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### Public Policy in Poland in Context of Tendencies Unfolding in Central Europe. Conclusions from Case Studies

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Andrzej Zybała

## Public Policy in Poland in Context of Tendencies Unfolding in Central Europe. Conclusions from Case Studies

**Abstract:** A specific feature of the countries of Central and Eastern Europe is that they lack the tradition of creating public policies using methods similar to those applied in mature democracies. And the consequences of this lack of tradition remain visible today, notwithstanding the fact that communism fell over 25 years ago now. For the potential for programming actions (policy capacity), as well as for implementing policies effectively and evaluating them, remains limited.

The author presents the results of one of the few studies to be carried out on public policy in Poland. The aim has been to test a research hypothesis pertaining to the circumstances in which public policy in regard to an emergent problem is formulated. The creation of such a policy was in fact found to depend on a constellation of three factors: a significant threat to stability under a given policy, decision-makers who think that legislative tools for action are enough to achieve the desired result, and an emergent dominant stakeholder who achieves a decisive influence over the decision-making process.

**Keywords:** public policy, public management, decision-making process, policy research, policy analysis

### Introduction

The article offers a general depiction of policymaking in Poland through to relatively recent developments, but without much reference to the political dynamics. While politics of course matters, it mainly covers what we can define as policy mechanisms which are – to some extent – neutral politically. Experience in policymaking in fact dictates that, while governments change, policy practices remain similar.

In terms of its structure, this article starts by pointing to the policy tradition in Central Europe which is quite limited as many scholars in-

dicate. It explains this phenomenon and demonstrates selected policy practices which reveal many essential shortcomings and weaknesses within the policy process including limited scope of generated analytical knowledge when public programmes are supposed to be initiated. The article covers the issue of various barriers hindering the development of public policy analysis.

It then goes on to explain the hypothesis regarding the way policy/public interventions become formulated and implemented in Poland. The hypothesis has been tested relying on the case studies carried out within macro-scale policies such as those concerning retirement, waste and pharmaceuticals, as well as on micro-scale activities, such as the reform of pedagogical supervision, introduction of a free-of-charge textbook for primary schools, a program for repairing local roads, etc.

## 1 The policy tradition

In post-communist countries, public policy as a science is not highly developed.<sup>1</sup> The reasons are myriad, involving both the demand for such a science and the supply. The demand is not large, since governments (as well as, at least in part, non-governmental organizations), show little interest in objectified knowledge about effective methods of performing public interventions. Such knowledge is not compatible with their functioning in the public sphere. Furthermore, the academic community as such generates little knowledge about public policies. It has other priorities; it builds social knowledge in line with another standard. This knowledge pertains, to a greater degree, to macro-scale social phenomena (based on sociological terms), such as the mechanisms of social and economic transformation from an authoritarian model into a democratic, free-market one.<sup>2</sup>

- 1 In 2011, Poland's Minister of Science and Higher Education extended its official listing of academic disciplines to include studies on public policy (Ministerial regulation of 8 August 2011 on the areas of knowledge, fields of science and art, and scientific and artistic disciplines); this decision perhaps signifying a turning point. It has created a chance for a strengthening, albeit gradually, of the analytical potential of academic environments as regards public policies. Attempts are also being made to teach policy analysis with the help of instruments used in the Anglosphere tradition of "policymaking".
- 2 M. Potůček, 'Havel versus Klaus: Public Policy Making in the Czech Republic', *Journal of Comparative Policy Analysis: Research and Practice*, vol. 1, no. 2, 1999.

The situation in Central and Eastern European (CEE) countries confirms that public policy – as a discipline of knowledge and as the practice of carrying out public interventions – is an Anglo-Saxon and Western European tradition. It developed in that cultural circle and works well there, since the high level of civilization (both economic and democratic) means that such knowledge is needed and required. Demand for this field of science is increasing because public problems are growing more and more complex, and – for reasons of accountability – governments must prove to the electorate their effectiveness in performing public interventions. It is for this reason that they attempt to obtain the most added value out of the measures taken – this denoting a striving for the most effective placement of public funds.

Post-communist countries long continued to follow a different path of economic and social development. Currently, they are also at a different stage of development (although a certain amount of convergence is present). Among other things, their public sectors are situated differently, e.g. in terms of the degree to which use is made of performance management instruments. The last 25 years have shown that countries from this region still function imperfectly, and have not developed the policy capacity allowing them the effective formulation and pursuit of public interventions. This is especially true as regards interventions that are demanding analytically and structurally. Furthermore, it seems that societies differ in their expectations where the results of state actions are concerned. Thus Leslie Pal had reason to write about the lack of a tradition of public policy analysis (in fact of a policy tradition) in Central and Eastern Europe.<sup>3</sup> H. K. Colebatch rightly noted that “there was no word to identify ‘policy’ as a distinct aspect of governing in most of the CEE languages, and in the official account, there was less interest in recognising alternatives or innovation.”<sup>4</sup>

