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Summary

The objective of this article is to show how the elements of the agency system work in Poland and why agencies are created. It is also meant to draw attention to the assessment of the effectiveness of agency-type institutions over the past 17 years. State agencies have long been criticized in Poland and so the article also points out widespread pathologies in agency operations.

A general definition of the term “agency” is provided by Tomasz Grosse: “Agencies are specialized government institutions that take over specific public assignments to make their execution more effective. Agencies are more or less separate from **majoritarian** (i.e. elected) **institutions**. In the case of national states, this primarily means that they are independent from the government (ministries), hence also from government politicians.”¹ There are several institutions independent of the government, without a commercial purpose, which are a part of public administration and which execute public tasks and are financed with public monies. Among them are state agencies, appropriated funds, but also various types of institutes, as well as the National Bank of Poland or the National Health Fund.

In this article I will focus on a limited segment of the agency system in Poland and analyze the performance of two agency types: state-run appropriated funds and so-called “state agencies”. This restriction of the field of interest is due, on one hand, to the concern for the usefulness of this article to future studies conducted within the IPA project on the Agriculture Restructuring and Modernization Agency (ARMA) and, on the other, to the fact that in specialized literature agencies and appropriated funds are very often discussed together because of their commonality in terms of functioning and problems associated therewith.

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¹ Grosse T.G., *Agencies and Agency Systems*, Institute of Public Affairs, Warsaw, 2006 (within the New Modes of Governance project, ref. number 17/D10)

I. State agencies and appropriated funds in Poland – basic information

The reason for appointing these two institution types rests in the desire to delegate certain tasks for execution by outside units, supervised by the government, non-commercial, and belonging to the sphere of public administration.

As Ewa Malinowska and Wojciech Misiąg point out, “state agencies” is an unofficial term indicating a group of organizational units with a legal personality, established by separate regulations, which do not fall into the category of appropriated funds.”²

Public appropriated funds is the second group of institutions discussed in this article. As Stanisław Owsiak says, “appropriated funds are organizational entities which are used by public authorities to accumulate money originating from strictly specified sources. Thus accumulated resources must be earmarked for precisely determined aims.”³

Every agency and earmarked fund, as an institution appointed by a special legal act, is unique and inimitable. Each has its own management and supervisory bodies that operate in accordance to rules inscribed in the founding act. There are no regulations that govern the modes of operation of these institutions, such as financial planning, accountability, terms of personnel hiring and remuneration, etc. Each is peculiar to itself, so to speak.

Agencies and appropriated funds have the status of publicly financed institutions and, as such, are subject to certain rigours under the Public Finances Act. However, they do not belong to public administration institutions such as ministries or local administration units. This means that the functioning of these separate entities is almost entirely regulated by their founding acts. They are not subject to restrictions such as the need to comply with employment regulations applicable to the civil service, parliamentary scrutiny, etc.

In Poland, state agencies and appropriated funds have the status of implementing agencies⁴, which means that they are “responsible for delivery of specialized public services and execution of a specific public policy”. By design, “implementing agencies function as part of public administration and are subject to government control and supervision.”⁵

Agencies perform varied functions. Paweł Załoteńki distinguishes between three types of their activities: managing state treasury assets (purchases, sales, management of reserves, e.g. Military Property Agency), pursuing state policies in a given area (through interventions, promotion, restructuring, etc. - e.g. Agriculture Restructuring and Modernization Agency), conceptual and planning work (Agriculture Development Agency).⁶

Krystyna Piotrowska–Marczak lists three types of functions performed by appropriated funds. She points at their allocation character, where the mechanism of resource accumulation is grounded in administrative enforcement; redistribution function and mobilizing function,

² Malinowska E., Misiąg W., *Finanse publiczne w Polsce. Przewodnik 2002*, Gdańsk Institute for Market Economics, 2002, p. 229

³ Owsiak S., *Finanse publiczne, teoria i praktyka*, PWN, Warsaw 1999, p. 130

⁴ See the European agency classification proposed by Yatangas (2001) - in Koutalakis 2004.

⁵ Grosse T.G., *Agencies and Agency Systems*, Institute of Public Affairs, Warsaw, 2006 (within the New Modes of Governance project, ref. number 17/D10)

⁶ Załoteńki P., *Informacja na temat agencji rządowych*, Sejm Chancellery Research Bureau, 2001.

which consists in multiplying current public resources, for example for the purpose of preventing higher taxes.⁷

Agencies and appropriated funds perform tasks associated with agriculture, social security, enterprise development, management of state assets, culture, environmental protection, etc. Agriculture is an area particularly open to administration and management by agencies. “I was surprised to see how much of the money spent by the Agriculture Ministry is channelled through agencies. Let us take a look at the Ministry’s 2000 budget report. The Minister of Agriculture supervises the following administration sectors: agriculture (last year’s budget – PLN 832 million), rural development (PLN 1014 billion), agricultural markets (PLN 787 million) – total PLN 2.6 billion of state budget money. Of that, PLN 728 million went to the Agricultural Market Agency and almost PLN 1.4 billion to ARMA. Thus these two agencies received more than three quarters of the available money. This year (2001) they will receive even more – over 85% of the total!”⁸

It is impossible to determine how many people are employed by agencies and appropriated funds. Wojciech Misiąg estimates that there are many ten of thousands, working primarily in the Social Insurance Institution.⁹

In 2005, there were twenty-five appropriated funds and seven state agencies in Poland.

