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Summary

This report sums up a study conducted by the Institute of Public Affairs (IPA) within the NEWGOV Cluster 3 consortium dedicated to analyzing governance in agencies implementing the EU Common Agricultural Policy (CAP) and the rural area development policy. The study was conducted in 2006/2007 in three new EU member states: Lithuania, Slovakia and Poland. It aimed at analyzing the process of Europeanization of public administration - of changes in public institutions occurred as a result of the execution of EU policies and implementation of EU laws. We also wanted to find out if Europeanization processes introduced new modes of governance into the administrative practice.

The effectiveness of Europeanization processes in the studied countries was conditioned by several factors. The leading factor was the force of external pressure, i.e. the binding “hard” law of the European Union and asymmetry of power between EU and national institutions. Europeanization was also conditioned by internal factors: institutional system, administrative tradition and culture, as well as dominant social interests. When it came to new modes of governance, external impact proved weak and self-contradictory. The fundamental contradiction of Europeanization resides in a conflict between the *gate keeper* logic (which reinforces the hierarchical nature of governance) and new modes of governance (which encourage breaking away from hierarchical ways of operating). This is why the key role in implementing new modes of governance was played by national determinants, which in general were unfavourable to these modes.

One of the study’s main conclusions was that processes associated with Europeanization clashed with strong local community interests and administrative culture and tradition. In other words, new modes of governance were passed through the sieve of local administrative tradition and culture, and were confronted with dominant local interests. As a result, for example in Poland, European Union assistance funds earmarked for the agricultural policy and rural area development policy served to a large extent the purpose of *agency capture*, i.e. exploiting the power in executive agencies for particularistic ends. Thus, Europeanization and application of new modes of governance did little to eliminate pathologies in administration rooted in local political culture and nurtured by dominant local interest groups.

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I. Introduction

This report sums up a study conducted by the Institute of Public Affairs (IPA) within the NEWGOV Cluster 3 consortium dedicated to analyzing governance in agencies implementing the EU Common Agricultural Policy (CAP) and the rural area development policy. The study was conducted in 2006/2007 in three new EU member states: Lithuania, Slovakia and Poland¹. It aimed at analyzing the process of Europeanization of public administration, in other words, analyzing changes in public institutions occurred as a result of the execution of EU policies and implementation of EU laws. We also wanted to find out if Europeanization processes introduced new modes of governance into the administrative practice. How and to what extent were they implemented? Or is it that public administration was more in tune with the socialist-state administrative tradition in place until now? Can it be that Europeanization processes reinforced that tradition?

Consequently, one of the main questions asked in the study was how Europeanization of executive agencies related to domestic factors that shaped the functioning of public administration. What role was played in these relations by the local political and administrative culture, including the tradition rooted in the socialist period? How was the impact of Europeanization modified by that tradition?

The selection of the agricultural policy and rural area development policy for our study, and, particularly, focusing on an analysis of the performance of agencies implementing these policies, was not accidental. Firstly, the agricultural policy and the rural area development policy are subject to a much greater European Union control than policies in other areas. This is because there exists a great number of Community laws governing these policies and because significant EU financial resources are pumped into their execution². Therefore, there are grounds to assume that the extent of Europeanization of domestic institutions which execute these policies is very wide as it is strongly supported by both regulatory and financial instruments.

Secondly, examination of an agency that implements these policies is a particularly interesting challenge for an analyst of new modes of governance. Indeed, specialized literature has been so far concentrating on studies of regulatory rather than executive agencies. Meanwhile, as mentioned earlier, Europeanization of agencies that implement EU policies in member states is pursued not only under strict EU control but also in association with a wide-scale distribution of EU financial resources. Consequently, there are grounds to assume that the impact of the European Commission on member state public institutions involved in these policies would be greater and, consequently, would weaken the hierarchical relations between the government and executive agencies. It is also possible to advance the hypothesis that Europeanization promoted experience-sharing between agencies located in different member states. Both phenomena could potentially be a reflection of new modes of governance in the EU.

¹ Comp. Falkowski M., Grosse T. G., Skwarczyńska E. (2006): *Case Study of an Executive Agency in Poland: Between Political Culture, Europeanization and Modernization Challenges*, NewGov, ref. no. 17/D13; Stafiej R. (2006): *Case Study: The National Paying Agency in Lithuania*, NewGov, ref. no. 17/D14; Beblavý M. (2006): *Case Study: The Agricultural Paying Agency, Slovakia*, NewGov, ref. no. 17/D15; <http://www.eu-newgov.org/datalists/>.

² Alesina A., Angeloni I., Schuknecht L. (2005): *What does the European Union do?*, Public Choice, vol. 123, no. 3-4, pp. 275-319.

II. Assumptions, hypotheses and theoretical concepts applicable to the study

II.1 Europeanization of public administration

Europeanization is defined as influence of the European Union on member states, particularly on changes in the organization and performance of their public administrations³. Owing to the requirement to implement EU policies and laws, and also in response to the growing interest of political decision-makers in the effectiveness of these policies, member states are making changes in their administrative structures⁴. These changes are inspired by the European Commission or result from observing the equivalent experience of other member states⁵. Most often they are not revolutionary and neither do they lead to a unification of administrative solutions within the European Union⁶. Strong institutional differences persist at the national administration level. They are associated with a different historical tradition and organizational culture, which shape administrative structures, legal norms as well as formal and informal behaviour of the civil service⁷.

The transposition of EU law is arguably the most important mechanism of Europeanization. The formula of EU law seems to play an important role in this context: (a) does it require an unconditional and comprehensive transposition of relevant regulations to domestic law, (b) does its implementation allow for a certain interpretative freedom by member states, (c) does it only assume the form of directional recommendations⁸?

The transfer of *acquis communautaire* to domestic law, also to the activities of national administration, is recognized as an example of *coercive isomorphism*⁹. This phenomenon is rooted in the premises of rationalist institutionalism. Among other things, it analyses Europe-

³ Comp. Börzel T. A. (2005): *Europeanization: How the European Union Interacts with its Member States*, in *The Member States of the European Union*, Bulmer S. and Lequesne Ch. (eds.), Oxford University Press, Oxford; New York; Börzel T. A., Risse T. (2007): *Europeanization: The Domestic Impact of EU Politics*, in *Handbook of European Union Politics*, Jørgensen K. E., Pollack M. A. and Rosamond B. J., Sage (eds.), London; Cowles M. G., Caporaso J. A. and Risse T. (eds.) (2001): *Transforming Europe: Europeanization and Domestic Change*, Cornell University Press, Ithaca, NY; Featherstone K. and Radaelli C. M. (eds.) (2003): *The Politics of Europeanization*, Oxford University Press, Oxford; New York; Mair P. (2004): *The Europeanization dimension (Review)*, *Journal of European Public Policy*, 11(2): pp. 337–348; Radaelli C. M. (2003): *The Europeanization of Public Policy*, in *The Politics of Europeanization*, Featherstone K. and Radaelli C. M. (eds.), Oxford University Press, Oxford; New York. See also various definitions of *Europeanization* in Olsen J.P. (2002): *The many faces of Europeanization*, *Journal of Common Market Studies*, no 40 (5).

⁴ Kadelbach, S. (2002): *European administrative law and the law of a Europeanized administration*, in Joerges C. and Dehousse R. (eds.), *Good Governance in Europe's Integrated Market*, Oxford: Oxford University Press.

⁵ Comp. Olsen J.P. (2002): *The many faces of Europeanization*, *Ibid.*

⁶ More on this subject in Læg Reid P., Steinthorsson R., S., Thorhallsson B. (2004): *Europeanization of Central Government Administration in the Nordic States*, *Journal of Common Market Studies*, Vol. 42, no. 2.

⁷ See Olsen J.P. (2003): *Towards a European administrative space?*, *Journal of European Public Policy* no 10 (4), August.

⁸ More in D. M. Trubek, P. Cottrell and M. Nance (2005): *“Soft Law,” “Hard Law,” and European Integration: Toward a Theory of Hybridity*, Jean Monnet Working Paper 02/05, NYU School of Law, New York.

⁹ Thatcher M. (2002): *Delegation to Independent Regulatory Agencies: Pressures, Functions and Contextual Mediation*, *West European Politics*, vol. 25, no. 1, pp. 125–147; Radaelli C. (2000): *Policy Transfer in the European Union*, *Governance*, vol. 13, no. 1, pp. 25–43; Thatcher M., Stone Sweet A. (2002): *Theory and Practice of Delegation to Non-Majoritarian Institutions*, *West European Politics*, vol. 25, no. 1, pp. 1–22.

anization processes in Central and Eastern European countries¹⁰. Rationalist institutionalism assumes that the process of Europeanization of these countries was based on asymmetry of power, with old EU member states and representatives of the European Commission holding the dominant position. That imbalance was expressed, for example, by (a) the EU suggesting conditional membership¹¹, (b) old member states setting basic rules of integration, or (c) acceding countries being required to adopt EU law essentially without any possibility of adjusting it to local conditions.

A different type of isomorphism consists in a voluntary transposition of external institutions, mainly by sharing experience and learning from each other. It is pursued on terms of partnership and without external political pressure, e.g. without coercion resulting from asymmetrical membership negotiations. This phenomenon relates to the premises of constructivist institutionalism. In an analysis of Europeanization of new member states, this approach underlines the voluntary manner of assuming external institutions justified by their beneficial impact on local economies and populations. According thereto, the commonality of values plays an important role in wishing to assume the European expertise. The main issue here is how to mesh EU expectations with the determinants of local culture and public discourse¹².

