4. The case of Poland

By: Igor Guardiancich and Marek Pliszkiewicz

List of acronyms

AWS: Solidarity Electoral Action
BCC: Business Centre Club Employers Union
FZZ: Trade Union Forum
KPP: Confederation of Polish Employers
KRUS: Agricultural Social Insurance Fund
KT: Tripartite Commission for Social and Economic Affairs
NSZZ Solidarity: Independent Self Governing Trade Union 'Solidarity' PKPP Lewiatan
OFE: Open Pension Funds
OPZZ: All-Poland Alliance of Trade Unions
PiS: Law and Justice
PKPP Lewiatan: Polish Confederation of Private Employers Lewiatan
PO: Civic Platform
PSL: Polish People's Party
Sejm: Polish Parliament
SLD: Democratic Left Alliance
ZRP: Polish Crafts Union
ZUS: Social Insurance Institute

Introduction

The industrial relations system in Poland has undergone many challenges since the collapse of socialism in 1989. Even though formal tripartite institutions, such as the Tripartite Commission for Social and Economic Affairs, exist at the national level and collective bargaining is lively, at least at the firm level, social dialogue in Poland is structurally weak.

On the part of the Government there has been a persistent disregard of the social partners' opinions and of the consultations in tripartite forums. Only when the governing coalitions have had to face critical economic circumstances (for example, the early transformational recession) or tackle significant socio-economic problems (such as the collapsing public pension system), which required broader societal legitimation, there were some sporadic, but mostly failed attempts at forging tripartite social pacts. One observer (Ost, 2000) calls such inauspicious state of affairs 'illusory corporatism'.

The social partners are confronted with additional difficulties: the trade unions, once the stronghold of the Polish opposition against late socialism, have since 1989 undergone a steady decline. Extreme fragmentation, declining unionization, and inter-union rivalries have plagued the Polish labour movement since the time Solidarność compactly led the anti-socialist protests in Gdansk. In particular, the ideological split along pro- and anti-communist lines between the two major national trade union confederations has prevented effective cooperation for almost two decades.

At the same time, in a business environment that eagerly embraced the neoliberal dogma of liberalization, privatization, de-regulation and openness to foreign ownership, the employers have been slow and, sometimes, reluctant to organize. The vibrant private service sector, small and medium-sized enterprises

(SMEs) and foreign-owned firms are all, at least partly, out of the reach employers' organizations. This has resulted in one of the lowest employer densities among the EU Member States, and in little control of the organizations over their members.

Consequently, social dialogue operates very unevenly at the different levels of bargaining; while collective bargaining is relatively effective at the firm level, tripartite social dialogue is less so, but is at least institutionalized at the national level. The weakest link is the sectoral and branch level, where almost no collective agreements are drafted, mainly due to the absence of representative employers´ organizations.

Within this setting, the global financial crisis represents a test case that shows where social dialogue currently stands in Poland. The initial fear that the international credit crunch would harshly affect the Polish economy has led to the mobilization of the social partners and, at least a part of the Government (a centre-right coalition led by Donald Tusk) at all levels of social dialogue. The outcome was a series of commonly agreed anti-crisis measures that alleviated the strains on the labour market and, to a certain extent, offered protection to existing jobs. However, the crisis proved to have a much milder impact than was expected (Poland being the only EU country to entirely avoid a recession), and this represented a double-edged sword for social dialogue. On the one hand, a collapse in social dialogue, such as that which has been experienced in several crisis-struck Western European countries, did not, and indeed could not have happened. On the other hand, the good economic news emboldened the Polish Government, which resumed its disregard of the social partners when drafting fiscal austerity measures. Despite widespread opposition, Tusk's Government pressed ahead and unilaterally legislated the budget cuts.