The share of agencies and appropriated funds in the management of public resources has been growing since early 1990s. “Budget expenditures in 1990–1996 associated with operations of “statutory” agencies have been steadily growing (except in 1992). During those years, their nominal amount increased tenfold. (...) The growth in budgetary expenditures associated with “statutory” agency operations in 1993 and after 1994 has clearly outpaced the growth of total budgetary expenditures”.¹⁰ There are no precise calculations as to the share of public money that was managed through agencies and appropriated funds. It is estimated at approx. 40%.¹¹

This study will assess the functioning of state agencies from the perspective of formal objectives which they were assigned at the outset. In the intention of advocates of delegating public tasks to state agencies and appropriated funds, they were meant to help in depoliticizing the delivery of public tasks, weakening politicians’ current interference therewith.

It was also expected that these agencies and funds would deliver public tasks more effectively than the government since they were going to be managed by the logic of the private sector – frugally, without generating unnecessary expenses, and efficiently, because they were not subject to procedural or bureaucratic constraints typical to government institutions.

Subsequently, the study will examine if the hopes placed in state agencies and appropriated funds have been realized, if the public monies they handle are indeed effectively managed, and what are the barriers to effective management.

⁷ Piotrowska – Marczak K., *Analiza działania państwowych funduszy celowych oraz agencji*, Sejm Chancellery Research Bureau, 2000

⁸ Stankiewicz A., „Państwowa sfera zaciemniona. Z Wojciechem Misiągiem, byłym wiceministrem finansów, ekspertem Instytutu Badań nad Gospodarką Rynkową, rozmawia Andrzej Stankiewicz”, *Rzeczpospolita*, 18.10.2001.

⁹ Ibid.

¹⁰ Jeziorski J., *Działalność agencji rządowych w latach 1990 – 1996*, Sejm Chancellery Research Bureau, p. 19

¹¹ Stankiewicz A., „Państwowa sfera zaciemniona. Z Wojciechem Misiągiem, byłym wiceministrem finansów, ekspertem Instytutu Badań nad Gospodarką Rynkową, rozmawia Andrzej Stankiewicz”, *Rzeczpospolita*, 18.10.2001.

An important task of the study of the functioning of state agencies and appropriated funds will be to draw attention to irregularities in their performance, particularly as concerns politicians' involvement in their activities. Such involvement may indicate the existence of the "agency capture" phenomenon and of problems stemming from a lack of supervision. From the viewpoint of the principal/agent theory, the latter issue is key to assessing the performance of political systems. The "agency capture" phenomenon manifests itself in the treatment of such agencies and funds as a sort of political booty, a workplace for members of the give political party and their families, and a source of the party's profits. The absence of or insufficient supervision manifests itself in chumminess between government ministers and agency heads, and in the non-existence of specific regulations imposing effective supervision and compliance with its requirements.

To explain why these agencies and funds exist despite their poor reputation, the study will turn to the notion of political capitalism advanced by Jadwiga Staniszkis, who sees them as a base of resources important to the functioning of political parties and communities associated therewith, such as well-paid jobs.

Reliable information about the effectiveness of these agencies and funds, and pathologies in their performance, can be found in reports published by the Supreme Chamber of Control. Indeed, SCC regularly checks these institutions for the quality of the management of public funds, legal compliance, personnel qualifications and, generally, fulfilment of tasks assigned thereupon.

Press articles about state agencies and appropriated funds reflect a debate that started in the late 1990s. That was when the *modus operandi* of these institutions was qualified as a social problem¹². The public opinion learned about them employing people linked to political parties, about management contrary to their interests, etc. The press not only reflected the diagnosis present in the debate but also the accompanying call for systemic changes.

II. Reasons for the establishment and development of the agency system in Poland

Agencies began to be established in Poland directly after systemic transformation of 1989. Six agencies were created during the initial years of transformations (1990–1991), one in 1992 and one in 1993, and four in 1994–1995. The record year for the number of established agencies was 1996 - as many as five.¹³

There were only two agencies in communist Poland and they functioned as central organs of state administration – the Polish Press Agency and the National Atomic Energy Agency. It was different with appropriated funds – these institutions were deeply rooted in the socialist system. In 1990, sixteen funds were closed and others were restructured.

The appointment of agencies and appropriated funds in the early 1990s was a response to problems associated with transferring the system from a centrally steered economy to capitalism.

Among main problems associated with economic transformations at that time was the issue of the management of state assets. Until 1990, state asset management involved only its administration. There was no balance sheet, profit and loss account, statement of proceeds and ex-

¹² J. Kitsuse, M. Spector, *Constructing Social Problems*, Transaction Publisher, 2000

¹³ Piotrowska – Marczak K., *Analiza działania państwowych funduszy celowych oraz agencji*, Sejm Chancellery, Research Bureau, 2000

penditures. Meanwhile, in view of the desire to transform the economy into a capitalist one, it became evident that a large proportion of state assets had to be privatized, particularly land that until then had belonged to state-run agricultural farms. The decision to close them down created the problem of managing that real property henceforth. Another type of state asset that needed to be taken care of under that new capitalist logic were state-owned enterprises. The issue of state asset disposal also affected military property – an asset which the state did not want to upkeep any longer for economic and political reasons alike.

Restructuring state property, its privatization, could not be effected by way of a single act of legislation. Privatization was decidedly a process that needed to be spread over several years. The appointment of agencies was meant to ensure that public assets would be managed during their transition from state to private ownership. It was decided at that point that state administration institutions were in no way set up to fulfil that mission. They lacked appropriate personnel, but the very logic of administrative, bureaucratic, activities seemed inadequate to the task. Indeed, it was decided that state property earmarked for privatization would be managed in accordance with the rules of the private sector. Agencies would manage state assets on market terms. The best example of that is the Agricultural Real Property Agency (formerly State Treasury Agricultural Property Agency) or the Military Property Agency.

Since economists and public administration experts believed that the private sector was more efficient than the public one, there was a good reason to create market-driven agencies. Institutions that had to meet market terms would be cheaper, more professional, etc. “The idea of separating them from their traditional financing source (state budget) stems partly out of the conviction that entities financed with public money on the basis of their performance are cheaper than those financed to perform.”¹⁴ Contrary to public administration institutions, agencies are not hampered by heavy bureaucracy.

