

## X. CENTRAL EUROPEAN IR UPON ENTRY INTO THE EU

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### Evolution of Social Dialogue in Poland

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Citizen and social dialogue has a relatively long history in Poland, starting from quasi-dialogue between Edward Gierek and the Szczecin shipyard workers during the 1970–1971 crisis. Later, there was a big debate between the Party leadership and the representation of the society in the August of 1980, and, after seven dark years of martial law, the Round Table talks in 1989. After the collapse of authoritarian socialism in 1989, there was a break in dialogue at the nation level, which lasted almost three years (1989–1992). This break was due to the fact that “Solidarity,” a large Polish union, became, for some time, the one and only master of the situation after the triumphant victory over authoritarian socialism and the bloodless revolution (Ost 2001, 89).

The concept of social dialogue is understood as the whole of reciprocal relations between trade unions and employer organizations (autonomic dialogue), or between the two social partners and the government (tripartite dialogue). Citizen dialogue comprises the government’s forms of communicating with NGOs (Principles of social dialogue 2002).

The emergence of the Tripartite Commission for Social and Economic Affairs in Poland was connected with a wave of social conflicts in the early 1990s. During that period, there were many strikes related to, among others, privatization, that made the government fix the rules for further transformation of the sector of state-run enterprises. The government assumed that state-run enterprises were ineffective and ought to be privatized as soon as possible. This move was resented by various groups of employees. In 1993,

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employees wanted their enterprises to remain state owned (59.1 percent), or to be converted into employee-owned companies (28.7 percent). Only 10.7 percent consented to the purchase of their enterprise with private capital (Gardawski and Żukowski 1994, 51). The government recognized the need to reach a compromise between the aims of economic reform, and the fears and aspirations of workers. It must be added that "Solidarity" leaders on a plant level accepted the ideas of privatization of state-run enterprises to a greater extent than the other groups of employees did.

In this atmosphere, in July of 1992, the government addressed trade unions and the Confederation of Polish Employers (KPP), the only existing large employer-organization, with a proposal to hold negotiations on the national level in order to reach a pact concerning the future of state-run enterprises, group layoffs, etc. According to the essence of this contract, the principles of the most important legislative acts governing the situation of state-run enterprises and their employees were to be agreed on through negotiations with social partners. This was in regards to the process and instruments of privatization as well as social issues. From among trade unions, nine organizations joined the negotiations ("Solidarity," OPZZ, and seven more minor trade unions). Negotiating this difficult pact took a relatively short time, a little more than half a year, and in February of 1993 the pact was signed. When it came time to sign the pact, however, it turned out that "Solidarity" did not agree to sign with OPZZ. As a result, the pact was signed three separate times—once with "Solidarity," once with OPZZ, and once with the seven other participating trade unions. Looking back, this pact is seen as a big achievement of the social dialogue in Poland. However, it must be remembered that this pact was a case of bipartite negotiations between the government and state-run enterprise managers subordinate to the government, with members of KPP on one side and trade unions representing employees on the other side. According to those who participated in these negotiations, they were characterized by a relatively high level of professionalism. It is thought today that this professionalism is what prevented the negotiations from being excessively influenced by politics.

The Tripartite Commission for Social and Economic Affairs was to be a consultative body, and its decisions were to be non-binding guidelines for future actions. In accordance with the primary regulations from 1994, the Commission was to monitor the economic processes, assess the mechanisms applied in social-economic policy, and formulate opinions and conclusions to be applied in various aspects of the State policy. Researchers studying the activities of the Tripartite Commission have, however, pointed out that despite the fact that the Commission and its members could not force the government to do anything and that the group of social partners present was not representative enough,

subsequent governments tried very hard to obtain the Commission's acceptance of their decisions in order to give them social legitimacy.

According to analysts, the main problem with the Tripartite Commission at this stage was that it was not really representative, especially of private sector employers. The Tripartite Commission was not representative for three reasons: no representatives of local structures were present, the trade unions and employer organizations included in the Commission did not represent the full spectrum of employees' and employers' interests, and the trade union and employer representations within the Commission were unable to effectively influence the behavior of the groups they represented.

