

Seminar DIADSE project:
Labour Law Reforms and Social Dialogue in the EU

Workshop II
(Re)-building Social Dialogue Structures:
the Central and Eastern Europe case
Poland

Miroslaw Wroblewski, Magdalena Kurus

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University Carlos III-Madrid

Salón de Actos Campus Puerta de Toledo, Madrid

Social dialogue in Poland is one of the foundations of the State and its economy

Constitution (1997)

- The **Constitution – basic law for the State**, is based on **respect for** freedom and justice, cooperation between the public powers, **social dialogue** as well as on the principle of subsidiarity in the strengthening the powers of citizens and their communities (Preamble)
- A social market economy, based on the freedom of economic activity, private ownership, and solidarity, **dialogue and cooperation between social partners**, shall be the basis of the economic system of the Republic of Poland (art. 20)
- Freedom of association (art. 12, 58, 59)

Legal basis for social dialogue

- **Law of 6 July 2001 on Tripartite Commission for Social and Economic Affairs** and voivodship commissions for social dialogue
- previously, since 1994, based on Resolution of the Council of Ministers – execution of provisions of the Covenant of the state enterprise in the course of transformation
- Act on trade unions (1991)
- Act on employers organizations (1991)

Tripartite Commission for Social and Economic Affairs

- A forum of social dialogue held in order to conciliate the interests of employees, the interests of employers and public welfare
- TC: 3 representative trade unions
4 representative employer's organizations
representatives of the government

Trade unions

data of Central Statistical Office of Poland, published 2015

- In 2014, the trade unions had **1.6 million members**, i.e. 5% of the adult population of Poland, **11% of all workers, 17% employees employed by virtue of contracts of employment (Labour Code)**

Judgment of Constitutional Tribunal of 2 June 2015 (K1/13)

– the possibility of joining the trade unions of individuals employed in other forms as stem from the Labour Code

- 83% trade unions members belonged to organizations affiliated to the three union centrals, which were represented in the Tripartite Commission
- 12.9 thousands of active trade unions (out of 19,5 thousand registered)