The discussion concerning Europeanization of new member states and transposition of European institutions (and regulations) thereon is spirited and full of controversy. The practical application of the binding EU law (so-called “hard law”) encounters many obstacles in each of these countries. Frequent delays and changes in the implementation of European solutions are an upshot of domestic determinants such as the local administrative culture, compatibility with national administrative institutions and public policies, and behaviour of the principal domestic actors and their interests¹³. Whereas soft methods of governance (so-called “soft law”) have a chance of being accepted and implemented more easily, particularly when they coincide with domestic determinants such as the local administrative culture, institutions and principal actors’ interests. However, when soft methods of governance do not coincide with local conditions, they prove quite ineffective indeed. Consequently, there exist grounds for advancing a hypothesis that the extent of Europeanization is greater under a *hard law* transposition rather than a *soft law* one¹⁴. In such situation, the transposition of “soft” (new) modes of governance would be also pursued on a smaller scale. One can assume as well that Europeanization is stronger in case of re-distribution policies involving EU resources, as there exist

¹⁰ Sedelmeier U. (2006): *Europeanisation in new member and candidate states*, *Living Reviews in European Governance*, Ireg-2006-3, <http://europeangovernance.livingreviews.org/Articles/index.html>; Moravcsik A., Vachudová M. A. (2003): *National Interests, State Power, and EU Enlargement*, *East European Politics and Societies*, 17(1), pp. 42–57; Börzel T. A., Sedelmeier U. (2006): *The EU Dimension in European Politics*, in *Developments in European Politics*, Heywood P. M., Jones E., Rhodes M. and Sedelmeier U. (eds.), Palgrave Macmillan, Houndmills, Basingstoke; New York.

¹¹ Sedelmeier U. (2006), *Ibid.*

¹² Schimmelfennig F., Sedelmeier U. (2005): *Introduction: Conceptualizing the Europeanization of Central and Eastern Europe*, in *The Europeanization of Central and Eastern Europe*, Schimmelfennig F. and Sedelmeier U. (eds.), Cornell University Press, Ithaca, NY, 20; Schweltnus G. (2005): *The Adoption of Nondiscrimination and Minority Protection Rules in Romania, Hungary, and Poland*, in Schimmelfennig F. Sedelmeier U., *Ibid.*

¹³ Comp. the discussion of literature on this topic in: Steunenberg B. (2007): *A Policy Solution to the European Union’s Transposition Puzzle: Interaction of Interests in Different Domestic Arenas*, *West European Politics*, vol. 30, no. 1, pp. 23-49; Falkner G., Treib O., Hartlapp M., Leiber S. (eds.) (2005): *Complying with Europe. EU Harmonisation and Soft Law in the Member States*, Cambridge: Cambridge University Press.

¹⁴ Compare on this subject Bulmer S., Padgett S. (2005): *Policy Transfer in the European Union: An Institutional Perspective*, *British Journal of Political Science*, vol. 35, no. 1, pp. 103-126.

greater possibilities for effectively disciplining recipients of EU assistance in case of irregularities. Moreover, it can be assumed that Europeanization will be stronger in conditions of compatibility between transposed institutions and the local administrative environment, i.e. institutional system and administrative tradition and culture. Europeanization will progress with more difficulty when, on one hand, there are no strong coercive isomorphic mechanisms (e.g. transposed *hard law*) and, on the other, the local administrative tradition and culture is at odds with external institutions¹⁵.

One may also advance a tentative hypothesis that, in new member states, the influence on Europeanization of the transposition of EU regulations, modes of governance and directions of national public policies is greater than in Western European countries¹⁶. This is associated with several factors. Firstly, CEE countries have rejected the “old” administrative practices, particularly those rooted in the socialist period, and sought new modes of governing public policies. This made them more open to adopting European Union models. Further, the implementation of EU laws and adoption of several organizational solutions in public administration was a condition for accession to the European Union. As integration with EU structures was an absolute priority for political elites in the countries of this region, it facilitated the transfer of EU institutions and modes of governance. Secondly, the systemic transformation weakened the political impact on administration and control mechanisms that ministries used in their dealings with agencies they supervised. In these conditions, EU institutions could exert a greater deal of influence on the functioning of national administrations. Thirdly, compared to the situation existing in “old” EU member states, new member states contribute less resources to relevant public policies in proportion to EU assistance they receive. This increases the level of influence that EU institutions can exert on the direction of national policies, including those pursued by executive agencies.

One may also assume that, in addition to the EU influence, the extent of Europeanization of member state administration is impacted by internal factors, particularly the local administrative system, long-term public policies of the given country, its legal system, etc. The support for implementation of specific solutions is proportional to the level of compatibility of EU laws and policies with national institutions and policies. National administrative tradition plays an important role and so does political culture, which influences the mode of implementing EU models. There is a strong socialist legacy in new member states, which makes their experience much different from the experience of Western European states¹⁷. Dominant social interests also impact the extent of Europeanization. Studies show¹⁸ that the level to which EU directives are in tune with the interests of influential social groups is an important factor in a proper transposition of EU laws into the national legal system.

II.2 Europeanization of executive agencies

Europeanization of agencies is associated with the participation of the given country in regional integration processes. It is also an outcome of including domestic agencies in *European agency networks*. These are composed of EU and domestic agencies acting in the same

¹⁵ Steunenber B. (2007): *ibid*.

¹⁶ A similar opinion is expressed, for example, by. Sedelmeier U. (2006): *Europeanisation in new member and candidate states*, *ibid*, p. 14.

¹⁷ T. G. Grosse (2006): *New Modes of Governance in New European Union Member States. A report on social dialogue in selected European Union countries*, NewGov, Project no. CIT1-CT-2004-506392, ref. No. 17/D08, <http://www.eu-newgov.org/datalists/>.

¹⁸ Steunenber B. (2007): *ibid*.

areas of public affairs¹⁹. In this system, EU agencies play the unifying and coordinating role for the entire network²⁰. This happens most often in case of collaboration between regulatory agencies, where Europeanization is meant to serve an effective implementation of EU laws (*acquis communautaire*) in the given area of public policy²¹. However, it can also apply to executive agencies, which often use EU financial resources to implement EU laws. Europeanization of executive agencies is associated with transposition of EU management standards, including detailed regulations governing management of EU funds, audits, controls, etc.

Experts also point to the fact that the European Commission is an active promoter of transposing various institutions and governance modes to member states, and a supporter of the process of delegating tasks to autonomous agencies²². One of the reasons for this is that Europeanization of agencies and their inclusion in *European agency networks* reinforces the power of the European Commission (and EU agencies) when it comes to coordination of public policies in Europe²³. Therefore, the Commission promotes the development of networks of collaboration between domestic and EU agencies. At the same time, it works hard on influencing the direction of that development. The position of EU technocracy in this area is often reinforced at the expense of the power waged by the national government, particularly in countries where governments pay less attention to the activities of domestic agencies²⁴.

Consequently, one is justified in advancing a hypothesis that the process of agency Europeanization in new member states can potentially strengthen the position of agencies in relation to ministries that supervise their activities. This is because agencies exploit the authority of implementing EU policies and having EU financial resources at their disposal. They also exploit the European Commission interest in improving their administrative potential and professionalism, and in counteracting irregularities in their functioning.

What can be other hypothetical consequences of Europeanization of executive agencies in new member states? Europeanization can reinforce sectoriality of governance and deepen problems of coordination with other public policies. Difficulties in policy coordination by different directorates-general of the European Commission have been known for a long time. An example of that is found in the separation of management and financing of the European rural area development policy and the cohesion policy for 2007-2013, even though both policies most often serve the same regions that lag behind in social and economic development²⁵.

¹⁹ T. G. Grosse (2006): *Agencies and Agency Systems. Background paper to Phase Two of the IPA study*. NewGov, Project no. CIT1-CT-2004-506392, ref. no: 17/D10, <http://www.eu-newgov.org/datalists/>.

²⁰ G. Majone (2000): *The Credibility Crisis of Community Regulation*, *Journal of Common Market Studies*, vol. 38, no 2.

²¹ Comp. Ch. Koutalakis (2004): “*Smoothing*” *Eastern Enlargement through New Modes of Governance? Conceptualising the Role of Independent Regulatory Agencies and Non-Hierarchical Steering in Pre-accession Negotiations*, Project no. CIT1-CT-2004-506392, ref. No. 14/D01, <http://www.eu-newgov.org/datalists/>.

²² Comp. C. Radaelli (2000): *ibid*, M. Thatcher (2002): *ibid*.

²³ Flinders M. (2004): *Distributed public governance in the European Union*, *Journal of European Public Policy*, vol. 11, no. 3, pp. 520-544.

²⁴ Nicolaidis P. (2004): *The Political Economy of Multi-tiered Regulation in Europe*, *Journal of Common Market Studies*, vol. 42, no. 3, pp. 599-618.

²⁵ T. G. Grosse (2006): *Euro-Commentary: An Evaluation of the Regional Policy System in Poland: Challenges and Threats Emerging from Participation in the EU's Cohesion Policy*, *European Urban and Regional Studies*, April, vol. 13, no. 2: pp. 151–165; T. G. Grosse (2004): *Challenges for European Union cohesion and innovation policies Conclusions for Poland*, *EMERGO Journal of Transforming Economies and Societies*, vol. 11, no. 3 (41).