This view – which curtailed state powers – was acceptable in Poland because it had the support of the liberal-minded governing elite. Indeed, economic liberalism was not unique to the right-wing and centre governments associated with Leszek Balcerowicz. Governments run by the post-communist parties, even though they called themselves left-wing, also pursued a liberal economic policy. The existence of a sort of fashion to delegate public tasks is confirmed by Radaelli (2000), who states that “powerful knowledge-based elites, professional networks and international organizations help to diffuse delegation to IRAs as the “best practice” in solving collective action problems.” (Koutalakis)

In the early 1990s, when agencies started to be established, it seemed that the reason for that was the desire to save them from everyday political influence. As Tomasz Grosse notes, “some experts believe that certain public tasks necessitate not only specially trained functionaries but also independence from the destructive influence of changing politics. They rely on long-term policy based on realistic and permanent premises.”¹⁵ Theoreticians who study the performance of public administration from the perspective of the principal/agent theory consider that “delegation is used to reduce political transaction costs emerging at the stage of negotiation between political actors” (Koutalakis).

However, it seems that even if that was indeed the case in Poland, the depoliticization scheme ended up in a total failure. “While it is sometimes recognized that one of the reasons for creating agencies lied in the desire to protect certain technical tasks from political pressure, Polish

¹⁴ Kuzińska H., *Fundusze celowe w Polsce*, Sejm Chancellery Research Bureau, 1995, p. 2

¹⁵ Tomasz Grzegorz Grosse, *Nowe metody zarządzania zadaniami publicznymi krajach UE i w Polsce*, Wprowadzenie do projektu ISP, Institute of Public Affairs

reality is such that agencies may instead serve as a medium for concealing political influence and relieving government ministers of direct responsibility for their performance.”¹⁶ While, at the initial period of transformations, agencies were appointed for “noble reasons”, in later years the trend for agency proliferation continued despite numerous reports of their operating irregularities and overall inefficiency. Such damning diagnosis is permanently present in studies and opinion papers commissioned by the Sejm starting in 1995, where the recurrent theme is the mismanagement and inefficiency of agencies and appropriated funds.

One may, therefore, risk making the thesis that successive funds and agencies, appointed despite the poor reputation of this type of institution, served goals other than what had been declared, say as a way for political groups to get influence, cushy jobs and, in general, money (see “pathologies” further down).

After 2002, as the prospect of Poland joining the European Union grew more realistic, a new factor legitimizing the survival, creation and development of state agency competencies appeared: the necessity to adapt Polish administration to EU requirements.

Agencies were to become the executor of EU policies, particularly in agriculture and enterprise development. However, we must remember that the European Union as such did not command member states to manage its pre-accession programs or subsequent structural funds via institutions of the state agency type. Certain procedures were indeed required but they could have been implemented equally well by other types of institutions. It was the Polish governing elite which decided, for example, that the main player in the field of agriculture would be the Agriculture Development and Modernization Agency (ARMA).

Meanwhile, in the name of assimilation of EU policies, for example in agriculture, ARMA was expanded and its personnel was reorganized, albeit certainly not out of the desire to improve its operations. Numerous personnel adjustments effected during the planning of the execution of the SAPARD pre-accession program were one of the main reasons of its delayed activation.¹⁷

It may be that the attempt to curb politicians’ thirst for creating new agencies and appropriated funds could be found in the provisions of the Act on Public Finances of 1998, which stated that appropriated funds would no longer be established after 1999. “That condition aimed at preventing the legislator from establishing new funds. However, it was abolished in 2004 (by an amendment to the Act) and 13 new appropriated funds were established instead of previously present earmarked resources.”¹⁸. And so the attempt to curb creating new agency- and fund-type institutions ended in a failure.

¹⁶ Koronowski A., *Gospodarcze uwarunkowania i konsekwencje działania agencji rządowych*, Sejm Chancellery Research Bureau, Information no. 381, p. 23

¹⁷ Cf. Grosse T.G., *Poland in the European Union: a Challenge for Polish Administration*, Analyses and Opinions No. 14, Institute of Public Affairs.

The press reported that “Aleksander Bentkowski (PSL), Chairman of the Agriculture Restructuring and Modernization Agency, was replacing its regional managers. New bosses were party activists not accredited by the European Union to manage the SAPARD programme. Before they got that accreditation and acquired experience, application acceptance deadlines may already pass.” Trusewicz I., Wildstein B., “*Nowi fachowcy prezesa Bentkowskiego. Roszady personalne w ARiMR - Czy program SAPARD jest zagrożony?*”, *Rzeczpospolita*, 2002.08.13

Low competencies were confirmed by the fact that one half of 568 employees of seven regional branches of the Agriculture restructuring and Modernization Agency had failed Common Agricultural Policy knowledge tests. See Trusewicz I., “*Urzednicy do poprawki*”, *Rzeczpospolita*, 2003.01.07

¹⁸ Strzelecka J., *Fundusze celowe i agencje*, Sejm Chancellery Research Bureau, 2005, p. 73

Agencies and appropriated funds, always mentioned in one breath by experts on public finances and Supreme Chamber of Control inspectors, were criticized already in the first half of the 1990s. However, their functioning achieved the status of a “social problem” around 2001 – discussed and recognized as such by politicians, experts and the media – in connection with the diagnosed crisis of public finances at the end of the term of Jerzy Buzek’s AWS government. That was the beginning of a general drive to get rid of agencies and appropriated funds owing to their largely pathological nature, and, more importantly, to their independence from the budgetary control of the Finance Ministry. That threatened the appearance of a situation where these institutions could accumulate debts and thus exacerbate the budget deficit, or, conversely, generate profits or savings which would not be added to the state budget.