As a result M. Potůček and L. T. LeLoup considered that the search for a clear identity for this discipline is still ongoing in this part of Eu-

3 L. A. Pal, *Beyond Policy Analysis. Public Issue Management in Turbulent Times*, Toronto: Nelson Education, 2011.

4 H. K. Colebatch, ‘Policy, learning and regime change: Western concepts and CEE experience’, *Central European Journal of Public Policy*, vol. 11, no. 2, 2018, p. 3.

rope.<sup>5</sup> A similar evaluation has been presented in a work published by the Open Society Institute which aims to support the development of public policies in the countries of Central and Eastern Europe.<sup>6</sup> For his part, Martin Potůček in 2007 claimed that Czech public policy had entered the stage of early adulthood<sup>7</sup>, while 8 years later, Juraj Nemec assessed that significant progress had taken place from within, in terms of both the academic identification of policy science and the development of policy analysis.<sup>8</sup>

The authors of studies comparing Canada and the Czech Republic also point to the completely different context and traditions existing in these countries<sup>9</sup>. Their research indicates that policy work<sup>10</sup> (programming public interventions) is of a markedly different character and structure in the two countries. In the Czech Republic (as in Poland) “policy workers” are not even an officially recognized professional category. Of course, certain officials perform some of the tasks associated with policy work. However, they constitute a much smaller percentage of the total number of employees than in Canada. The empirical study carried out in the Czech Republic pointed out that “policy workers in Czech ministries dedicate a large proportion of their work time to operational and administrative activities at the expense of analytical and strategic activities”<sup>11</sup>

Poland probably shares most of the characteristic features and problems associated with policy work that are typical for the Czech Republic. The scale of generated knowledge pertaining to policies is

- 5 M. Potůček and L. T. LeLoup, ‘Approaches to Public Policy in Central and Eastern Europe’, in: M. Potůček and L. T. LeLoup, G. Jenei, L. Varadi (eds), *Public Policy in Central and Eastern Europe: Theories, Methods, Practices*, Bratislava: NISPACEE, 2003, p. 11.
- 6 E. Young and L. Quinn, *Writing Effective Public Policy Papers. A Guide for Policy Advisers in Central and Eastern Europe*, Budapest: Open Society Institute, 2002.
- 7 M. Potůček, ‘Czech public policy as a scientific discipline and object of research’, *Central European Journal of Public Policy*, vol. 1, no. 1, 2007, pp. 102-121.
- 8 J. Nemec, ‘Public Policy in the Czech Republic’, *Central European Journal of Public Policy*, vol. 9, no. 1, 2015, p. 4.
- 9 B. Evans and A. Veselý, ‘Contemporary policy work in subnational governments and NGOs: Comparing evidence from Australia, Canada and the Czech Republic’, *Policy and Society*, vol. 33, no. 2, 2014, p. 106.
- 10 Policy work has been defined as tasks associated with policy analysis, proof selection and consultations regarding substantive action.
- 11 F. Ochrana and M. Plaček, M. J. Půček, ‘Shortfall of Strategic Governance and Strategic Management in the Czech Republic’, *Central European Journal of Public Policy*, vol. 10, no. 2, 2016.

modest; there is a lack of professional techniques for analyzing and studying public interventions. Furthermore, the amount and scope of academic knowledge about public policy are problematic. There are no models or theories which could help clarify the processes of policy-making. While ongoing theoretical discussions in the field of social studies undoubtedly revolve around important topics, the problems associated with public policies remain a relatively marginal issue.

There are various barriers hindering the development of public policy analysis. To be mentioned among them are many types of cultural barrier. Some of these took the form of a limited tendency for the political class (and indeed society more widely) to employ rational analysis of public problems and challenges<sup>12</sup>. What is more, there is no equilibrium between policy processes (programming public interventions on the basis of objectified knowledge) and the processes of politics. The political class has gained a disproportionately large amount of influence over policy formation; and it seems not to be able to deal with having to share this influence (power) with experts, researchers and academics. Politicians do not utilize expert knowledge as extensively as they should. They often act on the basis of superficial knowledge, unverified data or their own intuition. Decisions tend to be made in narrow circles of political advisers, not experts. Remarks of a similar nature may often be noted in the relevant Czech academic literature.<sup>13</sup>

Thus, the decision-making process in the course of public-policy creation has not become sufficiently pluralized. In other words, an etatist model of public management has developed in Poland and in other countries from the same region<sup>14</sup>. This model highlights the governing circles' tendency to undertake one-sided actions during the process of formulating, pursuing and evaluating public policies, as well as to limit the role of other entities in the decision-making process.<sup>15</sup> The gov-

12 A. Zybala, *Polski umysł na rozdrożu* [The Polish mind at a crossroad], Warszawa: Oficyna Wydawnicza SGH, 2016.

13 J. Nemeč and M. Pavlík, I. Malý, Z. Kotherová, 'Health policy in the Czech Republic: General character and selected interesting aspects', *Central European Journal of Public Policy*, vol. 9, no. 1, 2015.