These developments prove two points: first, bipartite and tripartite social dialogue in Poland is taken seriously when the country faces a crisis. Most importantly, the social partners have finally demonstrated that they are mature enough to hammer out mutually consented solutions. Second, among the tripartite actors engaged in social dialogue, the Government is still the party that is most reluctant to collaborate. Such conduct weakens the legitimacy of policy and alienates the public. Greater efforts to take into account the positions and demands of the social partners are, hence, needed.

1. Industrial relations set up before the economic and financial crisis

1.1 Who are the actors of Industrial Relations in the country?

Trade Unions

Even though Poland is the country where Solidarność, i.e., the Independent Self Governing Trade Union 'Solidarity' (*Niezależny Samorządny Związek Zawodowy 'Solidarność'*, NSZZ Solidarność), possibly the most well-known trade union in the world, operates, the country's labour movement is in disarray. Despite wielding extraordinary power before the transition to a market economy, and playing a key role in the collapse of the socialist regime, Polish unions (not only Solidarność) underwent a steady decline. The main challenges facing the Polish labour movement are its extreme fragmentation, the lack of clear strategies to attract new members, and excessive politicization, leading to harsh inter-union rivalry.

As soon as freedom of association was granted, the labour movement fragmented into three confederations, almost 600 nationwide unions and federations, and 24,000 regional organizations. The establishment of the Trade Union Forum (*Forum Związków Zawodowych*, FZZ) in 2002 was precisely an attempt to unite a number of small company-level trade unions, single-sector trade unions, and occupational unions, which broke away from larger confederations or were founded from scratch in a third nationally-representative trade union confederation (Gardawski, Mrozowicki and Czarzasty, 2012: 13).

Currently, there are three representative union confederations that are members of the Tripartite Commission for Social and Economic Affairs (*Trójstronna Komisja ds. Społeczno Gospodarczych*, TK): Solidarność, the All-Poland Alliance of Trade Unions (*Ogólnopolskie Porozumienie Związków Zawodowych*, OPZZ), and the FZZ.

Solidarność is the oldest and largest trade union in Poland; in mid-2010, it represented approximately

650,000 workers and over 8,300 local enterprise unions. Despite its historical importance, Solidarność also testifies to the declining appeal the unions have in Poland, as its membership declined more than tenfold, from its peak of 10 million in the 1980s. The second largest trade union confederation is the OPZZ, which is composed of 79 trade union organizations grouped in 9 sectoral activities branches, and was established in 1984 from the official communist unions. It had around 318,000 members in 2008. Finally, the FZZ, the smallest and the newest of the three union confederations, is comprised of 86 independent union federations and had approximately 400,000 members in 2010 (Gardawski, Mrozowicki and Czarzasty, 2012: 76).

Despite the numerous labour organizations, the decline in union density was significant, as it fell from around 30 per cent in 1990 to 15 per cent in 2010 (see Table 4.1). The result of which was turning the Polish labour movement into one of the weakest in Europe.

TABLE 4.1
UNION DENSITY IN POLAND

1990	1995	2000	2005	2010
30.4	30.8	24.2	19.0	15.0

Source: Visser (2011).

Notes: Union density rate, net union membership as a proportion of wage and salary earners in employment.

Finally, a bipolar, antagonistic model of unionism emerged along the pro- versus anti-communist divide. Historically, trade unions in Poland were the primary actors exerting political contestation before 1989. Dissidents and worker representatives, including future President Lech Wałęsa, established Solidarność in 1980, but after being outlawed in 1981, the pro-regime OPZZ was established in 1984 and became the only officially recognized union organization until 1989. Solidarność maintained underground activity until 1989 when it was officially reinstated.

Harsh antagonism was thus created between Solidarność and OPZZ, which still today weakens the labour movement's capacity to defend the interests of workers, and deal with everyday problems of employees and unions at the enterprise level. In contrast with the other two confederations, the FZZ is less politically active.