It can be safely said that, since 2001, there has been a sort of agreement between politicians of various factions that many agencies and appropriated funds ought to be shut down. Such declarations are made by both left- and right-wing politicians. In 2001, during the election campaign, the Social Democratic Alliance “promised to close down appropriated funds and agencies. It criticized them for doing the work of ministries, wasting public money, being nothing else as a source of cushy jobs for politicians.”¹⁹ Not much changed as concerned agencies and appropriated funds during the four years of the SLD government, and so they became the subject of the presidential campaign of 2005. “Religa knows how to cure Poland. The power and the money that goes with it should be handed over to local self-governments. Some agencies and appropriated funds must be closed down, and all positions in the administration and civil service must be filled via competitions.”²⁰ The topic of agencies is still current after the presidential election. The Civic Platform (CP) stated as early as during the budgetary debate in 2006 that it “wants to reduce spending by individual ministries, state agencies and funds, and the Social Security Institution. ‘Why do they need new offices, new cars, overhauled buildings?’ – asked a CP politician rhetorically. In his opinion, it was a strange situation where state agencies, for example agricultural ones, were subsidized on one hand by the state and on the other were investing millions of zlotys in securities.”²¹

Despite these declarations, the position of appropriated funds and agencies in the administrative operating system is as strong as ever.

III. Assessment of the effectiveness of agency and appropriated fund activities

I base the assessment of the functioning of agencies in Poland to the objectives they were assigned at their establishment. Let us remember that their creators and advocates of delegating public tasks were keen on ensuring a thorough qualitative transformation of the management of public tasks by following the principles characteristic to the private sector rather than public administration. The management of tasks assigned to agencies was to be cheaper, more effective and professional.

Meanwhile, inspections conducted in state agencies by the Supreme Chamber of Control often charged them with incompetent management of entrusted public monies, including poor investment decisions. Another problem which agencies are not helping to solve is the absence

¹⁹ Nowakowska A., Zasuń R., „Budżet państwa 2003. Wywiad z szefem kancelarii premiera Markiem Wagnerem”, *Gazeta Wyborcza*, 2003.03.06

²⁰ Majda A., “Nie dla IV Rzeczypospolitej. Zbigniew Religa przedstawił obszernie swój program wyborczy”, *Rzeczpospolita*, 2005.06.25

²¹ Majda A., Subotić M. “Wysoka cena budżetu”, *Rzeczpospolita*, 2006.01.06

of skilful long-term planning. As is the case with public administration, many state agency activities are also subordinate to the four-year election cycle.²²

Moreover, there is also the problem of the high cost of maintenance of agencies and funds associated with their infrastructure – existence of numerous offices and outposts which causes diffusion of public resources.²³

Every assessment of the effectiveness of the tasks performed by agencies and appropriated funds repeats the same charges of mismanagement, high maintenance costs and excessive independence compared to public administration institutions.

In a report published in 2000, the Supreme Chamber of Control formulated charges against appropriated funds and agencies reiterated in various studies of the activities of these institutions both before and after the year 2000. They listed the following **irregularities and evidence of mismanagement** which had a detrimental impact on the effectiveness of public tasks performed by agencies and appropriated funds:

- Planning shortcomings in agencies and instrumental treatment of the plan, its frequent modifications, common discrepancies between the plan and the execution;
- Absence of correlation between the agency's financial status and how much it received from the state budget, which resulted in unwarranted surpluses;
- Poor investments of entrusted money by agencies;
- Excessively high maintenance costs in proportion to the effects of operations, regional structure too expansive in proportion to tasks (Military Housing Agency);
- Absence of concern for State Treasury interests – selling real property below value;
- Unclear criteria of granted loans.²⁴

A study of the functioning of agencies and funds prepared by the Prime Minister's Chancellery in 1999 also mentions other irregularities: using budgetary subsidies in violation of their purpose, using resources in violation of their statutory objectives, violations of public procurement regulations, absence of supervision and control over resources handed by agencies to other entities.

Piotrowska-Marczak points out other expressions of agency mismanagement and lack of concern for the public interest: "Many funds do not keep records of individuals or companies that are under legal obligation to contribute premiums, and do not enforce payment of outstanding contributions. In other words, there exists tacit consent to a situation where not enough effort is made to care for the fund's interest."²⁵

Another problem with funds is that they do not use up all the money they collect. "This undermines the sense of their existence as there is a risk of wastage when proceeds exceed the needs."²⁶

²² "Agencje Rolne w świetle ustaleń NIK", SCC Department of Information and Systemic Analysis, 1998

²³ *Informacja o Wynikach kontroli funkcjonowania agencji i fundacji działających z udziałem mienia Skarbu Państwa* (Information on Inspections of Agencies and Funds that Draw on State Treasury Assets), 2000

²⁴ Załoteńki P., *Informacja na temat agencji rządowych*, Sejm Chancellery Research Bureau, 2001

²⁵ Piotrowska – Marczak K., *Analiza działania państwowych funduszy celowych oraz agencji*, Sejm Chancellery Research Bureau, 2000, p. 17

²⁶ Kuzińska H., *Fundusze celowe w Polsce*, Sejm Chancellery Research Bureau, 1995, p. 6

The problem of the high cost of agency and fund operations is clearly perceived not only by experts but also by politicians. A study prepared by the Prime Minister’s Chancellery in 1999 states that “there is insufficient control of administrative expenses associated with agency and fund operations, including the money spent on high salaries of their employees and board members.” A limit on salaries exists only with respect to agency and fund bosses, who are subject to the Public Sector Salary Cap Act. Agency personnel earns on average more than public administration employees, including government staff.