14 J. Pierre and B. G. Peters, *Governing complex societies: trajectories and scenarios*, New York: Palgrave Macmillan, 2005.

15 J. Cent and M. Grodzińska-Jurczak, A. Pietrzyk-Kaszyńska, 'Emerging multilevel environmental governance – A case of public participation in Poland', *Journal for Nature Conservation*, vol. 22, 2014, p. 94.

ernment's main tool by which action is taken is legislation – in other words, legal regulations, formulated and implemented via a process in which society as a whole has little to say (see Tab. 1).

Tab. 1. Models of public management

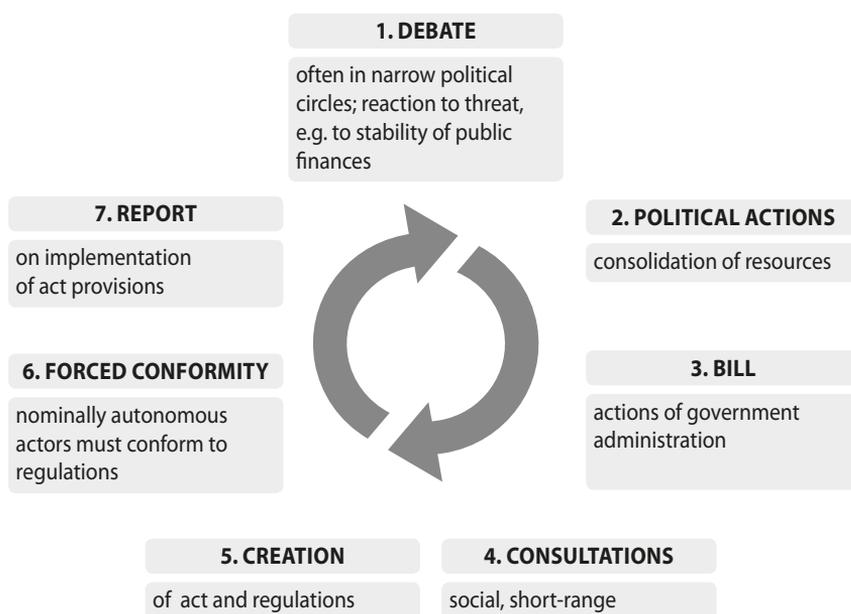
Model of public management	Description
Étatiste	The government is the main actor in governance. It undertakes one-sided actions or chooses the actors it cooperates with. When formulating and implementing policies, it usually relies on its own administration.
Liberal-democratic	The state plays a leading role. It can choose the partner to whom influence over issues of governance will be granted. In this system, the administration/bureaucracy is weaker, hence emphasis on the role of parliamentary institutions.
State-centric	The state is the dominant actor, but it must form institutionalized relations with the strongest social actors (from the business scene and from trade unions), with whom it enters into agreements under the given policies. This system is termed a corporatist one.
Dutch	In governance, the state relies primarily on social networks. Many members of these networks have an impact on governance, the government is only one of many network elements.
Governance without government	No actor has a dominant position as compared to others. In this system, the administration/bureaucracy is weak and lacks a significant analytical potential. Policies are formed on the basis of consensus. Social actors are more influential and possess more legitimization as regards public actions than the state itself. Its task is to create an arena in which other actors meet to discuss and implement policies.

Source: J. Pierre and B. G. Peters, *Governing complex societies: trajectories and scenarios*, New York: Palgrave Macmillan, 2005; M. Fazekas and T. Burns, 'Exploring the Complex Interaction Between Governance and Knowledge in Education', *OECD Education Working Papers*, no. 67, 2012, p. 25.

Governing circles assume that other policy stakeholders must conform to regulations and will act in accordance with the prohibitions and injunctions contained in them. They maintain a position which enables them to permit others to participate in designing and implementing public policies. Fig. 1 shows the main phases to the functioning of public policies, and the extent to which the political class plays a dominant role. Thus, one may speak of a low level of democratization of the process of creating public policies. At the same time, non-governmental actors find it very difficult to create networks of collaboration strong enough to assure them of key partner status in relations with government. They are often very fragmented, with little ability to influence the agenda as regards the policy of interest to them. There are many reasons for this. One of the significant causes is probably society's generally low level of trust, as well as the limited potential for mobilization to collective action. Comparative studies show that the

Czech Republic outperforms Poland in this respect. Researchers have studied the network of policy actors in the area of policy on organic farming. In Poland, entities from the sector concerned with organic farming have formed 3 organizations with a confrontational attitude towards each other, and constituting 10% of all the entities from this sector, whereas in the Czech Republic those actors have formed only one organization which unites 50% of them.<sup>16</sup>

Fig. 1. A public policy's cycle of functioning in Poland



Source: author's own compilation.