As Solidarność was heavily involved in the first post-1989 Governments, trade union politicization became immediately apparent. As union weakness seemed to be a precondition for the inception of (laissez-faire) capitalism, Solidarność actually prevented mobilization and unionization, creating the environment for neoliberal reforms to succeed. As the social pain of such policies increased, Solidarność turned to militancy during 1992–3. However, the period it acted as a union was brief, and active politicization returned. Whereas Solidarność became part of Solidarity Electoral Action (*Akcja Wyborcza Solidarność*, AWS), OPZZ helped found the Democratic Left Alliance (*Sojusz Lewicy Demokratycznej*, SLD).

The creation of nationalist and anti-communist AWS was a reaction to the return of the Left (a coalition between SLD and the Polish People's Party (*Polskie Stronnictwo Ludowe*, PSL) to power in 1993, which was intolerable for Solidarność. However, after AWS's disastrous experience in government (1997–2001), ultimately Solidarność gave up its political aspirations (and so did OPZZ) (Ost, 2001). Even though principled opposition against the Government by the two unions continued, the accession to the EU, the voting into government of the PO-PSL coalition (Civic Platform, *Platforma Obywatelska*, PO) in 2007, and the urgency to coordinate reforms during the financial crisis, signified that social dialogue resumed in 2008–09 and led to tangible results. For the first time in fact the Government led by Donald Tusk (PO) did not have direct ties with either Solidarność or OPZZ, and these started to act as proper representatives of the labour movement (Gardawski and Meardi 2010: 384–8).

The analysis of the current situation offers a mixed picture, in the words of Gardawski, Mrozowicki and Czarzasty (2012: 13): '*On the one hand, the ongoing fragmentation of the trade union movement, limited political leverage and the lack of clear strategies to attract new members present obstacles to trade union development. On the other hand, the global economic crisis and the Polish Government's lack of interest in social dialogue have led to attempts to create closer links between OPZZ, FZZ and NSZZ Solidarność since 2008*.'

Employers´ organizations

There are four employers´ organizations in Poland that meet the representativeness criteria to participate in the Tripartite Commission, these are the Employers of Poland *(Pracodawcy RP),* i.e., the former Confederation of Polish Employers (*Konfederacja Pracodawców Polskich,* KPP), the Polish Confederation of Private Employers Lewiatan (*Polska Konfederacja Pracodawców,* PKPP Lewiatan), the Polish Crafts Union (*Zwiazek Rzemiosla Polskiego,* ZRP), and the Business Centre Club Employers Union (*Związek Pracodawców,* BCC).

Employers´ organization density in Poland was approximately 20 per cent in 2007 and remains to be one of the lowest in the European Union. These weaknesses derive from the historical legacy of socialism and the fact that new (and foreign) enterprises that emerged after 1989 wanted to enjoy maximum freedom in doing business. As the State was the dominant employer before 1989, only few private employers were allowed to operate on the market, and these were mainly craftsmen and small manufacturers with no representative organizations. Moreover, in the chaotic post-socialist early period, the radical liberalization programme by Finance Minister Leszek Balcerowicz allowed *'anybody to sell anything anytime in any place at any price to anybody'* (Åslund, 2007: 88). Hence, it comes as small surprise that employers have been slow at organizing and their associations have relatively little power over their members (Gardwaski and Meardi, 2010). If the KPP (now Employers of Poland) was already established in 1989, the first organization of private employers (Lewiatan) only started operating in 1999. The end result is that employers´ organizations are relatively ineffective, especially at the sectoral and branch level.

The KPP is the largest and the most representative employers´ organization in Poland. It has been a member of the Tripartite Commission since its inception in 1994. The KPP was founded by the Association of Employers in Poland, which was, in the late 1980s, a platform of cooperation for directors of state-owned enterprises (SOEs), together with three other organizations. The organization changed its name to Employers of Poland in 2010 (Czarzasty, 2010). Currently it has members from over 7,500 companies that employ about four million employees and is the only central-level representative employers´ organization in Poland.