The low efficiency of agency operations was in a sense written into their founding legislation. Agencies were meant as a miracle cure for a given social problem, but neither their tasks nor their efficiency principles were sufficiently specified. As Jeziorski points out, “the establishment of most agencies was not accompanied by a program or strategic plan for the branch of the economy in which they were supposed to operate,” (...) “a program of developing an optimal operating model of the Polish Foreign Investment Agency appeared only three years after its establishment.”²⁷

In summing up this topic, we can quote the opinion expressed by Ewa Malinowska and Wojciech Misiąg, who say straight out that “the reason for appointing agencies whose tasks often duplicate those of other entities is not exactly known. What is not a secret, however, is that specialized commercial entities (selected by way of a tender) would without doubt perform these tasks more efficiently and certainly at a lower cost (via elimination of the agency maintenance expense).”²⁸

Agencies and appropriated funds enjoy a substantial operating and decision-making autonomy. “Disposers of fund resources have without doubt more financial management freedom than disposers of budgetary unit resources. However, this approach does not take into account the interests of the economy as a whole. The operating autonomy of agencies and funds restricts the central government’s freedom to make most rational choices in shaping budgetary expenditures.”²⁹ The government budget does not take into account the proceeds and surpluses generated by agencies and funds. Because agency finances are separated from the state budget, they cannot be taken into consideration in planning the financial management of the state.

IV. Agency system pathologies

The reputation of agencies and funds is so bad because of numerous pathologies that surround them. The worst ones rest in the fact that they are used for political ends, that their activities are uncontrolled and that they focus on ensuring their own perpetuation rather on performance of tasks.

Contrary to the expectations of the advocates of delegating public tasks, who have been arguing that “delegation is used to reduce political transaction costs emerging at the stage of nego-

²⁷ Jeziorski J., *Działalność agencji rządowych w latach 1990 – 1996*, Sejm Chancellery Research Bureau, p.12

²⁸ Malinowska E., Misiąg W., *Finanse publiczne w Polsce. Przewodnik 2002*, Gdańsk Institute for Market Economics, 2002, p. 234

²⁹ Kuzińska H., *Fundusze celowe w Polsce*, Sejm Chancellery Research Bureau, 1995, p. 6

tiations between political actors”³⁰, agencies in Poland are not only open to the influence of current politics but are downright at its very centre – they are tools of current politics.

Jadwiga Staniszkis recognizes state agencies and appropriated funds as a significant element of the existence of political capitalism in Poland. “Public actors such as agencies are an important element of the mechanism that allows reproduction and accumulation of political capitalism. The state as such loses control over the agency as such and over the methods of performing the tasks entrusted thereto.”³¹ Agencies as an element of state capitalism warp the original sense of their establishment. “In theory, such actions are to serve the cause of protecting these institutions from the impact of current politics and, as a result, ensure a more rational management of resources or raise their credibility among investors. In case of Poland, they could have served as a method of concentrating public capital and using it to re-structure and stimulate economic growth.”³²

Jadwiga Staniszkis considers that agencies and funds contribute before or else to the **circulation of elites**. These institutions are treated as a sort of political booty, a source of jobs for people associated with the ruling political option. This manner of treating agencies and funds is familiar to most political constellations, left- and right-wing, post-communist and post-Solidarity. The new group in power inevitably enforces personnel changes so as to give top jobs to its own people. “The AWS/UW governing coalition copied the conduct of its predecessor and treated top jobs in agencies and funds as its election booty. In those agencies where the previous SLD/PSL coalition had made personnel changes, the AWS/UW coalition made personnel changes as well. It replaced top managers at ARMA, State Treasury Agricultural Property Agency, State Fund for the Rehabilitation of the Handicapped (15 out of 29 regional branch directors), National Environmental Protection and Water Management Fund and Military Property Agency.

This is how such thorough replacements in management positions were explained by the former prime minister Józef Oleksy: “It is partly a result of the power mechanism, particularly in a country where there is no tradition of civil service and where it is only now being created. Political forces treat their coming into power also as an opportunity to get and train their management cadres.” This statement is characteristic by its substantial dose of acceptance and understanding of this peculiar approach to the task of improving the skills of management personnel.

In any event, once Oleksy’s party – SLD – took over power in 2001, we again witnessed a merry-go-round of top posts at agencies and funds. A spectacular example was provided by SLD deputies to the Lower House, who prepared a list of ARMA managers that were not to be fired by their new boss.³³

Politicians view agencies and funds as a source of attractive sinecures – well-paid positions available for distribution among “friends”. It is no wonder, therefore, that these institutions are growing and that their structure is getting increasingly complex. Agencies are legal enti-

³⁰ Koutalakis Ch. (2004): “Smoothing” Eastern Enlargement through New Modes of Governance? Conceptualising the Role of Independent Regulatory Agencies and Non Hierarchical Steering in Pre-accession Negotiations, www.eu-newgov.org, p. 6

³¹ Staniszkis J., *Post - Communism. The emerging enigma*, Institute of Political Studies, Polish Academy of Sciences, Warsaw 1999, p. 156

³² Tomasz Grzegorz Grosse, *Nowe metody zarządzania zadaniami publicznymi krajach UE i w Polsce, Wprowadzenie do projektu ISP*, Institute of Public Affairs

³³ gaj, “Miller: zabronili mi zwalniać z Agencji”, Rzeczpospolita, 2003.07.05

ties and, consequently, they must have governing bodies such as management and supervisory boards. They, in turn, require administrative support. The number of supervisory board members is not specified in any regulations, only sometimes it is indicated in the law by which the agency is established.

The absence of employment continuity in agencies and funds, and the ease by which their employees can be fired as a new government comes into power, result from the fact that these institutions are not subject to the rigours existing in public administration thanks to civil service regulations. In contrast to central institutions, job openings in agencies and funds are not advertised. Jerzy Buzek's government initiated - and the Office of the Civil Service prepared - an amendment to the Civil Service Act whereby openings in central government institutions, ministries and also agencies and appropriated funds would have to be published.³⁴ Unfortunately, the amendment ultimately did not cover agencies and funds.