For all that, the countries of Central and Eastern Europe do exhibit a number of processes of modernization and public-policy shaping in line with Western standards. The political and economic transformation which took place in these countries after 1990, bringing them closer to the Western model, has been an important modernizing in-

<sup>16</sup> H. Moschitz and M. Stolze, 'The influence of policy networks on policy output. A comparison of organic farming policy in the Czech Republic and Poland', *Food Policy*, vol. 35, 2010, p. 251.

fluence. EU accession and the use of European funds have obviously proved highly significant. For example, the European Commission has introduced a requirement that investments and projects carried out using EU funds be made subject to evaluation. Polish officials and experts participate in the process of EU policy programming. Europeanization of national policies is also taking place. This process is a complex one. Interventions are being engaged in pursuant to European objectives and priorities, albeit with results generated being different from those obtained in Western European countries.

The characteristic features of policymaking in Central and Eastern Europe (CEE) become clearer as we achieve a better understanding of the role of policy evaluation within a policy process. The point is that it is not daily practice in policymaking. Only policy programmes funded by the European Union (under EU Cohesion Policy) are being evaluated. The EU institutions have made this a legal requirement in the CEECs.

Within the framework of his extensive research, Karol Olejniczak made a successful attempt to assess the capacity of evaluation systems, claiming that Cohesion Policy evaluation has not been part of the wider organisational and institutional system. It has not worked to strengthen policy learning and capacity building. "What is more [...] evaluation has been perceived as another bureaucratic burden, mechanically executed and often associated with monitoring or control."<sup>17</sup>

In Poland, the general picture is quite mixed. There are some encouraging phenomena as well as negative ones. K. Olejniczak distinguished three separate sub-systems as regards such policy – operational, as well as reflective and strategic. The problem is that what we can see a predominance of operational sub-system over strategic and reflective subsystems, and what is more these sub-systems function in mutual isolation.

The international team of researchers have also analysed the Polish evaluation units<sup>18</sup> operating within public institutions. They regard

17 K. Olejniczak, 'Mechanisms shaping an evaluation system – A case study of Poland 1999-2010', *Europe-Asia Studies*, vol. 65, no. 8, 2013, p. 1643.

18 Under the research was 57 evaluation units which contracted out over 900 evaluations in the last 10 years. The researchers carried out a comprehensive survey ( $n = 57$  evaluation units, response rate = 80%) and interviews with leading evaluation units ( $n = 6$ ).

these as the knowledge brokers which engage in six groups of policy-related activity, including identifying knowledge needs, feeding knowledge to users or accumulating knowledge over time and promoting an evidence-based culture<sup>19</sup>.

The general picture of their policy activities seems mixed. Their role is increasingly significant in policymaking but many serious problems have emerged. The point is that, within policy process, different decision regimes function, meaning that the final policy decisions are often based on group interests or media opinions, rather than research results.

According to Olejniczak et al., evaluation units have limited understanding of information needs which are present or arise in strategic and operational sub-systems. They have a quite isolated position within policymaking (or among other institutions playing an important role in programming and implementing policies; meaning those running within strategic and operational sub-systems). As a result they have “little strength to initiate meaningful policy discussions or conduct an effective dissemination of the results”<sup>20</sup>.

K. Olejniczak also carried out empirical research on work policy (policy analysis) within governmental administration.<sup>21</sup> It emerged that only a small fraction of civil servants do a significant amount of policy work (engage in analytical activity). The policy work system with ministries thus leaves a lot to be desired.

## 2. Research hypothesis

2. In 2014, a group of Polish researchers analyzed 15 public policies in Poland<sup>22</sup>. Their aim was to test a hypothesis regarding the circumstances under which a policy or public intervention becomes

19 K. Olejniczak and E. Raimondo, T. Kupiec, ‘Evaluation units as knowledge brokers: Testing and calibrating an innovative framework’, *Evaluation*, vol. 22, no. 2, p. 174.

20 Olejniczak, ‘Mechanisms shaping’, p. 1663.

21 K. Olejniczak and P. Śliwowski, R. Trzciński, ‘The Role of Analysts in Public Agencies: Toward an Empirically Grounded Typology’, in: Wu Xun and M. Howlett, M. Ramesh (eds), *Policy Capacity and Governance: Assessing Governmental Competences and Capabilities in Theory and Practice*, Palgrave Studies in the Political Economy of Public Policy, London: Palgrave, 2017.

22 A. Zybala, *Prawidłowości w procesie formułowania polityk publicznych w Polsce. Raport z badań* [Characteristic features of the process of public policy formulation in Poland. Research report], Warszawa: Collegium Civitas, 2014.

formulated. The study was based on in-depth interviews with decision-makers, experts and officials (persons possessing insider status as regards the given public policy). They focused on the conditions under which a given public problem becomes apparent to decision-makers; the process by which such a problem is identified, analyzed and reacted to; the shape taken by the dialogue devoted to solving the problem, and so on. The research tools also included focus studies. Although the scale of the work precludes any more-far-reaching conclusions, such research is nevertheless significant in a country where no systematic analysis of public policies is carried out.