Another consequence of Europeanization of executive agencies can be found in centralization of management and imposition of organizational standards and guidelines directly by the European Commission. This limits the possibility of a flexible incorporation of local developmental objectives in public policy and policy adjustment at grass-roots. Furthermore, it does not prevent agencies which implement EU policies from being vulnerable to the influence of local interest groups which benefit from EU assistance resources. Moreover, in countries with a strong tradition of administration being subservient to politics (i.e. political parties) such as Poland, one may expect an equal subservience of the executive agencies. This subservience does not necessarily need to be connected to a stronger substantive supervision over an agency by the relevant ministry. On the contrary, studies conducted in Poland to date²⁶ show a relatively low level of substantive ministerial control. When this is combined with strong politicization, it creates conditions for the agency being appropriated by local interest groups.

However, one can assume that Europeanization of agencies which implement EU redistribution policies will differ from Europeanization of regulatory policies. The latter will be probably more inclined to join European policy networks and more able to achieve a greater autonomy from national governments. The situation of executive agencies is different. They continue to exist in a relation of strong hierarchical dependency on member state ministries. National governments constitute the principal centre of EU redistribution policy management within the country and act as middlemen between EU institutions and local administration (i.e. they play the role of “gate keepers”)²⁷. In such cases, the tendency to centralize and sectorialize EU policy management can reinforce the hierarchical dependency of executive agencies on supervising ministries.

These hierarchical relations can be additionally reinforced by determinants of the administrative system rooted in the past socialist period. Europeanization of executive agencies may not only change the organizational culture but also contribute to strengthening the traditional features of administration dating back to socialist times. This relates particularly to a strong centralization of administration and a hierarchical subordination of agencies to ministries, as well as their and their personnel’s politicization. It may also reinforce various pathologies associated with operating in a country subject to systemic transformations. Most prevalent of these pathologies is the phenomenon of *agency capture*, i.e. a methodical and dominant influence of an interest group on agency operations aimed at exploiting agency activities to maximize the group’s benefits at the detriment of other social interests or public policies pursued by these agencies²⁸.

²⁶ Comp. *Informacja o wynikach kontroli wykorzystania środków finansowych Państwowego Funduszu Rehabilitacji Osób Niepełnosprawnych na realizację programów dotyczących rehabilitacji zawodowej i społecznej osób niepełnosprawnych*, Supreme Chamber of Control (SCC), Warsaw 2005; *Informacja o wynikach kontroli działalności Agencji Rozwoju Przemysłu SA na rzecz wspierania wybranych podmiotów gospodarczych*, SCC, Warsaw 2005, *Informacja o wynikach kontroli wykonywania zadań ustawowych przez Wojewódzką Agencję Mieszkaniową w latach 2001-2004*, SCC, Warsaw 2005.

²⁷ See S. Bulmer, Ch. Lequesne (2005): *Introduction, Conclusion*, in: S. Bulmer and Ch. Lequesne (eds.): *The Member States of the European Union*, Oxford – New York: Oxford University Press; S. Bulmer, Ch. Lequesne (2002): *New Perspectives on EU-Member State Relationships*, *Centre d’études et de recherches internationales*, Research in Question, no. 4, January. An example of the discussed role played by member states is the redistribution of EU resources on the cohesion policy: I. Bache (1999): *The extended gatekeeper: central government and the implementation of EC regional policy in the UK*, *Journal of European Public Policy* 6, 1.

²⁸ Comp. T. G. Grosse (2006): *Agencies and Agency Systems. Background paper to Phase Two of the IPA study*. *ibid.*

In our exploration of Europeanization of executive agencies we should give a thought to the problem of its impact on the development of the state model. Will Europeanization promote a gradual transformation of governance structures and methods from the *administrative state model* to the *network state model*²⁹? The first is characterized by a strong role played by state administration in relations with social partners and a clear preference for hierarchical governance methods. In this model, state capacity and effectiveness of public policies depend mainly on the proficiency of state administration rather than on its ability to collaborate with social partners or other institutions. The policy execution effectiveness in this state model depends in addition on the quality of agency controlling mechanisms and not on the zone of discretion in which they operate or their ability to flexibly include social partners in their work. As a result, the focus is placed on efficient implementation of state policies rather than on their effective adaptation to local needs. Another consequence of this approach is found in the accent placed on a speedy absorption of EU resources rather than on ensuring their best possible application to solving social and economic problems. On the other hand, in a *network state model*, the role of administration is to provide support and direction to executive agencies or to other public or private entities. Consequently, in this model, public policies are executed in close cooperation with social partners, which means that also state agencies pay a great deal of attention to social participation. They also cooperate closely with equivalent agencies in other countries (via *European agency networks*).

On one hand, participation of domestic agencies in the European agency network system can promote the construction of a *network state model* in new EU member states. Europeanization of agencies can strengthen their position vis-à-vis overseeing ministries by creating less hierarchical dependency structures. This situation can take place particularly in respect of regulatory agencies. On the other hand, in relation to executive agencies, we may be dealing with totally opposite processes. Europeanization of agencies by way of governance sectoriality and centralization enhancement can reinforce the hierarchical relationship of dependency between ministries and subordinate executive agencies. In such case, agency Europeanization will be functionally adapted to the determinants of local administrative culture, i.e. Europeanization will, in fact, contribute to perpetuating the old ways of administration functioning, in accordance with the *administrative state model*. This would confirm the conclusions of earlier IPA studies devoted to the social and civic dialogue, which showed the persistence of the socialist state model and tradition in new member states of the European Union³⁰.

II.3 Executive agencies and “new modes of governance”

The division of governance modes into “old” and “new” is not very transparent. Some NEWGOV consortium researchers reject this typology as one with a small analytical value³¹. The difficulties associated with differentiating between “old” and “new” modes of governance are clearly visible in the case of new member states. Executive agencies have existed in these countries in the past as well, also during the socialist period. They served as a conduit for delegation of tasks to the local level and execution of public policies within individual sectors (ministries). Consequently, executive agencies strongly subordinated to parent ministries reinforced the centralization of governance in administration and sectoriality of government pol-

²⁹ Comp. the differentiation between the administrative and the network state model in T. G. Grosse (2006): *New Modes of Governance... ibid.*

³⁰ See Grosse T. G. (2006): *New Methods of Governance in New European Union Member States. A report on social dialogue in selected European Union countries*, *ibid.*

³¹ O. Treib, H. Bähr, G. Falkner (2005): *Modes of Governance: A Note Towards Conceptual Clarification*, European Governance Papers, Eurogov, No. N-05-02.

icy. During the socialist period, delegation of tasks to executive agencies was, therefore, a form of hierarchical governance, which limited the possibility of participation by social partners in the execution of public policies. They did not apply any “soft” governance modes associated, for example, with volunteerism, persuasion, negotiation, self-regulation, etc.

Delegation of public tasks to agencies was also a widely applied governance method during the period of systemic transformations. The main objective behind introducing this method into the administrative practice lied in the desire to take public funds out of the state budget and, consequently, reduce politicians’ influence on shaping the public resource portfolio and on the size of the state budget deficit. At the same time, the relatively large financial autonomy of these agencies served the purpose of a partial commercialization of public services. Next to executive agencies, i.e. agencies responsible for a non-concentrated implementation of public policies, regulatory agencies also appeared during that time. Their level of autonomy from supervising ministries was higher than in the case of executive agencies.

According to the definition adopted by the NEWGOV consortium, new modes of governance meet two basic requirements³². Firstly, they serve the purpose of controlling the execution of public tasks in a non-hierarchical manner³³. In other words, individual actors participating in the execution of public policies do not operate within a framework of a hierarchical power structure, have a formal or informal right of veto within a specific range of public policies, are autonomous in terms of using some of their competencies and, consequently, can participate in public policy implementation voluntarily and in accordance with their own policy preferences. These are the features of non-hierarchical governance related to so-called “soft” governance modes. The non-hierarchical nature of governance is also the basic characteristic of the concept of *political networks*³⁴, i.e. functional structures of cooperation within particular EU policies.

Secondly, an important feature of new modes of governance is found in a consistent inclusion of private actors, including those operating for profit, as well as social partners and non-governmental organizations³⁵. It seems that this formula can be also expanded by administrative institutions, but ones that do not impose relations of dependence or hierarchical subordination. This would include agency-type institutions (at different levels), public institutions from various countries, international institutions, etc³⁶.

Topical literature³⁷ provides a reference of new modes of governance to the principle of subsidiarity and delegation of power to specialized agencies. Based on the NEWGOV consor-

³² T. A. Börzel, S. Guttenbrunner, S. Seper (2005): *Conceptualizing New Modes of Governance in EU Enlargement*, NewGov project no. CIT1-CT-2004-506392, ref. No. 12/D1, Berlin, <http://www.eu-newgov.org>.

³³ T. Risse (2004): *Global Governance and Communicative Action*, Government and Opposition, 39 (2); A. Héritier (2002): *New Modes of Governance in Europe: Policy-Making without Legislating?*, in A. Héritier (ed.), *Common Goods: Reinventing European and International Governance*, Lanham: Rowman and Littlefield.