The PKPP Lewiatan is comprised of roughly 3,750 companies who employ over 700,000 workers and tends to attract both employers based in Poland and from abroad. The ZRP was established in 1933 and is the biggest and oldest structure of economic self-government in Poland. It is composed of 27 regional craft chambers, 479 craft guilds and 222 cooperatives. The ZRP has a dual nature, acting as both the craft industry's central self-governing body and as the national employers´ organization (Sroka, 2006). Established in 1991, the BCC is comprised of 1,200 companies that employ approximately 600,000 workers. The BCC was initially an association of enterprises. It joined the Tripartite Commission in 2002, a year after it convened a new entity and gained the status of a representative employer organization.

1.2 Institutional framework for tripartite social dialogue prior to the crisis

The 1997 Polish Constitution (Dziennik Ustaw, 16 July 1997, No. 78, item No. 483) upgraded social dialogue in Poland to the level of constitutional principle upon which *'the rights of fundamental importance for the State are based'*. Bipartite and tripartite social dialogue is regulated by a number of legislative acts.[1]

As for tripartite social dialogue at the national level, the Tripartite Commission for Social and Economic Affairs plays the most important role due to its broad competencies and scope of activities. Its establishment in 1994 was contingent to the historical events of early transition: amidst a harsh economic crisis, in July

1 The following legal acts regulate collective labour relations in Poland: Act of 23 May 1991 on trade unions (Dziennik Ustaw, 26 June 1991, No. 5, item No. 234 with further amendments); Act of 23 May 1991, on employer organizations. (Dziennik Ustaw, 26 June 1991, No. 55, item No. 235 with further amendments); Act of 23 May 1991 on the settlement of collective labour disputes. (Dziennik Ustaw, 26 June 1991, No. 55, item No. 236 with further amendments); Labour Code, Title 11 Collective labour agreements, Act of 26 June 1974 (Dziennik Ustaw, 5 July 1974, No. 24, item No. 141 with further amendments); Act of 6 July 2001 on the Tripartite Commission for Social and Economic Affairs and on voivodship social dialogue commissions (Dziennik Ustaw, 18 September 2001, No. 100, item No. 1080 with further amendments); Act of 7 April 2006 on workers' information and consultation (Dziennik Ustaw, 10 May 2006, No. 79, item No. 550 with further amendments).

1992 the Government presented a proposal to the trade unions and the employers to draft a social pact on the future of state-owned enterprises and their employees. The pact was about privatization, financial restructuring of enterprises and banks, and social issues (collective labour agreements, safeguarding employee claims in the case of employers' insolvency, company social benefits fund, and safety at work). The aim was to jointly work out the economic reforms and to generate widespread social acceptance of them.

The proposal was submitted to 15 national trade union federations, with membership ranging from a few thousand to a few million, due to the fact that representativeness criteria were not specified. The invited employers included: the Confederation of Polish Employers (KPP), the National Chamber of Commerce, the Supreme Co-operative Council and the Business Centre Club as an observer. Only the KPP was officially recognized as an employers´ organization.

The politicization of the unions proved to be a problem from the very beginning: during the first tripartite meeting, Solidarność opposed entering into negotiations jointly with other trade unions, the OPZZ in particular, so when the talks started in October 1992, negotiations in working groups were held separately with Solidarność and the remaining unions.

Plenary meetings continued until a preliminary agreement was reached, in November 1992. Soon after, the negotiations entered a stalemate, as Solidarność organized a warning strike in December, against the unsustainable costs of living, which subsequently degenerated into a general strike of all coal miners in Upper Silesia.

Hence, the social pact had to wait until February 1993, when the Minister of Labour and Social Policy and the Confederation of Polish Employers signed three documents, separately with the representatives of Solidarność, OPZZ, and the other union confederations.[2] The 'Pact on State-Owned Enterprises undergoing transformation' paved the way for the establishment of the Tripartite Commission, which had to include all the signatories to the Pact. A tripartite group was created to monitor its implementation.