The political climate changed at the end of 1996. Kazimierz Frieske, who studied the activities of the Commission at the end of the 1990s and sat in on its sessions, claims that at this time the unions remained the political base of both the governing coalition and of its political opponents. Thus, the Tripartite Commission became an element of the political system (Frieske and Machol-Zajda 1999)—the union organization that was part of the governing coalition at any given moment did not take the opinions of the other trade unions in the Tripartite Commission into account. This induced the other unions to leave the Commission, making the Commission's work difficult or even impossible. "Solidarity" and OPZZ periodically shifted between the ruling coalition and the opposition, and these periodic shifts often paralyzed the activities of the Commission.

Despite the lack of agreement, the Commission and its teams continued. Trade union leaders when asked (at the time the Commission's activity was stopped) whether it was worthwhile to participate in the sessions, answered that it was more important to participate in the legislative process than to reach agreements. Draft acts prepared by the government, provided that they concerned broadly understood issues related to employees, were discussed at the Tripartite Commission sessions, and any given party could have a bigger impact on these drafts there than in the usual course of consulting social partners. On the other hand, the work on the draft Act on the Tripartite Commission was especially intense. All the partners wanted to strengthen the institution by regulating its activity by an Act of Parliament (unlike the present situation when it was regulated by the resolution of the Council of Ministers). Two issues were addressed in order to resolve the disagreement over this Act—the criterion of representativeness of the partners and the mitigation of the requirement, according to which rendering opinions required the consent of all the organizations participating in the Commission. Finally, two similar drafts were prepared: one by the government and the other by the members of Parliament. The Parliament passed the Act on the Tripartite Commission on July 6, 2001.

To sum up, the period 1994–2001 can be divided into two periods: 1994–1997, when the Tripartite Commission turned out to be an active institution, able to unanimously fix the level of economic indices. These positive years of activity were related to Jerzy Bączkowski—deputy minister and subsequently minister—who chaired the Commission. He treated the work of the Commission as a social mission, and the partners felt that they were participating in an institution important for social order and system transformation. The death of Mr. Bączkowski coincided with an increasing influence of politics on the work of the Commission. It ceased to be a place of social dialogue where opinions were rendered, and instead became a forum where political and ideological disputes took place. This dispute separated left-wing OPZZ—connected to the “post-communist” Democratic Left Alliance—from right-wing “Solidarity.” It was this experience of dispute that Barbara Gąciarz and Włodzimierz Pańków (2001) based their extremely critical dialogue assessment on. They enumerated, *inter alia*, the following causes of weakening social dialogue after 1996: voluntarism of the State authorities in the process of carrying out system and branch reforms, subordinating the trade union activities to the main political forces, lack of maturity and organizational underdevelopment of employer representations, weak institutionalization, personalization (excessive participation of individual representatives instead of institutional ones), the phenomenon of the dialogue being only apparent, making the dialogue ideological, narrowing the dialogue to secondary issues, and the lack of backroom experts and intellectuals.

### **New Situation from 2001 Onwards**

Four events that took place in 2001 significantly influenced the situation of the Tripartite Commission. The first was the termination of the trade unions’ active involvement in political issues, which raised hopes for their increased identification with the activities of the Commission. After the last parliamentary elections (September 2001), trade unions no longer have representatives in parliament (there are nineteen trade unionists from OPZZ who are members of parliament, but they do not act as a separate group and do not represent trade unions’ interest).

Trade union involvement in politics did not yield the expected results—it prevented neither the weakening of the trade unions nor the deterioration of the working conditions of employees. The phenomena of weakening trade unions have been examined since the mid-1990s (Gardawski et al. 1998; Gardawski 2001). In my opinion, the reason trade unions in Poland became weak was not only their involvement in politics but also the specific problem of “pluralism creating conflicts,” which emerged due to a number of factors (Gardawski 2003). Moreover, trade unions found that the erosion of the trade

union movement in Poland was mainly due to the subordination of their interests to those of political parties. Some “Solidarity” leaders were especially aware of this. Before the 2001 elections, both “Solidarity” and OPZZ announced that they would change their methods of exerting influence on political issues. This naturally pushed the trade union organizations towards utilizing the Tripartite Commission.

The new Act introduced a criterion of representativeness to the partners and made it difficult to prevent new participants from joining the Tripartite Commission. It also extended social dialogue by enabling it on the voivodship level.