³⁴ Rhodes R. A. W. (1997): *Understanding Governance*, Buckingham: Open University Press, 32.

³⁵ T. A. Börzel et. all (2005): *ibid.*

³⁶ The involvement of many types of actors from various EU management levels is the main premise of the *multi-level governance* concept. Comp. G. Marks, L. Hooghe, K. Blank (1996): *European Integration from the 1980s: State-Centric v. Multi-level Governance*, Journal of Common Market Studies, Vol. 34, No. 3.

³⁷ Comp. Ch. Koutalakis (2004): *ibid.*; Majone G., Everson M. (2001): *Institutional reform: independent agencies, oversight, coordination and procedural control*, in O. De Schutter, N. Lebessis and J. Paterson (eds.): *Governance in the European Union*, Luxembourg: Office for Official Publications of the European Communities; M. Thatcher, A. Stone Sweet (2002): *ibid.*

tium's definition of new modes of governance, it can be assumed that agencies must meet three criteria to be counted among those applying new modes of governance.

1. Firstly, they must have a relatively high degree of autonomy for the sake of countering any potential hierarchical dependency on a higher-level administrative institution;
2. Secondly, they must involve social partners in their execution of public policies;
3. Thirdly, for an agency to be recognized as applying new modes of governance it must participate in political networks, particularly in *European agency systems (networks)*.

When we apply these criteria to the IPA study we notice that executive agencies are at the lowest level of autonomy from the government among all types of agencies. The less autonomous the agency the more it is connected to "old" hierarchical modes of governance. Furthermore, the level of autonomy from government ministries among executive agencies in new member states is relatively low. They operate in a strongly centralized and sectorial administrative tradition rooted in the socialist period, and according to the *administrative state* pattern. Let us cite here the conclusions of another NEWGOV consortium study³⁸, one concerning an European Union agency specializing in information dissemination. It showed that the agency also met the criterion of social participation characterizing new modes of governance only to a limited extent. Consequently, an equally low level of social participation in executive agencies should not come as a surprise.

II.4 Social participation dilemmas and the legitimizing function in agencies

Topical literature provides the following methods of specifying the framework of social participation in agency work³⁹:

1. **Separation of the agency from social influence.** This refers first and foremost to maintaining a politically neutral character of the agency and separating it from influence by government politicians and *majoritarian institutions*. Some authors⁴⁰ also point to the possibility of limiting the influence of interest groups on the agency work. Delegating tasks to an autonomous agency separated from the influence of social groups which have the right of veto over civil servants' decisions (so-called *veto players*) may facilitate their execution of public policies.

However, it needs to be kept in mind that, in practice, agencies are not socially neutral institutions. The shift of power to agency (*non-majoritarian*) institutions has its "winners" and "losers"⁴¹. For example, delegation of tasks to regulatory agencies which deal with financial markets is associated with a preference given to macroeconomic stability and inflation countermeasures rather than to promotion of economic growth and employment⁴². Consequently, one must not expect agencies to execute public policies in an unbiased way as in reality their actions favour specific social interests.

³⁸ Example: *Agency for Safety and Health at Work*, see S. Smismans (2006): *New Modes of Governance and the Participatory Myth*, European Governance Papers, Eurogov, No. N-06-01.

³⁹ As concerns executive agencies, we can differentiate between three forms of social participation: (1) social consultation on methods of executing public tasks, (2) participation of social partners in the implementation of public policies, (3) informing the public or social partners on the agency work.

⁴⁰ E.g. Everson M. (1995): *Independent Agencies: Hierarchy Beaters?* European Law Journal, vol. 1, no. 2, pp. 180-204.

⁴¹ M. Thatcher, A. Stone Sweet (2002): *ibid*.

⁴² Comp. K. Rogoff (1985): *The Optimal Degree of Commitment to an Intermediate Monetary Target*, Quarterly Journal of Economics, vol. 100, no. 4.

2. **Balancing between different social interests.** This model refers to a search for equilibrium in agency performance between different social groups with interest vested in the outcome of that performance. A good example of this is found in the need to balance the interests of service providers (e.g. public utility companies) and recipients of public services⁴³. In this form of social participation, it is extremely important to correctly establish a balanced social participation in the work of administration and faithfully reproduce the real-life configuration of social interests in that representation.
3. **Controlling selection of social participants**⁴⁴. The above model assumes inclusion of specific social groups in the participatory process based on the preference of and controlled by the agency management. The objective is to increase social legitimacy of the agency's operations without jeopardizing the effectiveness of its performance of public tasks. Consequently, the process of selecting co-participants aims at increasing the involvement of those groups which will actively join the implementation of public policies and, at the same time, limit access to groups which may prevent or hinder an effective execution of public tasks.

Therefore, a controlled approach to the selection of social participants in agency work can meet the expectations placed in front of new modes of governance, i.e. combine a higher social legitimacy of pursued public policies with a higher effectiveness of public activities⁴⁵. However, it can also become a source of administrative pathologies, for example lead to *agency capture*.

An agency's autonomy from excessive influence by politicians and election politics does not guarantee that the agency will not succumb to the influence to other interest groups. According to experts⁴⁶, less control by political (or *majoritarian*) institutions expands the scope of the agency's zone of discretion and promotes easier access to the agency by interest groups with a stake in its activities. This may lead to appropriation of the agency by particularistic interests, a phenomenon I call *agency capture*. This term relates to the phenomenon of *state capture*, which is defined as exertion of influence by persons or interest groups on the shaping of legislation or public policy for private ends⁴⁷. It usually refers to the influence exerted by business on public decision-makers, particularly as concerns new legislative solutions. Such conduct results in high economic gains for business elites (often called "oligarchs"), but at the same time is harmful to the rest of the economy. It generates high social costs and weakens state capacity and effectiveness of public policies. In the case of countries undergoing systemic transformations, this phenomenon is associated with adopting a reform strategy that carries a high social price and benefits a small economic and political elite⁴⁸. The *state cap-*

⁴³ M. Everson (1995): *ibid.*

⁴⁴ G. Majone, M. Everson (2001): *ibid.*

⁴⁵ Hérítier A. (2003): *New Modes of Governance in Europe: Increasing political efficiency and policy effectiveness*, in T. Börzel and R. A. Cichowski (eds.): *The State of the European Union, 6 – Law, Politics, and Society*, Oxford: Oxford University Press, pp. 105–126.

⁴⁶ M. Thatcher, A. Stone Sweet (2002): *ibid.*

⁴⁷ Comp. J. Hellman, D. Kaufmann (2001): *Confronting the Challenge of State Capture in Transition Economies*, Finance & Development, International Monetary Fund, September, vol. 38, no. 3; J. S. Hellman, G. Jones, D. Kaufmann (2000): "Seize the State, Seize the Day". *State capture, Corruption, and Influence in Transition*, Policy Research Working Paper, 2444 Synthesis, World Bank Institute.

⁴⁸ Comp. J. Hellman (1998): *Winners Take All: The Politics of Partial Reforms in Post-Communist Transitions*, World Politics, no. 50, January.

ture definition applies particularly to the activities of regulatory agencies but can be also extended to executive agencies.

Academic literature⁴⁹ provides examples of a “top-down” agency capture, i.e. capture by interest groups made of large corporations which use the services of the agency and high-ranking government officials or parliament politicians who supervise that agency (the so-called *iron triangle*). There also exists the possibility of a “bottom-up” capture of an agency by most influential local beneficiaries of its services, who most often establish interest groups jointly with the agency’s management and supervisory boards. These phenomena, although backed by examples taken from U.S. administration, can also appear in Europe.

It seems that a proper degree of control over agencies is an indispensable condition for ensuring an effective response to the threat of *agency capture*. It is recognized that combining two control mechanisms – (1) proper supervision by political institutions (e.g. ministries) and (2) supervision over agency activities by a representative group of local beneficiaries of agency services – constitutes an effective protection mechanism. Agency politicization can increase the risk of *agency capture* for the purpose of its political exploitation. Most detrimental to the performance of public tasks is strong agency politicization combined with a low level of control over the agency by supervisory institutions, i.e. when the agency’s discretion zone is too wide⁵⁰.

To sum up, we can list three types of interest groups that can have a stake in *agency capture*: (1) beneficiaries of the agency’s public services, e.g. recipients of assistance programs delivered by executive agencies or companies dependant on the decisions of regulatory agencies; (2) agency officials who exploit the agency to maximize organizational or private benefits at the expense of the correct execution of public tasks; (3) political activists who manage or supervise the agency and exploit their position for personal, political party or electoral ends. Very often these groups act in close cooperation.

A poorly organized social participation can be a source of pathologies in agency performance. For example, social partnership can be a pretext for pursuing particularistic interests which, in fact, serve the purpose of reinforcing *agency capture*. A controlled selection of social participants can correspond to the policy adopted by the agency management in accordance with the preferred organizational interest of that agency. On the other hand, a proper representation of social partners can counteract *agency capture*. A well organized social partnership mechanism can also perform other beneficial functions in governing agency activities. It constitutes a type of social control over the correct, effective and high-quality execution of statutory public tasks. It can also play an important role in legitimizing agency activities.