Agencies and funds are not the only source of benefits associated with offering posts to people connected to the governing elite. Another way of showing "appreciation" to party activists is by handing them all kinds of contracts, "expensive gigs. For example, agencies often organize various types of training for local government or state officials, and pay huge honoraria to trainers. Or they commission highly paid studies and expert opinions. Meanwhile, those trainers or study authors are prominent officials in ministries that are supposed to oversee those very agencies and funds."³⁵

Agencies and funds as elements of the system of political capitalism are also a source of financial capital being **transferred to persons and institutions connected to politicians who manage the given agency**. Such transfers are possible because of the weak control over agencies (see below) and absence of a specification of procedures binding therein.

Agency and fund resources are allocated out as subsidies to events. Certain voivodships or friendly community organizations are favoured over others. As a result, the boss or manager of such agency can buy popularity in a community where he will subsequently run for election to the Lower House or local government. It is difficult for ministers to exercise such generosity as they are closely watched by the parliament.

A transfer of resources from agencies and funds to "friendly" individuals and institutions also takes place through procurements, contracts, etc. When ARMA was headed by PSL members in 2002, its offices were rented in buildings owned by individual or corporate PSL supporters.³⁶ That violated ARMA's internal procedures.

It must be noted that subsidizing certain selected organizations and commissioning tasks to entities selected in accordance to the political criterion is often done at the detriment to the relevant agency or fund. That pathology was recognized by Lech Kaczyński already in 1995: "Funds are a powerful source of (political) capital. The National Fund for Rehabilitation of the Handicapped, its noble character notwithstanding, is probably the most telling example of that. Joint undertakings, whose formal goal is to ensure enrichment of both parties – the state fund and the partner organization – serve only the latter, and, possibly, also corrupted state officials."³⁷ Irregularities in the functioning of appropriated funds rest in that their personnel

³⁴ Kołakowska D., "Kominy do remontu. Rząd planuje znieść ograniczenia wynagrodzeń szefów państwowych firm", *Rzeczpospolita*, 2004.03.19

³⁵ Skalski E., "Pieniądz łatwy, lekki, przyjemny", *Gazeta Wyborcza*, 08.03.1999

³⁶ Matusz J., Trusewicz I. "Kierownicy z partyjną rekomendacją", *Rzeczpospolita*, 2002.08.31

³⁷ Fornalczyk A., Kaczyński L., *Patologie transformacji*, lecture notes, IPA, Warsaw 1995, p. 15

is not sufficiently concerned about the fund interest. Often contractors are commissioned to perform tasks at a loss to the fund.

Agencies and funds are not only associated with political parties but also with interest groups that have a stake in their establishment and perpetuation.

Some sufficiently powerful communities, especially when they have political support, lobby on behalf of the establishment of certain funds and then, thanks to those funds' particular organizational structure, on having an impact on their functioning. A recent example is provided by the appointment of the Polish Film Institute under pressure from film directors and artists, and with support from the minister of culture connected to that community - Waldemar Dąbrowski. The fund provides stable financing to film productions, but not from the state budget, which is subject to annual negotiations between parliament and government, where state priorities and their cost are debated. The financing comes from fees paid directly into the fund account by movie house owners. The question arises whether other similar funds should not be created: theatre fund, museum fund, etc. But then most public resources would stay out of the budget and, consequently, outside parliamentary control.

An important problem in the functioning of agencies and funds, which contributes to their low efficiency, is the absence of sufficient control – both external and internal – over their activities.

The principal/agent theory, which is helpful in the analysis of the performance of state agencies and appropriated funds, assumes the authority of the principal (minister) over the agent (agency or fund management body). The principal assigns tasks to the agent and enforces their execution. Consequently, the agent should be independent and should perform the assigned tasks independently, but under the principal's supervision. Meanwhile, in the case of Polish agencies, we are dealing with insufficient institutional separation and insufficient control of their performance.

The power waged by agency and fund bosses is in some measure separated from the political power of parliament and government. This corresponds to the situation described by Jadwiga Janiszczak: "the rules of the game in a post-communist state are to a considerable degree decided outside traditional politics."³⁸ Institutions with democratic legitimacy – parliament and government – are in reality devoid of instruments necessary to control agencies and funds.

Agencies and funds should be subject to control by the minister with proper jurisdiction as concerns their substantive activities and by the finance minister as concerns their finances. This does not happen.

What all agencies have in common is that in practice they are not subject to parliamentary control. "Financial plans of agencies are not included in budgetary legislation. All that it contains is amounts of subsidies planned for each agency."³⁹ Consequently, it is not known on what these subsidies will be spent and for what purpose. There is no control over the process of planning agency finances and neither is there any agency accountability. There are no procedures in place that would enable the government or parliament to control the quality of agency performance and correctness of their financial management. In the case of most agencies, even their annual reports are not subject to ministerial approval!

³⁸ Staniszczak J., *Post - Communism. The emerging enigma*, Institute of Political Studies, Polish Academy of Sciences, Warsaw 1999, p. 151

³⁹ Malinowska E., Misiąg W., *Finanse publiczne w Polsce. Przewodnik 2002*, Gdańsk Institute for Market Economics, 2002, p. 230

The state administrative reform conducted in 1998 was an opportunity for submitting funds and agencies to greater control. However, that chance was wasted because “resources which are now at the disposal of agencies and appropriated funds were not transferred to local governments, which only further reduced the possibility of achieving control over a significant portion of the GDP.”⁴⁰ The successive government preferred to keep control over agencies.