Another change was the acceptance of the post of the Labor Minister and the chairman of the Tripartite Commission by Professor Jerzy Hausner, an excellent negotiator. Professor Hausner had in the past been involved in introducing new pension schemes and was also a theoretician of social dialogue. Undoubtedly, he is a champion of developing social dialogue, but on various occasions he has said that dialogue may make governing the country more difficult (Hausner 1995). From the very beginning, Hausner has been seen as a strong participant in the dialogue who in some situations has been able to make his opinion heard. The personality of the chairman has always had a great impact on the functionality of this social dialogue, and this continues to be the case at present.

Finally, very serious budget problems are the last important fact influencing the functioning of social dialogue; these problems have caused the government to look for ways to cut social funds.

### **Starting Point of the New Tripartite Commission**

The new legal situation of the Tripartite Commission entailed very important changes. Introducing the criterion of representativeness (three hundred thousand members in the case of trade unions, or that number of employees in the case of employer organizations) opened doors for possible new social partners. Three organizations grouping private employers, the Polish Confederation of Private Employers (PKPP), the Business Center Club (BCC), and the Polish Craft Association (ZRP), aspired to participate in the Commission. A newly organized trade union federation—“Trade Unions Forum” (Forum)—also had the same aspirations. The Forum was based on some small trade unions who participated in the former Tripartite Commission but were deprived of the right to participate independently due to a small number of members. Those trade unions joined with other small trade unions (some of them belonged to OPZZ in the 1990s) to gain access to the Commission.

I want to stress, however, that the addition of new participants to the Commission exposed some limitations about the way the Commission worked in

particular and about Polish social dialogue in general. Before 2001, when some employer organizations wanted to participate in the Commission, their applications were turned down and a reference to the future Act was made (they were told “you will participate, after the new Act has come into force and the representativeness criteria have been fixed”). It must be added, however, that in accordance with the resolution of the Council of Ministers from 1994 it would have been possible for these employer organizations to participate in the Commission provided that all the existing members agreed to it. KPP closed the doors for PKPP. When the Act came into force, the old social partners, except for “Solidarity,” were in fact opposed to the idea of enlarging the Commission (despite their previous promises). Moreover, when the PKPP proved its representativeness in court and became a member of the Commission, it tried to block the access of the next candidate, the Business Center Club (BCC). A similar case occurred when OPZZ tried to deny Forum access to the Commission by using methods that were not fair. OPZZ leaders even managed to have the Act amended. These activities indicated that unfavorable phenomena—such as the instrumentality examined before—persisted on the Commission; from the point of view of particular partners, participation in the dialogue was related only to their own, narrowly understood interest, and agreements between partners were only a tactic (“exchange of favors”). If trade union activists came to terms with employers, as a rule they did so only to obtain some concessions from the government. There were very few exceptions. Participation in the Commission makes the organization more attractive, as it enables it to lobby the interests of their own members more effectively. Moreover, it ensures access to the highest levels of the executive power and allows an organization to realize the interests of its own constituency as well as those of the elite running the organization—and last but not the least, individual interests of those participating in the Commission. All in all, a strong will to monopolize participation in the Commission may be viewed as a lack of readiness for a wide social dialogue.

This short summary of social attitudes towards organizations may be completed by two optimistic facts for the dialogue. Firstly, according to CBOS surveys, most adult Poles found trade unions weak, but more than a half of the inhabitants of Poland believe that trade unions should have a bigger impact on governing the country (e.g., in 2001, some 65 percent of people asked gave this answer). Secondly, approximately 70 percent of the citizens of Poland declared constantly in the period 1994–2001 that all important decisions should be jointly considered by the government, trade unions, and employers (Gąciarz and Pańków 2001, 9). The CBOS studies from 2003 mentioned above found that the term “Tripartite Commission” evokes decidedly positive associations, although little was known about its activity.

## Social Partners

The main problem with employer organizations is the complexity of interests they represent. On the one hand they want to be—and in reality very often are—representatives of big environments of entrepreneurs. Assuming this role, in the present situation they are becoming a natural ally of the government side because they advocate cutting public expenses and reform of the State finances. They are ready to look for savings in public expenses; they are elaborating appropriate plans and proposals. At the same time, they are aiming at cutting taxes for entrepreneurs, arguing that such a cut will increase the chances for quicker economic growth. Here, they are also backed by the government, which shares their reasoning.