II.5 Issues in effectiveness of agency operations

One of the main dilemmas concerning the effective execution of public tasks lies in the choice between an efficient absorption of public funds and the quality of their application in solving social and economic problems. In the case of new member states, the effectiveness of a given policy is often judged by how effectively its resources are spent. Such understanding of effectiveness is particularly common when it comes to public policies financed with European Un-

⁴⁹ G. McConnell (1967): *Private Power and American Democracy*, New York: Alfred A. Knopf.

⁵⁰ Comp. A. M. Bartelli (2006): *Delegating to the Quango: Ex Ante and Ex Post Ministerial Constrains*, Governance, vol. 19, no. 2, April.

ion assistance funds⁵¹. It is because a large number of substantive priorities for these policies is specified at the central level (as a result of consultations between EU institutions and member state ministries). Centralized planning hinders the adaptation of public policies to local conditions. Moreover, the focus on absorption of financial resources is caused by the large extent of EU assistance which is available during a relatively short period and, additionally, in an environment characterized by little administrative expertise.

As a rule, professionalization of an agency is viewed as the principal instrument meant to ensure the effectiveness of agency operations. That objective is served by separating units from the agency to gather specialized skills needed to execute public policies. The development of civil servants' abilities through training and care for employment stability is an element of that specialization. Some agencies are introducing a series of management measures meant to improve the effectiveness of public resource management. They include: (1) management methods adopted from the private sector, (2) partial commercialization of the management of public services, (3) introduction of financial self-management by the agency with the possibility of generating financial surpluses and deciding internally how they should be spent.

Another method meant to ensure the effectiveness of agency performance lies in trying to separate the agency from excessive influence by politicians and election politics. This seems to refer mainly to regulatory institutions, i.e. agencies that handle regulatory policies. According to the credibility doctrine, this measure should ensure the continuity and impartiality of the execution of public policies as well as their independence from the political influence, hence their credibility in the eyes of social partners and business⁵².

The approach to the issue of effectiveness of executive agencies must be somewhat different. It seems that, in this area, autonomy is not as important as proper supervision by government ministries. Indeed, excessive autonomy of executive agencies from political decision-makers can complicate the execution of government policies. For example, it can lead to agency slip-page or to a situation where cabinet policy is at odds with executive agency activities⁵³. Most often it ends in conflicts between ministries and agencies, thus reducing the effectiveness of public policy implementation.

The high cost of introducing a fully effective control over agencies is cited as a fundamental problem in agency operations⁵⁴. One can list at least a few adverse consequences of insufficient control over agency activities apt to reduce the effectiveness of public policies: (1) disagreement between government policy and agency activities, (2) appropriation of the agency by an interest group (*agency capture*), including submission of agency operations to redistribution interests of the beneficiaries of public policies delivered by the agency, (3) mismanaged spending of public resources. Another problem is that agencies tend to keep information away from supervising ministries, thus causing the information shortage problem⁵⁵.

⁵¹ See T.G. Grosse (2006c): *Regionalisierung und Regionalpolitik in Polen*, in Merli F. and Wagner G. (eds.); *Das neue Polen in Europa. Politik, Recht, Wirtschaft, Gesellschaft*, Innsbruck, Wien, Bozen: Studien Verlag, pp. 115-130.

⁵² Comp. G. Majone (2000): *The Credibility Crisis... ibid.*

⁵³ Menon A. (2003): *Member States and International Institutions: Institutionalizing Intergovernmentalism in the European Union*, *Comparative European Politics*, no. 1, pp. 171–201.

⁵⁴ Comp. Pollack M. (1997): *Delegation, agency and agenda setting in the European Community*, *International Organization* vol. 51, no. 1, pp. 99-134.

⁵⁵ Menon A. (2003): *ibid.*

This is why a **systemic integration** of executive agencies is so important to the effectiveness of public policy delivery. The principal objective of such integration is to ensure proper relations between government ministries and subordinate agencies, and between central agencies and their field units. At this point we need to make reference to the concept of mutual dependency between agencies and supervising ministries (*power dependency network*)⁵⁶. Ministries usually take care of programming – they plan public policies based on the political strategy of the government and economic and social strategies of the state. Executive agencies specialize in implementing these policies. Consequently, government popularity depends to a large extent on how effectively agencies implement these policies. Furthermore, when preparing political programs, the government often relies on information collected by agencies. This is why good cooperation between these two elements of public administration is indispensable to the effectiveness of public policies. Experts⁵⁷ list a few components that impact the quality of *systemic integration*. Firstly, formal rules of dependency, including the extent of control over the agency. Secondly, informal rules and procedures in mutual relations, particularly when it comes to information sharing. These rules make up the organizational structure of both administrative levels. A joint acceptance of basic norms and values of the organizational culture plays a particularly important role. Thirdly, there must be mutual trust.

III. Presentation of study results

III.1 Extent of Europeanization of executive agencies in new member states

The basic objective of this study was to analyze the consequences of Europeanization of agencies implementing the EU Common Agricultural Policy and the rural area development policy in selected CEE countries. The European Union impacts agency organization and task execution at the formal level (by transposition of EU laws) and informally (via working contacts between Polish and EU administration officials). A great number of transposed EU regulations refers to the financial management system and the associated financial control and monitoring. The study showed that EU regulations were directed mainly at preventing mismanagement of EU taxpayers' money and were much less concerned with other problems and administrative misconduct, e.g. political corruption, agency capture, politicized administration institutions, etc.

In the case of rural area development programs, in addition to financial management issues EU law deals with other elements of the investment project management system. However, EU regulations do not interfere with the ultimate shape of the organizational system, including the official line of subordination within the structure of public administration institutions responsible for the management of EU funds. They describe the tasks of each institution (managing institution, executive agencies, beneficiaries, etc.), but do not say how they should be divided between specific public bodies. These decisions are left to the relevant domestic

⁵⁶ Marsh D., Rhodes R. A. W. (1992): *Policy Networks in British Government*, Oxford: Clarendon Press, p. 251.

⁵⁷ F. Gains (2003): *Executive Agencies in Government: The Impact of Bureaucratic Networks on Policy Outcomes*, *Journal of Public Policy*, vol. 23, no 1.

administrative organs⁵⁸. In the case of Poland, they were made by the agriculture minister in consultation with other members of the government⁵⁹.

On a less formal level, European Commission officials who directly supervised the development of an organizational system responsible for the management of EU assistance funds also played an important role in specifying agency organization and mode of operation. It seems that the informal pressure they exerted impacted several specific solutions that exceeded formal commitments required under EU law, particularly as concerned tightening the discipline of spending EU assistance resources. Another type of informal influence was exerted on agencies by agriculture ministry officials. As their trust in agency personnel was limited and their concern for preventing financial mismanagement high, they kept raising organizational criteria and made procedures and required documentation increasingly complicated. That was the experience of all countries participating in our study. It showed how far government ministries could go in deciding minute details of the organization of agency operations. These activities also served the purpose of expanding hierarchical control over agencies and, in the case of Poland and Slovakia, they may also have been responsible for growing agency politicization.

Europeanization of executive agencies was pursued in the studied countries mainly along the lines of *coercive isomorphism*⁶⁰, i.e. by a hierarchical transposition of formal and informal principles from the EU (primarily from the European Commission) down to domestic administrations. Next to that, there were also some examples of “soft” isomorphism. They included expertise absorption from “old” member states through “twinning” collaboration and being free to adapt a large part of EU legislation in domestic law. Participation in the European network of agencies implementing EU policies may serve to a certain degree as an illustration of “soft” isomorphism. This said, it needs to be stressed that horizontal experience-sharing between equivalent agencies operating in different countries was very limited.

An analysis of the consequences of Europeanization of executive agencies should make a differentiation between two application submission levels. Several new organizational solutions were introduced at the formal level, especially as concerned financial management. However, in the day-to-day practice, the study disclosed many informal norms which contributed to the non-application of formal legal regulations or to their temporary suspension. During the study some respondents mentioned that there was a need to “turn the blind eye” to circumventions of certain legal regulations⁶¹. This was caused by a few factors. Firstly, by the rush accompanying introduction of organizational changes and by the desire to maximize absorption of EU resources. If all legal regulations were complied with, spending public funds would have been slowed down. That, in turn, could cause dissatisfaction of potential beneficiaries with their participation in EU programs. The processes described above bring to mind the phenomena of *political* and *institutional hypocrisy*⁶². Political hypocrisy – because political and administra-

⁵⁸ Comp. Wieliczko B. (2006): *Challenges of the Common Agricultural Policy Management. The Role of Agencies. Conditions of Implementing CAP in Poland*, NewGov, reference number: 17/D12, <http://www.eu-newgov.org/datalists/>.

⁵⁹ Comp. Falkowski M., Grosse T. G., Skwarczyńska E. (2006): *ibid*.

⁶⁰ P. J. DiMaggio, W. W. Powell (2004): *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*, in: F. Dobbin (ed.) *The New Economic Sociology. A Reader*, Princeton University Press, Princeton and Oxford; also: M. Thatcher (2002): *ibid*.

⁶¹ Comp. Falkowski M., Grosse T. G., Skwarczyńska E. (2006): *ibid*.

⁶² Comp. Katzenstein P. J., Elena E. A. (2003): *European Enlargement and Institutional Hypocrisy*, in: Borzel T. A., Cichowski R. A., (eds.): *The State of the European Union*, vol. 6, Oxford – New York: Oxford University Press.

tive policy-makers would consciously depart from complying with European law when it did not coincide with their own interests and domestic political determinants. Institutional hypocrisy – because the weak condition of the State, particularly the absence of adequate administrative capability (bureaucratic incompetence, underfunding), curbed the potential for introducing European regulations and institutions. Consequently, the desire to increase the absorption of EU resources combined with insufficient administrative know-how promoted a selective application of formal regulations in the examined countries, thus weakening the beneficial impact of Europeanization processes.