Ineffective control over agencies and funds seems to be a result of political decisions. In 1998, the Supreme Chamber of Control stated that organs tasked with supervising individual funds had in most cases failed to issue executive orders governing their financial management. Paradoxically, ministers tasked with fund supervision accepted a situation that, in practice, deprived them of control instruments, and tolerated the absence of transparent rules in their operations. When there are no operating procedures, nobody can be accused of not abiding by them.

Such conduct can hardly be interpreted as oversight; it is rather a purposeful omission. This absence of regulations can be convenient to the overseeing minister, who otherwise would be burdened with additional supervisory responsibilities. The task entrusted to the agency is being performed, and that means one less responsibility for the minister. Also, the absence of transparency in agency functioning and lack of effective control over it make it easier to use the agency for political ends described earlier.

Agencies and funds are not only deprived of external control, but often also of internal control systems. The agency supervisory board, whose members belong to the same political option as agency bosses and the minister, cannot effectively supervise the agency as it does not have the necessary independence. Indeed, often the interests of the management board and supervisory board are the same, particularly when it comes to using the agency for political purposes. The State Treasury Agricultural Property Agency, which has not had a supervisory board since its establishment six years ago, is a vivid example of fictitious internal supervision.⁴¹

Another problem with agencies and funds in Poland is that they exist just for the sake of existing. These institutions often have no clearly defined purpose, tasks or timeframes for their accomplishment. An example of functioning for the sake of self-perpetuation is provided by agencies that manage state property and lease it out rather than sell it to private buyers. If the agency’s ultimate objective were achieved, i.e. if state property were privatized, the agency would lose its reason of being. Leasing out state property ensures that the agency will last longer and gives it something to do: concluding agreements, collecting usufruct fees, etc. Whereas one can indeed imagine a situation where that property is transferred to local communities, which then can themselves decide how to use it.

To ensure that agencies continue to exist, they are given new tasks. “However, life has shown that the continued existence of agencies is convenient to people with a stake in their functioning (hence the weak agency control and reporting system). This is why they continue to receive new tasks.”⁴² This is done in the interest of agency personnel, and also in the interest of politicians who draw benefits from the pathological functioning of agencies via expansion and survival at all costs.

⁴⁰ Nelicki A., Stec M., “Budowa nowego ustroju”, *Rzeczpospolita*, 22.12.1998

⁴¹ Groblewski K., “Stanowiska do podziału”, *Rzeczpospolita*, 1998.05.26

⁴² Malinowska E., Misiąg W., *Finanse publiczne w Polsce. Przewodnik 2002*, Gdańsk Institute for Market Economics, 2002, p. 233

Agencies create an operating policy geared at their survival in the absence of objections, or downright with the acceptance of ministers appointed to supervise them. These ministers produce new tasks for agencies, which require expansion of the personnel pool and additional funding. As a result, it turns out that outsourcing tasks does not necessarily contribute to reducing the cost or improving the effectiveness of the execution of public assignments.

V. Conclusions

Agencies and appropriated funds are institutions which, after 1989, have become a permanent element of the public assignment execution system in Poland. They continue to exist despite numerous criticisms expressed in their regard at regular intervals. Therefore, it seems that the diagnosis put forward by Jadwiga Staniszkis is correct: “The fundamental mechanism that ensures preservation of agencies is their pathological nature.”⁴³ Agencies have the important function of funnelling resources to political parties by providing positions to people associated with those parties and transferring money to people and institutions connected politically. This way, political parties obtain resources that facilitate their survival. Having control over state agencies and influence over their personnel makes it possible, on one hand, to reward party members with jobs, and on the other, to use them as a waiting room when political power passes on to the competition. The transfer of resources to organizations and companies associated with political parties is a source of financial capital because these resources go back to political parties, for example in the form of political campaign donations. The existence of such situation despite a systematic disclosure and description of damning evidence is possible because of two phenomena. The first one is a sort of supra-political agreement. Much is said during election campaigns about the need to get rid of state agencies and appropriated funds for the sake of a “cheap state”, but when the election is won that need becomes almost forgotten. That happens irrespective of who wins the election. The other phenomenon that facilitates perpetuation of the pathology is the ineffectiveness of public pressure or, rather, of expert communities, which fail to provide politicians with ready-made solutions to changing the *modus operandi* of agencies and funds. On the contrary, various social partners and interest groups play on the “greed” of party activists by appointing successive funds that ensure financing of their activities.

This pathological mechanism is possible because of the absence of effective internal and external control over agencies and funds. In turn, that absence of control is a result of negligence by ministers, but also often of a systemically planned substantial institutional independence.

The reluctance to accept solutions ensuring an effective and systematic control – particularly by parliament – is another manifestation of the absence of political will to subject state agencies and appropriated funds to institutional state supervision.

In a situation where there is no control and where management personnel of agencies and funds is selected on the basis of political connection rather than substantive merit, these institutions are ineffective because of errors in their management.

The absence of sufficient government and parliament control is also a problem that can be defined as a deficit of democratic influence. Public monies at the disposal of agencies and funds are separated from the state budget and, consequently, their amount and spending targets are not subject to the budgetary debate. This hinders reflection on methods of developing the state and makes a flexible definition of the state’s developmental objectives difficult.

⁴³ Staniszkis J., *Post - Communism. The emerging enigma*, Institute of Political Studies, Polish Academy of Sciences, Warsaw 1999, p. 151

The fact that agencies and funds do not execute public assignments effectively enough, mismanage resources earmarked for achievement of important social objectives and, in effect, waste the chance to improve the economic situation in the country is a very realistic threat. The question advanced by Jadwiga Staniszkis is of primary importance: “How to transform Polish state capitalism without a state that disperses and wastes financial resources into a system capable of focusing resources on developmental targets. I am referring to non-budgetary institutions that manage public monies and, therefore, act within the public sector, to the mosaic of public funds that have been commercialized and taken over by political parties, to areas of “separate power” that are beyond the control of the centre. I am referring to agencies, cooperatives, foundations, appropriated funds, local authorities that are in bed with the private sector, health funds, pension funds and parts of public property (military property, state-owned agricultural property).”⁴⁴

The damning diagnosis of the quality of public assignments executed by agencies and funds has been known for years. It seems, however, that the improvement of their functioning by making them more transparent will be possible only when the rules that govern them are standardized. To do that there must be political will - and that is still in short supply.