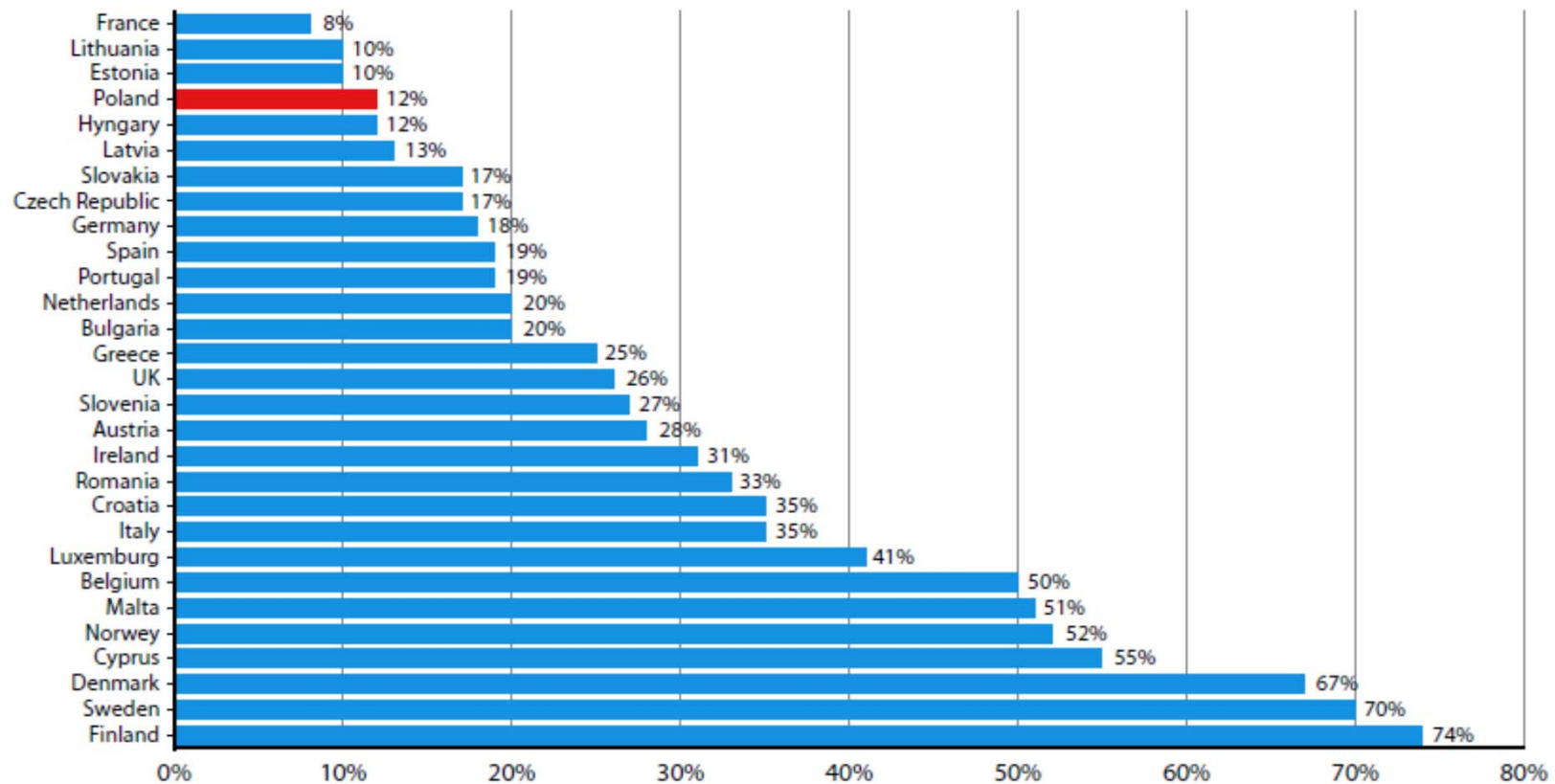
Trade unions

data of Central Statistical Office of Poland, published 2015

- The structure of membership in trade union organizations within the company indicates that most people belonged to unions acting within the framework of **education** (24%), followed by manufacturing or health care and social assistance (12% each). However, when we compare the data on the membership number of employees in the industry in companies employing more than 9 people, the largest share of workers affiliated to the trade union is in **mining sector** (72% of workers)
- Trade unions operates rather in **public sector** – in 62% workplaces we can find trade unions, while for the private sector – in 38%

The problem of trade unions in Poland is not a small number of members, but their uneven distribution in individual industries and companies. Trade unions are concentrated in the public sector, and they are almost absent in the private companies and modern sectors

Graph 2. Proportion of employees in union in European countries



Source: <http://www.worker-participation.eu/index.php/National-Industrial-Relations/Across-Europe/Trade-Unions2>

Employers' organizations

data of Central Statistical Office, published 2015

- The number of active employers' organizations persisted in recent (2010-14) years at the same level - about 0.3 thousand
- 70% operates throughout the country; 10% is active on international fora
- 45% located in Warsaw

Employers' organizations

data of Central Statistical Office, published 2015

- In 2014 the employers' organizations had 16.3 thousand members. These were mainly legal persons, or various types of enterprises, institutions and organizations of lower level (74%), but also individuals engaged in business activities (26%)
- On average, one employers' organization had in 2014 57 members, half of the organizations, however, this comprised no more than 24 members

Social dialogue in the times of crisis (2008-2015) – 4 phases

In Poland social dialogue in recent years proceeded at an uneven pace. Analyzing *ex post* the activities within tripartite institutions and the intensity of autonomous dialogue it is possible to distinguish a few phases:

- I. – significant **activation of social dialogue**, both in bi- and tripartite configuration, finalized by enactment of the anti-crisis legislation (early period of global recession, i.e. late 2008 and 2009)
- II. – **weakening impact of social partners** and growing tendency of adopting important regulations through **unilateral decision-making** process within the government, which ended up in withdrawal of trade unions from the Tripartite Commission (late 2009 - mid-2013)
- III. – **suspension of tripartite dialogue** (since 26.06.2013 – mid-2015)
- IV. – **hope for revival**, marked by passing the law *on Council of Social Dialogue and other institutions of social dialogue* (24.07.2015)

„Milestones” – the effect of bipartite / autonomous dialogue of social partners

- **Anti-crisis Package**
 - the social partners presented a list of 13 proposals on which they had achieved consensus and they were submitted to the government with an aim to combine two objectives: ***protecting jobs and supporting companies*** (March 2009); some of the proposals were enacted
- **New, tripartite social dialog institution: Council of Social Dialogue**
 - new, expert project was initiated at the meeting of the leaders of the trade unions and employers' organizations, the existing members of the Tripartite Commission (February 2014) -> social partners presents a draft legislation (January 2015) -> the Act is adopted by the Parliament (July 2015) -> the President of Poland appoints members of the Council (September 2015)

Social partners position

– why tripartite institution became a failure?