Two informal norms that interfered with legal regulations were identified in all three studied countries. The first was the political directive to maximally speed up absorption of EU resources. The second was the propagandistic need to exploit agency operations for the purpose of improving the image of the European Union and European integration in rural communities, which in new member states were largely eurosceptical. The part of the study conducted in Poland disclosed an important feature of the Polish administrative and political culture, i.e. precedence was often given to informal norms based on political calculation rather than to formal ones⁶³.

Europeanization of agencies implementing EU agricultural policies reinforced the sectoriality of government policy. In other words, it made agency operations strongly dependant on the government agricultural policy. This was expressed by planning the rural area development policy through the prism of agricultural problems and its limited coordination with other central government policies (such as the regional policy), or policies developed by local governments. Moreover, Europeanization reinforced centralization of management, particularly by the agriculture ministry (rather than EU institutions). That hindered the application of the principle of local partnerships with territorial self-governments and decentralization of the execution of EU policies down to the local authorities.

In conclusion of this part of the report it needs to be stated that Europeanization of executive agencies in new member states was only a qualified success. Delegation of tasks to a specialized agency should contribute to the professionalization of the civil service (and of the execution of public tasks) and to reduction of political interference. Instead, Europeanization contributed to the introduction of several new administrative measures, particularly those referring to financial and investment project management. In Lithuania, the use of a paying agency was a totally new manner of managing agricultural policy⁶⁴ and, according to the results of the Slovak part of the study⁶⁵, it significantly modified the manner of delivering public policies. At the same time, the administrative practice was expanded by a series of very complicated procedures, which were often more restrictive than what was required by EU regulations. During the initial period, they hindered effective operations or made it necessary to “circumvent” binding regulations. Another consequence of Europeanization was that too much attention was paid to absorption of EU assistance funds at the expense of issues related to qualitative criteria of public policies, particularly those associated with overcoming obstacles to local development.

⁶³ Comp. Grosse T. G. (2007): Save Public Assets. Monitoring Corruption Threats in the Distribution of Structural Funds, The Case of Integrated Regional Operational Programme in Poland, *Institute of Public Affairs, Warsaw*, <http://www.isp.org.pl/files/20445278050803130001176716743.pdf>; Fałkowski M., Grosse T. G., Skwarczyńska E. (2006): *ibid.*

⁶⁴ Stafejeva R. (2006): *ibid.*

⁶⁵ Beblavý M. (2006): *ibid.*

Moreover, in the studied countries, delegating tasks to a specialized agency did not eliminate the problem of administration politicization. This was particularly apparent in Poland and Slovakia. Personnel rotation associated with party politics lowered the overall level of agency employee skills and hindered an efficient and professional execution of public tasks. This was not only a consequence of the local administrative tradition and culture, but also of foreign interference. On one hand, it was associated with the logic of EU re-distribution policies which strengthen the position of the national government as the *gate keeper* for EU funds. On the other, it was linked to concepts concerning the improvement of the management of executive agencies. A good example of this is found in the suggestion to enhance *systemic integration* of government ministries and agencies⁶⁶, and the concept of their interdependency (*power dependency network*)⁶⁷.

III.2 New modes of governance in studied agencies

The study conducted by the Institute of Public Affairs aimed at analyzing three aspects of new modes of governance in practical operations of agencies implementing EU policies:

1. **Non-hierarchical mode of governance:** does Europeanization of an executive agency increase its autonomy from government institutions and, consequently, introduce less hierarchical methods of managing EU policies?
2. **Social (local) partnership:** does Europeanization increase the openness of an executive agency on participation of social partners in the execution of public tasks, particularly at the local level?
3. **European agency network:** does Europeanization of an executive agency lead to the development of network cooperation with agencies implementing the same EU policies in other member states?

Information collected during the project indicated a relatively weak presence of these governance modes in practical operations of agencies implementing EU policies. Consequently, the impact of Europeanization on these agencies was also weak, probably weaker than in old member states.

III.2.1 Non-hierarchical mode of governance

In particular, the study did not confirm any higher agency autonomy from central ministries. The latter play a key role in setting public policy priorities (under the watchful eye of the European Commission), which agencies subsequently implement. Ministries decide agency budget and composition of agency top management. Agencies have some leeway in deciding their internal organization. Such division of tasks is all in all in step with the idea of *systemic integration* of government ministries and agencies⁶⁸.

Nevertheless, the tradition of central management and culture of politicized administration reduce or circumvent the formal dimension of agency autonomy. Lithuania is an interesting case in point. There is no past experience in that country of an agency-type institution operating outside the government structure. Lithuanian administration is the least affected by political party interference of the three countries⁶⁹. This is why the *National Paying Agency* seems

⁶⁶ F. Gains (2003): *ibid.*

⁶⁷ Marsh D., Rhodes R. A. W. (1992): *ibid*, p. 251.

⁶⁸ F. Gains (2003): *ibid.*

⁶⁹ Comp. T. G. Grosse (2006): *New Methods of Governance in New European Union Member States...*, *ibid.*

to have greater autonomy than agencies in the other countries. But even that agency has been an object of attempted political interference, expressed by frequent replacements of its director⁷⁰.

In Poland, introduction of EU policies and Europeanization of governance processes resulted in increased control of agencies by ministries and exacerbated agencies' hierarchical dependency thereon. This happened because Polish administration was open to political party interference⁷¹. It was expressed in politicians mounting pressure to ensure effective control of absorption of EU funds and, whenever possible, exploiting power waged in agencies to the benefit of their political party. This led to *agency capture* – a situation where political interference is strong enough for government politicians to appropriate the agency “from above”. Certainly, local politicians and interest group activists participated in this agency capture process, but the central factor – agency control by central government politicians – was key. A similar situation was found in Slovakia, albeit without any direct indication of *agency capture*. There was a strong tendency to politicize the *Agricultural Paying Agency*, including frequent personnel rotation resulting from political party interference⁷².

In all three countries, politicians acting as agriculture ministers were most often wealthy agricultural businessmen who advanced the interests of the rich farmer lobby, at times openly. In Poland and Slovakia, political interference with agency operations by the agriculture ministry was associated, therefore, with preference given to specific economic interests. Our study found no hard evidence of *agency capture* in Lithuania, particularly no “top-down” appropriation of control by the agriculture ministry or the political formation associated therewith. This said, there was evidence of direct relations between agency leadership (and officials) and the interests of largest agricultural producers. Lithuanian mass media often laid charges of irregularities and even corruption⁷³. This may confirm the earlier suggestion that reduction of political interference and increased agency autonomy is not a sufficient mechanism of protection against illicit interference with agency operations by local interest groups.

III.2.2 Social (local) partnership

Europeanization of executive agencies introduces the notion of social (local) partnership into the administrative practice. This is done pursuant to EU regulations, which recommend the application of partnership in certain aspects of governing agricultural policies. The importance of partnership is stressed particularly in respect of the rural area development policy, as evidenced in EU regulations. Our study showed that the partnership principle was treated rather superficially. The low level of practical influence of the social partnership institution was perceivable in particular at the stage of planning both policies. At that stage, activities were centralized and transferred to the level of ministries responsible for agriculture, whereas the actual influence of social partners and local governments on decision-making was as a rule very limited. The influence exerted by social partners was greater when it came to agency implementation activities, particularly to distribution of EU agricultural policy money. This happened because of the desire to encourage most influential non-governmental elements in the society to participate in the dissemination of information about EU assistance funds. In Poland, that role was played by local Catholic Church structures, which enjoy a great deal of authority in local communities. Their participation improved information dissemination and

⁷⁰ Comp. Stafejeva R. (2006): *ibid.*, 16-18.

⁷¹ Comp. Fałkowski M., Grosse T. G., Skwarczyńska E. (2006): *ibid.*

⁷² Beblavý M. (2006): *ibid.*, pp. 19-20.

⁷³ Stafejeva R. (2006): *ibid.*, pp. 17-18.

absorption of EU funds. Therefore, the application of the partnership principle is limited mainly to the phase of implementation of particular activities, especially to the phase of distribution of direct CAP subsidies.

It seems that, out of the three studied countries, social partnership mechanisms are weakest in the Slovak *Agricultural Paying Agency*⁷⁴. Social participation is faring best in the Lithuanian agency, even though initially Lithuanian administrators had an arm's length attitude towards it. Today it does much more than improve the quality of EU fund distribution or information dissemination among farmers. It also constitutes a mechanism for lobbying agencies by strongest interest groups⁷⁵. Consequently, social partnership dominated by largest agricultural producers gives an opportunity to channel agency activities in the desired direction and to legitimize these interests in the public eye.

Controlled participant selection was the preferred partnership model in all three studied countries. Its purpose was to keep away groups which could stall or hinder an effective execution of public tasks. Thus the principal premise of this model lied in the concern for an effective performance of public duties. However, the model favours the interests of agency officials and their viewpoint on public issues. In case of *agency capture*, it can further weaken the control mechanisms accompanying social participation. Therefore, *controlled selection* of participants in social partnership in new member states leads to a superficial participation of social partners in the execution of public policies and their instrumental exploitation furthering current interests of agency officials. At the same time, the Lithuanian example shows that the model of social participation controlled by administration may be also exploited by strongest economic interests desiring to benefits from EU programs.