The authors have selected this research subject for several reasons. First of all, there is the aforementioned fact that such studies have not been carried out hitherto. At the same time, the issue is one that appears to have cognitive significance, inasmuch as that it may facilitate understanding of the entire process by which public policy functions, especially since there is apparently chaos as regards the benchmarks underpinning decisions as regards public action to solve a specific problem. The impression given is that, while the country faces multiple problems, only some of these go on to become targets for action. This makes it necessary to identify the factors inducing government circles to tackle one given problem, while leaving others unaddressed.

The researchers assumed that the decision to launch an intervention will depend on the nature of the prospective object thereof (the degree to which this problem may threaten state stability). The social process associated with the problem was deemed of lesser importance, notwithstanding the fact that this includes the pressure to find a solution society is able to exert (as J. Kingdon assumes in the theory of agenda in public policy).

In Poland, as in other countries of Central and Eastern Europe, decision-makers are more resistant to social pressure than counterparts in Western countries. This stems, among other things, from a certain flaw regarding democratic mechanisms: a lesser degree of civic activism. Furthermore, whenever a problem affects them collectively, citizens tend to rely on individual initiative and resourcefulness, rather

than trying to organize collective action<sup>23</sup>, especially with the help of public institutions.

The hypothesis was that a policy/public intervention becomes formulated and implemented where:

- there is a significant threat to stability, mostly to public finances (or a threat of socially visible crises under the given public policy),
- decision-makers are convinced that the legislative tools for action are enough to achieve the intended result, without resort being made to more complicated participatory procedures,
- a dominant stakeholder emerges and gains a decisive influence over the decision-making process.<sup>24</sup>

The analysis focused on macro-scale policies, such as those concerning retirement, waste and pharmaceuticals, as well as on micro-scale activities, such as the reform of pedagogical supervision, introduction of a free-of-charge textbook for primary schools, a program for repairing local roads, etc.

Studies have generally confirmed the validity of the above-mentioned hypothesis. They show that decision-makers do indeed intervene publicly to address a given issue mostly in situations where the problem causes a significant crisis and threatens state stability (especially in a financial sense), as well as when certain socially and medially conspicuous state functions become paralyzed (e.g. there are widespread problems with access to healthcare). In other words, the dominant approach to designing public interventions is reactive, rather than proactive, which is to say that there are few attempts to intervene before exacerbation of the problem occurs.<sup>25</sup>

A good example is retirement policy, which was reformulated substantially in 1999. This reform took place in the circumstances of retirement pensions requiring ever-greater subsidization from the national budget, to the point at which Poland's financial stability was threatened.

23 Idem, 'Polityka publiczna w warunkach socjologicznej próżni' [Public policy in a sociological vacuum], *Kultura i Społeczeństwo*, vol. 4, 2015.

24 In this comparison, I have deliberately omitted the situation in which a given public policy is developed because of EU Directives or other requirements associated with conforming to international policies.

25 W. Parsons, *Public Policy. An Introduction to the Theory and Practice of Policy Analysis*, Cheltenham: Edward Elgar, 2001, p. 186.

Reforms in drug policy were also carried out because of a direct financial threat to the healthcare system and to the country itself, because the costs of reimbursing medications were growing. In 2009 they constituted 24.5% of the health expenditure nationally. This was one of the highest ratios to be noted among OECD Member States (the OECD average was 17.1%; OECD, 2009).<sup>26</sup> As a result of the reform, a different mode of buying reimbursed medications was introduced; among other things, the reform imposed a financial limit on the sum which can be spent on medications by health facilities (up to 17% of total expenditure on public health).

Another example is “waste” (municipal waste management) policy. In 2013, this was reformulated in the light of a drastic occurrence entailing some 2 million tonnes of garbage being dumped annually in public places including forests and areas of unmanaged land. Many public locations were becoming polluted and less than 20% of all waste materials were being recycled (in Western countries over half are). There was also the growing danger that Poland would have to pay fines to the European Commission because of these poor statistics. One expert stated, “The previous system didn’t work. It was financially inefficient and incompatible with EU law. Compared with the rest of the EU, we beat all records for ineffectiveness. It was necessary to react. Earlier, three attempts at reforms had come to nothing”.

The reform of labor-market policy was undertaken when unemployment rates were high, but above all under conditions of extreme inefficiency of labor-market institutions (employment agencies), including via limited availability of support for unemployed persons, especially over the long term. Experts – working either within or beyond public administration – agreed that the actions taken were reactive in character, because they were undertaken in the face of huge problems that had been present for years. “The inefficiency of the authorities, including the excessive workload of employment agency personnel, had been visible for 20 years. Suddenly it was decided that something must be done about it. There was a lot of pressure to introduce outsourcing and aim towards the privatization of public services.”

26 K. Rybiński (ed.), *Rola grup interesów w procesie stanowienia prawa w Polsce* [The role of interest groups in the process of lawmaking in Poland], Warszawa: Vistula University, 2012, p. 72.

