niklas Luhmann, systems reduce complexity of their environment by increasing their own internal differentiation and complexity. In other words, the more complex the environment, the more differentiated the system itself. Although inner-relations between sub-systems are being ordered, an opposite scenario is also possible, when relations are not arranged, but functional chaos appears and the system as a whole is highly obscured. Although Polish administrative system has been undergoing functional differentiation at the regional level for the last decade, such differentiation is not accompanied by internal reduction in complexity of the whole sub-system for the public. For example, the legal system, reacting to an ever-more complicated reality after Poland's accession to the EU, produced multiple regulations, which are still not internally coherent. As a result, in-transparency of the system deepens, while self-referentiality of politics and the public are disturbed. But above all, growth in complexity of the administrative system follows poor differentiation between the public and is a specific reaction of the political system to this problem.

Let us now stop for a moment with inter-system relations. In the case of politics and administration, as we stressed earlier, the former dominates in a non-democratic, clientelistic way, asserting its domination through issuing (or not) administrative regulations, as was the case with making RSCs' proceedings secret and lack of necessary regulations concerning conflict of interest.

Administration and politics are not balanced by the public, which is not sufficiently functionally differentiated at the regional level. Because of weakness of regional unions and employers' associations, regional academic institutions and NGO associations, the public cannot serve as a partner in relations with administration and politics. At a regional level, it cannot appoint strong and effective institutional bodies, which could articulate group interests and balance political influence. Because of this regional sociological vacuum of the public, administration cannot thematize (or simplify) inner differentiation of the public as a sub-system. In effect, it can only orient itself to national public opinion or to 'persons'—important (political) figures and influential actors of regional development. Intentions of the public (judged only by nationally, and not regionally articulated opinions) may then not be properly understood. Such was the case with the restrictive public procurement laws, which were a reaction to public outrage caused by a growing number of corruption scandals

(mostly at a national level). As a result, administration reproduced the generalized distrust of the public in politics and administration, causing problems for potential EU funds' beneficiaries. In turn, orientation towards public opinion and its cries for combating corruption lead to laws being tightened and complexity of administration increased.

As an outcome, neither the public, nor politics supplied the administration with proper instructions about what to do and how to act, leading to the system's intransparency.

With the public being sufficiently in-differentiated, the party-political system becomes its functional equivalent, that intercepts its functions. Yet instead of aggregating group interests of the public, politics creates its own 'substitute' interests based predominantly around political parties. As only parties can reduce complexity of the other two sub-systems of the political system by personal politics (Luhmann's externalization to persons), they may quite easily gain control over both administration and the public. Thus in the course of EU funds distribution, the main principle of welfare state, as described by Luhmann, is reproduced: domination of politics over administration and administration over the public. It is at least partially accompanied by centralization, most visible in politics and administration, but also present in the public, whose national and local (self-governmental) levels are considerably better institutionalized than their regional counterpart.

On the other hand, political sub-system follows the footsteps of administration (Tarrow, Katzenstein, Graziano 1978) through higher degrees of centralization. Regional party politics is not implicitly obliged to set priorities for development of their regions. By influence upon legislation, central party structures seek to become independent of current regional political situation and preferences, as well as to gain control over funds distribution at a regional level by dominating the administrative sub-system (eg. by Voivods or the idea of Voivodship conference). Regional party politics is reduced to personal politics only and administration stands responsible for setting regional development priorities (through expert strategies of regional development). Thus, we can observe a specific functional reversal of roles of the administrative and the political sub-systems in regions, where politics takes on the function of administration and administration takes the role reserved for politics.

The above mechanisms lead to distortion of communication in the political system as a whole. Low level of functional differentiation of the public causes the fact that the administrative and political sub-systems must rely, above all, on: 1) their own, inner-systemic rules of reproduction, 2) mutual relations of public administration and politics, without the intervening influence of the public, leading to consequences such as shift of functions of both systems at a regional level, and 3) taking on the functions and characteristics of the public by the administration (reproduction of generalized distrust through restrictive legal regulations) and politics (parties taking the roles of interest-holders).

How does evolution of the system take place then? Through shifting regional problems and dilemmas to the central level, which then adjusts regional priorities seemingly in accordance with EU semantics. The drawback of such a shift comes

with the public being deprived of its proper role in regional development planning. Therefore, functional differentiation of the public sub-system is further hampered, which leads to repercussions throughout the entire political system. Administration tightly closes its self-referential communication. As a result, we may observe administration, orientating itself solely to its own criteria of regional development evaluation and completely losing sight of and interest in social effects of reforms. Politics, in turn, maintains its regional influence and reinforces power centrally, hence making autonomy of administration only apparent and temporary.

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