It seems that a better model of social participation in new member states would be the model of *balancing between various social interests*. That model has the advantage of providing for a mutual control between social interests participating in the distribution of EU resources and better supervision of activities pursued by government administration and politicians. Performance of such control functions should be conditioned on ensuring that social partners are properly represented and that the influence exerted by all interested social groups is properly balanced.

III.2.3 European agency network

Europeanization of agencies implementing EU policies also promotes international contacts between the management of executive agencies in different member states. This is natural as such informal cooperation has been pursued by old member states. The development of an European cooperation network is also recommended by European Commission officials, who see it as a tool of experience-sharing and mutual learning between different countries. However, these cooperation networks are frail and meetings of their members are sporadic. Least frequent are meetings between executive agency representatives from old and new member states. Consequently, the expertise acquired by more experienced countries is seldom transferred down to new member states. Respondents to our study often stressed the fundamental gap between the level of expertise in both country groups, which only confirms the difficulties associated with expertise transfer from West to East. On the other hand, the study showed that such cooperation was pursued between new member states. Here too, meetings essentially did not serve the purpose of experience-sharing but were an occasion to come face to

⁷⁴ Beblavý M. (2006): *ibid.*, p. 22.

⁷⁵ Stafejeva R. (2006): *ibid.*, pp. 18-19. Similar activities are taking place in Slovakia, but at the central level; comp. Beblavý M. (2006): *ibid.*, p. 21.

face with European Commission officials and make joint submissions concerning desired changes in the manner of managing EU policies. Therefore, on one hand, they provided an occasion to develop “horizontal” cooperation between representatives of national agencies. On the other hand, they were used to increase pressure on the European Commission, hence to strengthen the impact of demands made by national agencies in “vertical” relations with the Commission.

III.3 Factors influencing the introduction of new modes of governance in the studied agencies

The following factors supported Europeanization of executive agencies, including introduction of new modes of governance in the execution of the common agricultural policy and the rural area development policy:

1. Political pressure associated with accession to the European Union;
2. Transfer of formal EU regulations concerning both policies, and;
3. Relatively frequent visits by European Commission officials and their informal impact on introduction of specific changes in administration of the studied countries.

It seems that key importance to Europeanization of executive agencies in the studied countries was played by formal regulations governing the distribution of EU resources, hence also the potential threat of losing EU financing in case irregularities were disclosed. This is why financial management was an area where Europeanization of executive agencies and transfer of EU institutional solutions thereto was the strongest.

Nevertheless, it should be noted that transfer of new modes of governance was not backed by sufficiently specific EU regulations and financial or legal sanctions in case of their inadequate implementation. Issues associated with new modes of governance were treated by EU law in a general manner and their implementation in the administrative practice was, as a rule, left to member state governments. In some cases, an informal impact on making these modes more specific (for example, when it came to local partnerships) was exerted by European Commission officials during visits paid for the purpose of overseeing implementation of certain regulations in new member states. Terms of cooperation within the European agency network were not formalized at all under EU law, which evidently weakened the possibilities of strengthening that mode of governance.

Thus, the results of our study confirm the thesis that *hard* EU law has a great deal of impact on the effectiveness of Europeanization. Meanwhile, new modes of governance, which are usually part of *soft law*⁷⁶ - makes their introduction in the administrative practice more difficult. In this situation, their implementation is decided by intra-national factors associated to a large degree with the local political culture and administrative tradition.

The *gate keeper* logic is a feature peculiar to the management of EU distribution policies (such as the cohesion policy, CAP, rural area development policy and, to a lesser extent, the EU innovation policy). It is characterized by a strong national government presence in the management of EU funds. In practice, it reinforces the centralized and hierarchical nature of management, hence it is also at odds with the logic of a non-hierarchical character of new

⁷⁶ New modes of governance are usually implemented within the framework of *soft law*, although exceptions to this rule exist. For example, many solutions that introduce new modes of governance under the EU cohesion policy (for instance, those related to social partnerships) are governed by relevant European directives.

modes of governance. This is why the introduction of EU policies into the performance of the studied executive agencies strengthened their dependency on central government ministries⁷⁷.

Another factor that weakened the chances for new modes of governance to accompany Europeanization of executive agencies was the strong local administrative tradition (dating back to the socialist period) and administrative and political culture. Examples of these cultural phenomena include (1) the tendency to politicize administrative institutions, (2) the tendency to exploit the administrative power to the benefit of political parties, (4) reluctance to include social partners in the activities of public administration, (5) strong precedence of informal norms over formal regulations, etc. These phenomena hindered the possibility of introducing the institution of local partnership on a larger scale and of being more active in the international cooperation network. At the same time, they reinforced the centralized and hierarchical character of management by way of agency politicization and capture.

The subsequent factor that hindered introduction of new modes of governance was the political pressure to maximally absorb EU funds (as that ability was considered synonymous with effective implementation of EU policies). In addition, administration had no experience or tradition of applying this type of governance methods. It instinctively referred to “old” and proven ways of guaranteeing effective absorption of EU funds and was reluctant to experiment with new modes which could jeopardize effective spending of public resources. However, the decisive factor was politicians’ tendency to “appropriate” (or “capture”) the agency and their conviction that an effective introduction of new modes of governance could get in the way of that objective.

III.4 Legitimizing function and effectiveness of agency operations

As shown in earlier studies conducted by the Institute of Public Affairs (devoted to social dialogue), introduction of new modes of governance had the following objectives:

1. To increase social legitimization of public policies (or of organizations and politicians participating in the social dialogue);
2. Increase the effectiveness of public policy management.

The practical experience of using social dialogue in new member states showed that it was often primarily serving legitimization purposes and, moreover, that higher social legitimacy was achieved at the expense of the effectiveness of public policies (trade off between legitimacy and effectiveness)⁷⁸. For example, effective implementation of some public policies was blocked as a result of them being object of incessant discussions at meetings of tripartite commissions. At the same time, discussions concerning social dialogue were extremely important to participants in the dialogue as they allowed them to publicly demonstrate their position and gain social support for their arguments.

The second phase of the IPA study devoted to executive agencies showed that public policies (or actors engaged therein) could be legitimized at the same time as the effectiveness of agency management was being improved. This happened in particular during the distribution of direct CAP subsidies, where inclusion of social partners brought about a higher social acceptance of that policy and of European integration as a whole, visibly improved dissemination of information and helped to absorb EU resources.

⁷⁷ Comp. also: Goetz K. H. (2005): *The New Member States and the EU: Responding to Europe*, in: *The Member States of the European Union*, *ibid*.

⁷⁸ See T. G. Grosse (2006): *New Methods of Governance...*, *ibid*.

Issues associated with legitimization of public activities had both an internal and external dimension. In case of *internal legitimization*, introduction of new modes of governance associated with local partnerships aimed at getting acceptance for EU policies among local communities, increasing their support for European integration and improving the public ranking of political decision-makers (political parties) and some social partners. Therefore, it was associated with raising social legitimacy “inside” the given country. In case of *external legitimization*, introduction of new modes of governance aimed at getting approval from foreign observers and political decision-makers. This referred particularly to European Commission officials and representatives of “old” member states, who were attentively assessing administrative changes taking place in the studied countries, especially during the period of their preparations for accession to the European Union. Consequently, new modes of governance raised the level of legitimacy of national administration “outside” the given country.

The study provided relatively few examples of using new modes of governance to improve the effectiveness of implementation of both policies. One exception was the use of local partnerships in the distribution of information about direct CAP subsidies. Another was the use of the network of cooperation between agencies in Central and Eastern Europe to improve the quality of lobbying the European Commission. As mentioned earlier, the network cooperation between administration officials from new member states served the practical objective of exerting joint pressure on European Commission officials. For example, such joint pressure was used in order to sway the Commission to ease bureaucratic difficulties accompanying the release of direct subsidies to farmers.

However, all in all, the use of new modes of governance for practical purposes was weak and superficial. Moreover, in the studied countries, agency operations relied to a great degree on hierarchical and centralized management rooted in the local administrative tradition. That tradition, in turn, was reinforced by the existing norms of political and administrative culture. Consequently, in order to improve the effectiveness of management, political elites strengthened the hierarchical nature of the relationship between ministries and executive agencies, and aimed at increasing political and personal control over their operations. “Hands-on” control of the agency by government politicians, also through political appointments to management positions at the agency, was meant to guarantee a higher effectiveness of its operations, particularly a more effective spending of EU resources.

The IPA study also revealed that effective absorption of EU resources was considered the main reference point in assessing the effectiveness of the execution of public policies⁷⁹. Therefore, issues associated with directing EU resources to solving economic and social problems were secondary. Hence, the effectiveness of public activities had little to do with qualitative assessment criteria. Moreover, the politicized and personalized nature of control exerted by supervising ministries over subordinated agencies contributed to a further weakening of the substantive dimension of supervisory activities.