An attempt at reforming real-estate development policy was also undertaken after the problem became exacerbated, and also after the Constitutional Tribunal ordered the government to regulate the rights of a property buyer in respect of development companies. However, the problems faced by clients of development companies had been known for years.

In the case of foster-care policy, the style of action was also reactive. The interviewed experts agree on this. According to one of them, the problem had been identified in the 90s, when the number of children in foster-care institutions was growing (overcrowded state institutions for children, deteriorating living conditions).

According to an expert, urban policy was reformulated in response to media reports about its attendant problems, which had been huge for years. In his opinion, the state's actions in this area have as rule been reactive, appearing whenever some natural disaster occurs. However, the trouble lies in the fact that the program document contained no plans for making specific interventions – nothing which could moderate such interventions, even gradually, or clarify them. “There is no consistent policy which would formulate goals and the means for attaining them. The program documents which promise action are often created in line with the existence of a specific fashion. Because other countries have them, Poland should as well. Although there is a certain amount of pressure from the circles of architects and urban planners, this has proved ineffective for years.” And the problems with urban policy – particularly the so-called “urban sprawl” – remain daunting. There are no instruments for checking upon the development of this phenomenon, which causes a range of problems in other areas.

On the other hand, in the case of policies/actions on a smaller scale (the more niche ones), the motives for an intervention and the means of implementing it were varied. However, these interventions were often reactive in character. One expert stated that, in the case of mental health policy, there was “a risk of increasingly painful failure to fulfill public obligations, a risk of disgrace in the eyes of citizens”. Another expert, on the policy of pedagogical supervision, stated that the reason to intervene was the threat that pedagogical supervision might entirely cease to be a tool in the shaping of education quality. “It was necessary to find something that would enable us to continue

after 20 years of reforms in the policy of education quality management. Something had to be found.”

On the other hand, according to the expert’s opinion, a proactive style was apparent in education policy, in regard to the issue of introducing external examinations in primary and secondary schools. The expert also considered the introduction of digital devices into education another example of proactive action. The aim was to prevent digital exclusion, although this had already occurred, since these devices were used much more commonly in developed countries. Furthermore, they were introduced cautiously in Poland, mostly with the help of EU funding. According to an expert from a government institution, a proactive style of action was also adopted in anti-alcoholism policy. The intervention was undertaken to forestall the main potential risks. Even the name of the adopted program – the “National Programme of Prophylaxis” – implies that “we are trying to forestall the threat”, although in Poland alcoholism has been a deeply-rooted problem for a long time.

In the case of anti-nicotine policy, the expert pointed to the difficulty with judging unequivocally whether the style was proactive or reactive. In the beginning it had been rather chaotic. In governing circles, there were many supporters of a new policy towards nicotine, but also a number of opponents. After some discussion, it was decided to adopt a more proactive mode of action (public health protection had been the deciding argument). One of the experts thinks it was the expert milieu which ultimately led to proactive actions being taken. These specialists made politicians aware of the scale of the problem. “They were told that this is possibly a way to halt the epidemic of lung cancer and other cancers; it was also a way to show that the main health problems in Poland can be solved more cheaply.”

Yet another important phenomenon must be pointed out here: namely that some policies are reformed because of the obligation to adapt them to EU objectives, as well as to rulings of the Constitutional Tribunal. At other times, unsolved problems accumulate and no action is taken until a definite legal necessity appears. In 2011, the government reformulated its policy towards development companies as a result of a Constitutional Tribunal ruling (of 2 August 2010), which ordered the authorities to undertake a legislative initiative in order to regulate the relationship between the parties to a development

contract, in order to protect the rights of apartment-buyers (in most countries, such regulations have existed for many years). The Tribunal decided that the existing situation threatened the values enshrined in Article 76 of the Constitution, which decrees that consumers are to be protected against dishonest market practices. Increasingly common media reports of cases in which prospective apartment-buyers lost their money because of the unreliability or dishonesty of development companies (failure to meet contract conditions) were a source of additional motivation for the governing circles. Stability in the field of housing policy was coming under increasing threat, and there was a growing risk that the public authorities would also lose their ability to meet public obligations.

On the other hand, in the case of foster-care policy, actions were undertaken because it was necessary to implement EU law and conform to the trend recommending that care of children be deinstitutionalized (with children placed in foster families). At the same time, both experts participating in the study agreed that the government was afraid of the consequences of the exacerbated crisis in the functioning of children's homes (extreme overcrowding, poor conditions for learning). These problems had been apparent since the early 1990s. Non-governmental circles had prepared proposals for changes many years before the government's final decision to carry out a reform.

Some of the public actions in Poland also take place because of an intention to implement solutions used in Western countries, or at least in some of them (policy transfer); or to adapt the existing solutions to Western models. One example is the introducing of external examinations carried out by an extracurricular organization in schools (1999). The aim was for the results of these examinations to be compared between schools. In many countries this kind of approach represents an important instrument of educational policy.

### **3. Instruments for action in public policy**

The study also focused on instrumentation applied in policy actions. The hypothesis was that a public intervention takes place when decision-makers are convinced that resort to instruments of hard, imposed regulation will suffice to achieve the intended results (e.g. without having to implement advanced participatory procedures).