Unilateral decisions of the government -> Lack of trust, combined with institutional weaknesses

- *I can see the turning point in 2010, when for the fourth time the minimum wage was accepted by each side of the tripartite dialog. Later, the Minister of Finance at the meeting of the Council of Ministers challenged this arrangement and suggested a lower amount, by "the price of a pack of cigarettes". It was not much, but **trust** in the government fell down and since then continued to decline gradually*
(W. Pawlak, 2013; former vice-PM, the chairman of TC)
- *The patience of trade unions expired - partnership is based on **trust** and the arrangements are a **compromise**. Today in TC there is no one, or the other (Chwałka 2013, FZZ - Unions Forum)*

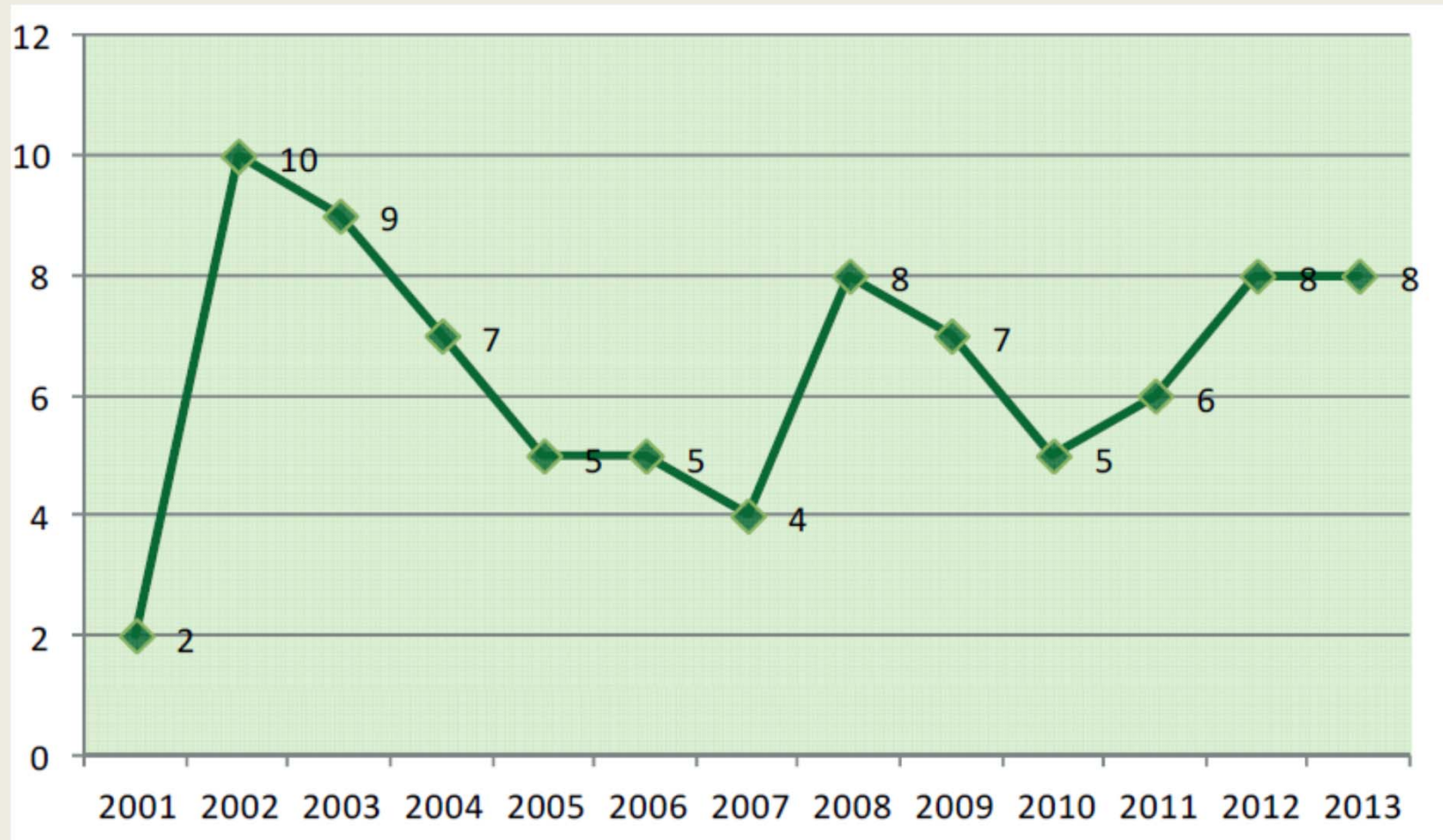
Position of social partners

– why tripartite institution became a failure?