⁴⁴ Staniszkis J., “Komerccjalizacja państwa”, Rzeczpospolita, 1999.07.1

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VII. Annexes

VII.1. State Agencies and Appropriated Funds Operating in 2005 Appropriated Funds

Appropriated Fund	Year of establishment	Function
Fundusz Ubezpieczeń Społecznych (Social Insurance Fund)	1998	Finances retirement pensions, disability pensions, benefits
Fundusz Emerytalno – Rentowy KRUS (Agricultural Social Insurance Fund)	1990	Finances farmers' retirement pensions, disability pensions, benefits
Fundusz Prewencji i Rehabilitacji KRUS (Prevention and Rehabilitation Fund)	1990	Finances farmers' healthcare rehabilitation and treatment
Fundusz Administracyjny KRUS (KRUS Administrative Fund)	1990	Handles farmers' social insurance
Fundusz Pracy (Labour Fund)	2004	Pays unemployment benefits, finances back-to-work programs
Fundusz Gwarantowanych Świadczeń Pracowniczych (Guaranteed Employee Benefit Fund)	1993	Finances benefits of employees of bankrupt enterprises
Państwowy Fundusz Rehabilitacji Osób Niepełnosprawnych (State Fund for Rehabilitation of the Handicapped)	1997	Finances occupational and social rehabilitation, and employment of the handicapped.
Państwowy Fundusz Kombatantów (State War Veterans' Fund)	1991	Finances temporary and ad hoc assistance to war veterans (medical treatment, purchase of medical equipment, etc.)
Narodowy Fundusz Ochrony Środowiska i Gospodarki Wodnej (National Environmental Protection and Water Management Fund)	1989	Pursues the policy of protection of the environment - water, forests, atmosphere, soil - against pollution and excessive exploitation
Centralny Fundusz Ochrony Gruntów Rolnych (Central Agricultural Land Protection Fund)	1995	Finances the protection and improvement of the quality of agricultural land
Państwowy Fundusz Gospodarki Zasobem Geodezyjnym i Kartograficznym (State Surveying and Mapping Resource Fund)	1998	Maintenance and updating of state surveying and mapping resources
Fundusz Promocji Twórczości (Creativity Promotion Fund)	1994	Finances grants and subsidies for artists, finances book publishing projects
Fundusz Nauki i Technologii Polskiej (Polish Science and Technology Fund)	1996	Finances scientific research
Fundusz Zajęć Sportowo – Rekreacyjnych dla Uczniów (Fund for School Students' Sporting and Recreation Activities)	1982	Finances sports activities

Appropriated Fund	Year of establishment	Function
Fundusz Rozwoju Kultury Fizycznej (Physical Culture Development Fund)	1992	Finances the construction and refurbishment of sports facilities and popularizes sports among children and the handicapped
Fundusz Promocji Kultury (Culture Promotion Fund)	1992	Finances national and international artistic events
Fundusz Reprywatyzacji (Reprivatization Fund)	1996	Finances claims by owners of property taken over by State Treasury
Fundusz Restrukturyzacji Przedsiębiorców (Enterprise Restructuring Fund)	1996	Finances assistance to and restructuring of enterprises
Fundusz Skarbu Państwa (State Treasury Fund)	1996	Finances the privatization process and management of State Treasury property
Fundusz Wsparcia Policji (Police Assistance Fund)	1990	Finances the modernization and refurbishment of police stations, policemen's awards and compensation for working in the police after reaching the retirement age
Fundusz Modernizacji Bezpieczeństwa Publicznego (Public Safety Improvement Fund)	1996	Finances the material outfitting of services subordinate to the minister of internal affairs
Fundusz - Centralna Ewidencja Pojazdów i Kierowców (Central Registry of Vehicles and Drivers Fund)	1997	Finances the maintenance and development of the national motor-vehicle registry
Fundusz Pomocy Postpenitencjarnej (Post-Imprisonment Assistance Fund)	1997	Finances assistance to former prisoners and their families
Fundusz Rozwoju Przywiędziennych Zakładów Pracy (Fund for the Development of Prison Enterprises)	1997	Finances prisoners' social rehabilitation, occupational training, job creation
Fundusz Modernizacji Sił Zbrojnych (Armed Forces Modernization Fund)	2001	Purchases advanced weaponry and finances military construction projects

VII.2. State Agencies

Agency	Year of establishment	Function
Agencja Mienia Wojskowego (Military Property Agency)	1996	Manages State Treasury property used by the Armed Forces
Wojskowa Agencja Mieszkaniowa (Military Housing Agency)	1995	Manages residential property used by the Armed Forces
Agencja Rezerw Materiałowych (Material Reserves Agency)	1996	Manages reserves of fuel, natural resources, medicinal materials, agricultural products, etc.
Agencja Rynku Rolnego (Agricultural Market Agency)		EU payment agency, administers selected mechanisms of the Common Agricultural Policy
Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agriculture Restructuring and Modernization Agency)	1993	Supports the development of Polish rural areas, administers selected mechanisms of the Common Agricultural Policy
Agencja Nieruchomości Rolnych (Agricultural Property Agency)	1991	Manages former state farm property
Polska Agencja Rozwoju Przedsiębiorczości (Polish Enterprise Development Agency)	2000	Manages Polish government and EU resources earmarked for enterprise development in Poland