Research confirmed this. In regard to the reform of educational supervision policy, the respondent says: “Hard tools’ – the ordinance – predominated; if there were any ‘soft’ instruments, such as public consultations and deliberations, they proved completely insignificant in the light of the solution ultimately adopted. They were hypocritically doctrinal in character”. In the case of real-estate development policy, “hard” tools obviously predominated. However, in the expert’s opinion this reflected the nature of the problem. “The matter could only be regulated by law. It was the Act that regulated the market.”

Legislation also dominated in the reform of labor-market policy (dealing with a new way of diagnosing the level of deactivation of the unemployed and introducing new contractors to perform the services aimed at activation of the unemployed). This was despite the fact that the success of the reform obviously depended on the attitudes of some of the stakeholders, especially officials at Employment Agencies. These officials were burdened with the additional responsibilities of working with the unemployed, so the effectiveness of the new solutions depends on their level of motivation and on how well they understand the tasks they perform. However, the persuasion and inspiration offered to them were very limited.

The plan for reforming waste policy also involved entailed a high degree of reliance on legislative instruments. One of the experts questioned claims that the use of “soft” instruments had also been foreseen, but only in regard to further phases of implementation of the reform. “The governing circles realized that, during subsequent stages of the reform, the line of highest resistance would be located within society. Education plays a huge role in this issue. Citizens won’t develop the ability to keep order and segregate waste just because the Sejm [the lower house of the Polish parliament] has adopted new regulations [...]” An expert from the governing circles is aware that an Act can be created in a short time, but people won’t necessarily react to the new regulations in the expected way. “The Act contains provisions on the necessity of education. Funds for environmental protection are required to create educational programs and this is achieved in practice. There are always several stages of turning knowledge into practice. The first one is learning, the second – consolidation, the third – when these and other things combine into a way of acting. This may take

generations. However, there is a rising awareness that as the twig is bent, so grows the tree [...]"

Anti-nicotine policy constitutes yet another case. In an expert's opinion, both "hard" and "soft" tools were used here. However, a dispute ensued. Medical circles postulated the use of "hard" tools (legal solutions). However, politicians opted to rely on "soft" tools instead, because they were cautious, and feared the consequences of restrictive actions, which could have political repercussions (losing part of the electorate) as well as economic ones (a loss of budget revenues).

## **4. The dominant stakeholder and confrontations between stakeholders**

Research has also confirmed the third element of the hypothesis, which contends that a public policy regarding a problem becomes formulated when a dominant stakeholder emerges and gains a decisive influence over the decision-making process. In the analyzed case studies, such a stakeholder is almost always the government itself. Mental health policy is the only exception, although in this case the draft of the reform contained no executive elements.

The term "dominant stakeholder" has broad significance in this study. It means that such a stakeholder is capable of one-sided action, for example inducing Parliament's adoption of the legal acts necessary for a given policy to be implemented. However, this is also a stakeholder that can achieve its goals despite opposition from other stakeholders and is able to deal with the confrontational nature of the relations within their circle. Furthermore, the dominant stakeholder need not resort to the mechanisms of dialogue and deliberation.

In the case of the drug policy reform, the governing circles acted in a one-sided and confrontational manner in regard to some pharmaceutical companies (the producers of innovative medications), which were to incur losses after the introduction of the changes. There was a general spirit of confrontation between the stakeholders. This resulted in a lack of dialogue, along with typical legal action on both sides. For example, pharmaceutical companies obtained comprehensive expert reports showing that the proposed changes are at odds with the Constitution. The government's main objective was to cut spending on medication, and it was obvious that some of the companies must bear

the costs. The government saw no reason to negotiate the conditions of this expenditure reduction with the would-be affected.

In the case of waste policy, too, the government's actions were one-sided in regard to the main stakeholders – the waste removal companies, which incurred losses as a result of policy changes, and to a certain degree in regard to the local authorities, who were to take over the responsibility for waste management. When the policy was being formulated, the government purposely avoided dialogue and deliberation; these were allowed only after the reform drafts were ready. The governing circles feared aggressive lobbying by commercial firms, e.g. in Parliament, as well as attempts to introduce provisions in the amended act which would be detrimental to the planned reform. "It was necessary to constantly keep a watchful eye on the provisions of the Act because various interested persons and circles wanted to alter them at different stages, using various methods. Such a situation had already taken place in the past. In early 2010, when there was no incumbent Minister for the Environment because it was taking longer than anticipated to find a new one, such changes were made in the draft of amendments to the Act introducing the reform that when the outgoing Minister saw them, his hair stood on end."