On the other hand employer organizations are lobbying groups. Their existence depends on entrepreneurs (especially big ones) who expect protection of their group interests. This is why sometimes when an employer organization starts lobbying, it obstructs solutions of the Tripartite Commission that are unfavorable for a capital group or a branch of industry.

It seems that the most important and difficult challenge for the employer organizations is keeping the shaky balance between a given segment of the employer class and lobbying or even lobbying concerning big, individual companies. Long term social dialogue requires that this balance is kept and lobbying is conducted in compliance with some rules.

The situation of trade unions is generally even more difficult than that of employer organizations. As Jonathan Stein wrote referring to Claus Offe: “the impact of neocorporatist depoliticization is asymmetrical with respect to different types of organized interest. By inducing working-class organizations to moderate their demands and behave more ‘responsibly,’ neocorporatism restrains union power far more than is the case of employers associations, whose power does not reside in organization” (Stein 2001, 68; Offe 1981).

The situation of trade unions in Poland is additionally complicated due to the fact that the government must stimulate economic growth, which entails some social costs to be incurred by the working class. It is a question of limiting social funds and supporting employers’ aspirations for the government. Employers want to achieve some deregulation of labor relations by introducing flexible forms of employment, etc. This goal is the reason the trade unions participating in the Tripartite Commission (especially “Solidarity”) are in a very delicate situation.

In respect to the government side, it must be said that the chairman of the Tripartite Commission, Minister Jerzy Hausner, initially headed the Ministry of Labor and subsequently took the post of the Labor and Economy Minister (after the Ministry of Labor was merged with the Ministry of Economy), as

well as the post of the deputy Prime Minister. The scope of his duties encompasses all socioeconomic problems of Poland. This position enabled him a comprehensive management on all issues, entering into the Commission scope of work. He gave the Tripartite Commission his own style of work. Taking into account the complex budget situation of Poland and the necessity of reviving the economy, he proposed social partners to reach a new social pact. Negotiations lasted almost all of the year 2003. Although the intended aim has not been reached so far, a new form of dialogue was shaped while working on this issue.

### **From “Pact” to “Agreement”**

In February 2003, the Minister of Labor proposed a draft “Pact for Labor and Development” to representatives of trade unions and employers at a session of the Tripartite Commission. The aim was to come up with a complex solution to address many of the problems currently facing the country. Negotiations commenced over a comprehensive agreement involving all Tripartite Commission participants. The chair of “Solidarity” signed a preliminary declaration of willingness to commence negotiations, without first consulting the “Solidarity’s” National Commission (KK “Solidarity”). This move brought sharp criticism from the KK “Solidarity,” and the chair was forced to abandon the negotiations. “Solidarity’s” withdrawal was apparently related to its general antipathy towards the current left-wing coalition. “Solidarity” was not convinced as to the government’s motivations and intentions, and it was reluctant to offer it any legitimacy by agreeing to a “Pact” with its representatives. A major role in this development was also, it appears, played by internal divisions within “Solidarity” and the weakness of its leadership. However, throughout this turbulent period, “Solidarity” continued its involvement in the other work of the Tripartite Commission and in its “problem teams,” declaring that it supported social dialogue as such and did not want to leave the Commission.

The government, the employer organizations, and the two other trade unions represented on the Commission—OPZZ and Forum—were still all interested in negotiating the basic social and economic issues falling within the ambit of the proposed Pact. Accordingly, it was proposed that, rather than discussing a pact, work should be focused instead on a “Social Agreement” whose scope coincided exactly with that of the former proposed pact. After this semantic adjustment, NSZZ “Solidarity” agreed to join the negotiations, which duly commenced in May 2003 and were pursued intensively for several months.