IV. Summary: attempt at generalization

Europeanization – treated as a formal and informal external impact of the European Union on member state administration – is passed through a sieve of local institutional determinants, social interests and norms of political culture and administrative tradition. These conclusions

⁷⁹ For example, see Beblavý M. (2006): *ibid.*, p. 17.

are in step with certain earlier Europeanization studies⁸⁰. They point to the problem of misfit of European institutions to the local context. In particular, they draw attention to the role played by (a) cultural factors (administrative tradition), (b) institutional factors (administrative structures and domestic public policies) and (c) principal administrative and political actors, and their interests. These factors impact one another. For example, there is a connection between interests pursued by the principal actors and the institutional structure of the given member state. The implementation of European solutions can be impeded in a situation where domestic political institutions offer greater possibilities of influencing public policies to particular social groups (so-called “veto players”). The more veto players, the longer and thornier the implementation procedure⁸¹.

However, it should be kept in mind that the effectiveness of Europeanization does not depend only on internal factors but is also conditioned by the external pressure exerted on the given country. Within the European Union that pressure comes mainly in the form of binding regulation. Hence the importance of differentiating between “soft” and “hard” methods of governance. Most often new modes of governance are “soft”. This does not foster an effective implementation of European solutions in new member states and, actually, subordinates the effectiveness of Europeanization to the compatibility of European solutions with domestic cultural and institutional determinants, and interests of dominant social groups. Another type of external pressure can be found in political influence exerted by EU institutions and other member states. Such role can be played, for example, by public statements that popularize certain values and attitudes associated with European integration among European societies. These rhetoric activities can indeed contribute to furthering the process of Europeanization and, consequently, to a more effective implementation of European institutions and public policies at the member-state level⁸².

The conclusion of the study conducted by the Institute of Public Affairs is that the impact of Europeanization on member states depends on three groups of factors:

1. **The force of external pressure:** institutions governed by EU regulations (*hard law*⁸³) and associated with legal and financial sanctions imposed on the member state in case of non-compliance have a stronger impact thereon and are quicker applied in its administrative practice;
2. **Cohesion between external institutions and domestic institutions, administrative tradition and political culture:** when newly introduced institutions are in tune with domestic institutions and new modes of governance mesh with traditional ways of implementing public policies or with the administrative culture of the given country, then the transposition of external institutions into the local administrative practice is quicker and easier;

⁸⁰ Comp. Caproso J. (2007): *The Tree Worlds of Regional Integration Theory*, in: Graziano P., Vink M. P. (eds.): *Europeanization. New Research Agendas*, Haundmills, Basingstoke, New York: Palgrave, MacMillan Press; Bulmer S., Padgett S. (2005): *ibid.*; Steunenberg B. (2007): *ibid.*; Börzel T. A., Sedelmeier U. (2006): *The EU Dimension in European Politics*, in *Developments in European Politics*, *ibid.*

⁸¹ Steunenberg B. (2007): *ibid.*

⁸² The phenomenon of normative pressure (i.e. of European ideas and rhetorics) was described on the occasion of explaining constitutional amendments in the European Union: Rittberger B., Schimmelfennig F. (2006): *Explaining the constitutionalization of the European Union*, *Journal of European Public Policy*, vol. 13, no. 8, 1148-1167.

⁸³ Comp. Trubek D. M., Cottrell P. and M. Nance (2005): *ibid.*

3. **Cohesion between external institutions and dominant domestic interests:** when new modes of governance hinder the advancement of political party interests exemplified in *agency capture*, then the implementation of these modes is restricted and slow.
- When new modes of governance are not firmly and precisely founded in EU law, and, additionally, when the *gate keeper* logic has a strong presence in relation to policies involving distribution of EU resources, then the external impact is weak and self-contradictory. Consequently, in this case, the basic contradiction of Europeanization lies in a conflict between the *gate keeper* logic (which reinforces the hierarchical character of management) and new methods of governance (which encourage moving away from hierarchical ways of operating).
 - This conflict facilitates the interference of the local administrative tradition and political culture, which as a rule is at odds with new modes of governance.
 - An additional factor that weakens the possibility of implementing external modes of governance in the studied countries is found in the inconsistency between the interests of influential political decision-makers and the logic of new modes of governance. A decisive introduction of these modes into the administrative practice could hinder the advancement of these interests. As a result, new modes of governance are implemented superficially and reshaped to fit local conditions.
 - New modes of governance are exploited for the purpose of enhancing external and internal legitimacy (i.e. getting approval for implemented public policies from both international decision-makers and local beneficiaries of these policies). At the same time, practical application of new modes of governance in improving the effectiveness of public policy execution (i.e. absorption of EU funds) is limited.

The study of executive agencies in three new member states showed that the success of Europeanization depended first and foremost on factors associated with *rationalist institutionalism*. These factors are mechanisms of coercive isomorphism, particularly transposition of *hard law* and threat of withholding EU financing. It is evident that the introduction of new modes of governance in the studied countries encounters a great deal of difficulties when it is not accompanied by a sufficiently strong external pressure. Also important are the interests of dominant social groups, particularly their rational calculation of benefits and losses should new modes of governance be introduced. In case of the studied agencies, a decisive role was played by politicians and civil servants associated with agriculture, and the political and economic interests they represented.

Other studies related to Central and Eastern European countries also point to rationalistic determinants of the Europeanization process⁸⁴. Their authors draw attention to the role of the conditional membership offered to countries situated in that region. The negotiation mechanism mentioned earlier was a very hard and coercive argument in favour of Europeanization, particularly in favour of a swift transfer of EU institutions and regulations to the accession countries. That transfer of EU institutions bore all the features of *coersive isomorphism*. It ensured a relatively quick application of a huge number of European regulations (*aquis communautaire*) despite the fact that local conditions were in great measure unfit for absorption of European institutions. The difficulties encompassed differences in the administrative culture –

⁸⁴ Schimmelfennig F., Sedelmeier U. (2005): *Conclusion: The Impact of the EU on the Accession Countries*, in: Schimmelfennig F. and Sedelmeier U. (eds.), Cornell University Press, Ithaca, NY, 215-217; Sedelmeier U. (2006): *Europeanisation in new member and candidate states*, *ibid.*, Schimmelfennig F., Sedelmeier U. (2007): *Candidate Countries and Conditionality*, in: Graziano P., Vink M. P. (eds.): *ibid.*

which in new member states stemmed from the socialist State period, their institutional maladjustment, as well as the fact that European policies infringed economic interests of certain social groups. And yet, the external pressure in the form of hard membership prerequisites and the pre-eminence of geopolitical interests of the candidate countries prevailed over particular interests of certain social groups and other elements of domestic cultural and institutional misadjustment. As a result, Europeanization processes and the gigantic transfer of external institutions to the new member states was put in motion.

The IPA study of implementing institutions in three new member states also demonstrated the presence of “soft” factors associated with the theory of *constructivist institutionalism*. They confirmed the importance of local determinants, particularly of local administrative culture and tradition, in ensuring the efficacy of Europeanization and of adoption of external institutions. The role of these factors grew further in a situation where there was no sufficiently strong external pressure imposed by *hard EU law* or where there was asymmetrical relations between EU and domestic institutions. Europeanization was inhibited or ineffective when there was no correlation between external institutions (and modes of governance) and local administrative and cultural determinants. Thus “soft” factors related to the administrative culture and tradition played a subservient role to “hard” determinants associated with strong external pressure and the asymmetry of power between external and domestic institutions.

Furthermore, an indirect evidence of the practical significance of constructivist institutionalism was found in the impact of academic ideas developed in Western Europe on the manner of *constructing* executive agencies in new member states. An example of that was the suggestion to enhance *systemic integration* of government ministries and agencies⁸⁵, and the concept of their interdependency (*power dependency network*)⁸⁶. Under conditions existing in the central and eastern (post-Communist) part of Europe, the impact of this type of ideas had unexpected consequences – ones that reinforced administrative pathologies rather than improve the quality of governance.

This is a good place to focus on the differentiation between the *network state model* and the *administrative state model*⁸⁷. In the second model, typical to most CEE countries, management is characterized by a strong tendency towards centralization and hierarchical subordination, as well as reluctance to involve social partners in administrative activities and lack of enthusiasm for participation in international network structures. Introduction of new modes of governance is particularly difficult in this state model and their practical application is usually governed by legitimization considerations.

Therefore, implementation of EU funds in CEE countries and Europeanization of their executive agencies do not build a foundation for developing state administration along the lines of the *network state model*. Activities of these agencies rarely take into account the opportunities presented by social partnership and seldom include their participation in European agency systems (networks). At the same time, EU funds are responsible for increasing the hierarchical subordination of agencies to government administration and contribute to politicization of administration and appropriation of agencies for political purposes. This process is in step with the administrative tradition rooted in the socialist period. It is also in step with the *administrative state* paradigm.

⁸⁵ F. Gains (2003): *ibid*.

⁸⁶ Marsh D., Rhodes R. A. W. (1992): *ibid*, 251.

⁸⁷ See T. G. Grosse (2006): *New Methods of Governance in New European Union Member States. A report on social dialogue in selected European Union countries, ibid*.

Consequently, the process of Europeanization of agencies implementing EU policies was functionally adapted to the determinants of local political and administrative culture. In fact, Europeanization reinforced old administrative methods - in line with the *administrative state model*. This confirms the conclusion of the earlier Institute of Public Affairs study devoted to social dialogue, which demonstrated the durability of the socialist state model and tradition in new member states of the European Union⁸⁸.

⁸⁸ *Ibid.*