Policy towards real-estate developers represented a different situation. In this case, the government actually adopted draft legislation prepared in a non-governmental setting. However, the undertaking of a public intervention was forced by a ruling of the Constitutional Tribunal, which indicated the extent of consensus between the parties (developers and their clients). The governing circles were reluctant about this intervention, as was the main stakeholder group in this policy – the developers. In an expert's opinion, a moderately marked propensity for confrontation evolved. This was caused by differing perceptions as to the goals needing to be achieved. Nevertheless, the expert stated that the intervention had been designed under conditions of a pluralistic coalition, in which developers changed their attitudes after coming to the conclusion that regulations are inevitable. They had initially attempted to keep the legal status quo as unchanged as possible.

Polish literature on the subject contains opinions indicating that those in governance undertake actions when they become the dominant stakeholder and need not resort to a process of consultation, so-

cial knowledge-building about the object of action<sup>27</sup>. This is probably associated with a clear propensity for confrontation between stakeholders, and their unwillingness to mitigate conflicts of interest; both tendencies are very conspicuous in Poland. Public analysis of the complexity of interests in a given intervention takes place with difficulty at best. All this creates a specific climate for public action, and also gives rise to the belief that in the successful design and implementation of interventions, the dominant stakeholder has to “curb” the others.

In Poland, a strong propensity for confrontation is visible in social relations, including the relations between stakeholders of public policies. The weakness of institutions responsible for social and civic dialogue has been proof of this for many years. These institutions exist, but have never played a significant role. Furthermore, they came into being relatively late when the dates of establishment of analogous institutions in the Czech Republic and Hungary are referred to. In fact, two years ago the work of an institution for tripartite dialogue (the Tripartite Commission) became stymied. Trade unions decided not to participate in its activities because of acute conflict with the government. Furthermore, the scope and scale of collective agreements in the economy are minimal. The mechanisms for public consultations of draft legal acts are very weak, and constantly under criticism by non-governmental circles. The draft proposals leading to public interventions are very rarely subject to mechanisms of deliberation in the form of published “Green Papers” or with analysis of an important issue entrusted to a person of more considerable scientific authority.

A propensity for confrontation probably also gives rise to a tendency for activities to become informal and coalitions of interest groups formed, the latter not openly disclosing their goals to the general public. Multiple scholars in Poland point to the informal basis characterizing decision-making processes in respect of many public policies. Informal, temporary coalitions are established between the strongest stakeholders representing various factions, be these corporations, employers, or public administration, sometimes with the participa-

27 C. Włodarczyk, *Reformy zdrowotne. Uniwersalny kłopot* [Health care reforms. A universal issue], Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego, 2003, p. 245.

tion of trade-union or regional groups<sup>28</sup>. Agreements often relate to the protection of group interests in obsolete sectors of the economy.

The propensity for confrontation may also stem from the fact that in most policies, actors pursue interests defined rather narrowly as group (corporate) material interests. This manifests itself as a striving by the given group to secure higher incomes for itself, or at least to ensure that existing income is protected.

Significantly, in public policy it is assumed that stakeholders maximize their values (gratifying outcomes) inherently, so to speak, by influencing the resources available under the given policy and the institutions participating in it. This does not mean that the only aim is the pursuit of financial interests<sup>29</sup>. H. Lasswell in fact enumerated 8 values sought by stakeholders, besides material values and power (where power is understood as the ability to overcome rivals in the quest to meet needs). He also mentioned efforts to gain knowledge and ability (through participation in public interventions) and to ensure that needs as broadly conceived are achieved, with respect and positive feelings towards themselves elicited, as well as support for their own values gained.

## Conclusion

Research has also indicated a range of other problems apparent in the process of formulating public policies. Among the most important ones are:

- the limited scope of generated analytical knowledge, including a lack of risk analysis and a lack of evaluation reports,
- the fact that stakeholders focus strongly on group interests and have a poor propensity for mitigation of conflicts of interest,
- a weak propensity to act by creating pluralistic and open networks and coalitions.

28 J. Staniszkis, *Postkomunizm* [Post-communism], Gdańsk: Wydawnictwo słowo/obraz/terytoria, 2001; J. Sroka, *Europejskie stosunki przemysłowe w perspektywie porównawczej* [European industrial relations in a comparative perspective], Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego, 2000; J. Hausner, *Pętle rozwoju. O polityce gospodarczej lat 2001-2005* [The loops of development. Economic policy in the years 2001-2005], Warszawa: Wydawnictwo Naukowe Scholar, 2007; A. Zybortowicz, 'Anti-Development Interest Groups', *Polish Sociological Review*, no. 149, 2005.

29 H. D. Lasswell, *Preview of Policy Sciences*, New York: American Elsevier Publishing 1971.

The above-mentioned problems would certainly be easier to solve under conditions of a rapid development of knowledge about public policy, including a greater propensity to engage in comprehensive analysis of public issues. With a certain dose of optimism one may say that there is growing interest in the generation of knowledge that will help formulate and implement policies. Nevertheless – in Poland in particular – this progress begins from a low level and is hindered by a general lack of any deeply-rooted Cartesian tradition of the kind that would favor emerging problems being tackled specifically by means of analysis and the building of mature options through which they might be resolved.<sup>30</sup>

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