On September 2003, two trade unions (OPZZ and Forum) and all the employer organizations reached an agreement. This agreement was accept-



ed by the government and was considered an important foundation for a fuller social agreement in the future. Under the September agreement, the trade unions involved acceded to a proposal from the employer organizations whereby private enterprise owners should be taxed at a flat rate of 19 percent (rather than progressively) while employees would continue to pay taxes on the progressive scale of 19 percent, 30 percent, and 40 percent. This tax reduction marks a very important development for the small and medium-sized enterprise (SME) sector. In exchange for their agreement to this solution, the unions insisted on two important concessions—an increase in the minimum wage and a wage increase for the public sector exceeding the inflation rate. NSZZ “Solidarity,” however, did not sign this agreement.

KK “Solidarity,” although it has not announced this decision in public, has decided that it will reduce its involvement in work of the Tripartite Commission to a bare minimum without actually leaving it. NSZZ “Solidarity” gave some direct reasons for its refusal to sign the preliminary agreement and for its withdrawal from negotiations over other issues covered by the envisaged “Social Agreement.” The most important fact, however, was a new strike threat in the country (partly directed by “Solidarity” itself), and it was not a good moment for this trade union to sign an agreement within the Tripartite Commission. For the first time in those negotiations, there appeared a sharp distance between “Solidarity” on the one hand and all the other partners on the other hand. Moreover the attitude presented by “Solidarity” was very difficult for the government to accept: it wants to use privileges from sitting in on the Tripartite Commission, but it also wants to retain the right to organize strikes and it does not accept any limitations in this matter. It was an important limitation of the principles of social dialogue and also of the Act on the Tripartite Commission from June 2001, which aims at the “aspiration to achieve and keeping social peace.”

The attitude presented by “Solidarity” created a dilemma for the government and the social partners. It was an important challenge for the government: should negotiations go on in the name of social dialogue, which is of the utmost value, when one of the trade unions uses direct strike pressure? It questions the very idea of social dialogue. The other trade unions and employer organizations were faced with an equally important challenge. According to some signals from high government officials, the government would not get involved in dialogue under strike blackmail. The government would not breach the Act on the Tripartite Commission, but it would give it as little attention as possible.

During the next two months talks were held, but when the accepted time period finished it turned out that it was not possible to sign the “agreement” because “Solidarity” did not accept it. In December 2003, a plenary session

of the Tripartite Commission was held during which Minister Jerzy Hausner officially declared the failure of negotiations concerning the "Social Agreement." Hausner indicated that "Solidarity" was the organization that was to the greatest extent responsible for the failure of negotiations: "social dialogue held within the Tripartite Commission continues and yields some effects, but it can be easily seen that some organizations represented in the Commission put more energy in protests than in negotiations. When the idea of the social pact was turned down due to the attitude of 'Solidarity,' I said on behalf of the government that eventually some decisions will have to be taken, and a choice between protests and talks, the street and dialogue be made. But in the past months we were practically 'between'—on the one hand we held talks, on the other hand new demonstrations and strikes were being prepared."

"Solidarity" leaders, in turn, on various occasions explained why they resented signing the Agreement with the government. Their complaints boil down to one thing: they do not have enough trust in the government because they think that the government does not control the situation in the country to a satisfactory degree and is manipulated by informal groups that do harm to the Polish working class. Moreover, they believe that the government has chosen a policy that is too liberal and represents employers' interests. The apparently leftist character of this government is underlined. However, this does not change the fact that "Solidarity" still wants to use privileges it has because of participating in the Commission (for example, lobbying for some industrial centers).

For the first time in the ten-year history of the Tripartite Commission, there is a relatively constant, institutionalized dialogue between trade unions and employer organizations (real autonomous bipartite dialogue). The strategy taken by "Solidarity"—avoiding binding agreement, negotiating minor issues, and directing strikes—was not accepted by the other trade unions. Moreover, social partners realized the dilemma: real dialogue and using its privileges or formal dialogue that will yield very little. Partners also realized that they were able to talk to each other, reach compromises, and come to relatively important agreements. They realized that in the case of the institutionalization of such a dialogue, the government side would be willing to back proposals, as long as they did not weaken the financial situation of the country (obviously).

Thus, the ambitious plan advocated by Minister Hausner did not lead to the intended purpose, which was to sign the "great" Pact, nor did it result in a "Social Agreement." It did, however, create opportunity for solid institutionalization of two-sided social dialogue. This, in turn, may create opportunity to complete the parliamentary democracy with a consensus democracy, in which a greater part of society than now will participate.

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