- **The most problematic reforms adopted without proper social consultation:**
 - ✓ raising of retirement age (60/65 -> 67)
 - ✓ introduction of flexible working time arrangements (temporary solution introduced into the Labour Code);
- **Lack of proper reaction to employers' (labour market) problems**, i.e. too large scale of temporary work and civil-law contracts (low level of job/social security)

How the Tripartite Commission worked – plenary meetings

Source: Ministry of Labour and Social Affairs



How the Tripartite Commission worked

– thematic teams meetings

Source: Ministry of Labour and Social Affairs

Liczba posiedzeń Zespołów problemowych Trójstronnej Komisji do Spraw Społeczno-Gospodarczych w latach 2002–2013

Zespół/ Rok	Liczba spotkań Zespołów problemowych TK w latach 2002–2013											
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
ds. prawa pracy i układów zbiorowych	12	15	9	3	6	11	16	9	4	6	9	5
ds. budżetu, wynagrodzeń i świadczeń socjalnych	14	12	11	7	6	11	11	14	9	4	8	4
ds. ubezpieczeń społecznych	11	16	15	9	8	13	26	17	9	13	9	7
ds. rozwoju dialogu społecznego	6	3	3	1	2	2	8	4	2	4	6	6
ds. polityki gospodarczej i rynku pracy	8	11	4	5	4	3	26	9	9	7	10	3
ds. usług publicznych	3	13	7	2	5	4	5	3	5	4	6	2
ds. współpracy z MOP		3	4	-	1	2	1	1	1	1	3	2
ds. funduszy strukturalnych UE			5	2	2	10	6	6	7	4	6	3
ds. Zrewidowanej Europejskiej Karty Społecznej					1	-	1	-	-	-	2	-
Konsultacyjny ds. UE				3	1	1	-	3	1	2	-	-
doraźny ds. pracowników samorządowych i służby cywilnej								11	10	11	Zespół zakończył swoją działalność z dniem 31.12.2011	
Ogółem	54	73	58	32	36	57	100	77	57	56	59	32

Council of Social Dialogue

You have to find a way to maintain a dialogue in a situation of obvious conflict and growth without development

(Staniszki, 2013)

Council of Social Dialogue

– broad understanding of the issues and areas of social dialogue

- ensuring conditions for socio-economic development and increase the competitiveness of the Polish economy and social cohesion
- implementation of the principle of participation and social solidarity in the field of labor relations
- action to improve the formulation and implementation of policies and strategies for socio-economic, as well as building social consensus around them by conducting transparent, substantive and regular dialogue workers' organizations and employers and the government
- supporting social dialogue at all levels of local government units

Council of Social Dialogue

The side of employers and employees has the right to:

- express an opinion on the draft legislation prepared by the Council of Ministers and its members, within the competence of the Council
- prepare and transmit to the competent minister, to submit to the Council of Ministers, jointly agreed projects assumptions of draft laws and draft legislation proposal => the **government is obliged to react**
- request to conduct a public hearing to the entity responsible for drafting normative act relating to the competence of the Council
- file a common query to the appropriate Minister in relation to matters within the competence of the Council
- file a common motion to adopt or amend the Act or any other act relating to competence of the Council - **intermediary legislative initiative**
- adopt a resolution to file a **motion to the Supreme Court** for settlement of a legal issue, when the courts decisions revealed discrepancies in the interpretation of the law

Council of Social Dialogue

- institutional independence and equality of partners

- The Council is independent from the government
- **Members** of the Council are proposed by representative trade unions and employers' organizations and the government, and **nominated by the President**
- The presidency of the Council will be exercised by representatives of all actors, they would replace each other on a regular basis, the period of office of the president would amount to one year

Council of Social Dialogue - institutional independence

- The Council will have its Office, with dedicated budget (public funds)

Similar councils of social dialogue will also be created at the regional level

The same partners – is „new opening” real?