The Commission has been now operating for almost two decades and is composed of representatives of the Government, trade unions (currently three: Solidarność, OPZZ and FZZ) and employers´ organizations (currently four: Employers of Poland, Lewiatan, ZPR and BCC). Representatives of territorial self-government units, of the President of the Polish National Bank, and of the President of the Central Statistics Agency take part in the Commission's works in an advisory role.

Every trade union and employers´ organization has an equal number of representatives at the Commission; the Prime Minister defines the number of representatives of the Council of Ministers and of self-government representatives, the Commission then holds plenary sessions and takes decisions, provided the vote is cast by the Council of Ministers and at least one trade union and employers´ organization. The Commission can also appoint various working groups, while the Commission Presidium determines the activity programme, works schedule and the topics on the agenda.

The Commission's function is to build consensus between the tripartite partners on socio-economic matters, is responsible for social dialogue salaries, and social profits, with the objective to maintain social peace. It has, hence, a chiefly consultative role. However, from time to time in the post-1989 history of Polish industrial relations it has been an authoritative coordinating forum, and the number of Plenary meetings indicates the periods of greatest activity (see Table 4.2). Despite several attempts, no tripartite social pacts have been forged.

2 The other seven trade union organizations were: *Federacja Związków Zawodowych Pracowników Polskich Kolei Państwowych* (Federation of Railway Workers' Unions); *Federacja Związków Zawodowych Energetyków* (Power Engineers' Trade Unions Federation); *Porozumienie Związków Zawodowych Dozoru Górniczego "KADRA"* (Trade Union Alliance of Mining Inspectors "KADRA", PZZDG 'Kadra'); *Związek Zawodowy Inżynierów i Techników* (Association of Professional Engineers, ZZIT); *Związek Zawodowy Maszynistów Kolejowych w Polsce* (Locomative Drivers' Trade Union in Poland); *Związek Zawodowy Pracowników Komunikacji Miejskiej* (Trade Union of Municipal Transport Employees in Poland, ZZPKM) and *Związek Zawodowy Przemysłu Elektromaszynowego* (Electromechanical Workers' Trade Union, ZZPE).

TABLE 4.2
NUMBER OF PLENARY MEETINGS OF THE TRIPARTITE COMMISSION 2001–11

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
2	10	9	7	5	5	4	8	7	5	6

During the late 1990s, the centre-left SLD-PSL coalition tried to revive tripartism and the normalization of industrial relations seemed possible. Labour Minister Andrzej Bączkowski was committed to social dialogue; he came from Solidarność and worked for the SLD. He was thus a respected negotiating partner for the employers, Solidarność, and OPZZ at the same time. Until his premature death, the Tripartite Commission was full of first order issues, including the progressive pension reform called 'Security through Diversity' (successfully adopted in 1997–8) (Guardiancich, 2013).

Subsequently, relations between the social partners soured: the Tripartite Commission fell into desuetude during the period AWS was in power (together with the liberal Freedom Union, *Unia Wolności*, UW). The following leftist administration reformed the Tripartite Commission in 2001, establishing clear representativeness rules and repealing unanimous decision-making. This marked a new phase in Polish industrial relations (for details, see Gardawski, 2009; Mecina, 2010). Moreover, SLD held a minority Government that needed the legitimation of the social partners. The Labour Minister Jerzy Hausner, a respected economist, headed the Commission and was sympathetic to tripartism; this notwithstanding, his repeated attempts at shaping a social pact in 2002–05 failed, mainly due to the opposition of Solidarność.

As mentioned above, the PO–PSL coalition somewhat normalized the situation. The new Government drafted a social agreement that included wage policy, pensions, and union laws. Even though negotiations within the Tripartite Commission failed, because the Government did not grant sufficient concessions, Solidarność and the OPZZ acted together to protest against the proposed measures. Additionally, during the first part of the crisis they signed several anti-crisis deals, which were seriously considered by the Government and translated into legislation (Gardawski and Meardi, 2010). As the crisis in Poland turned out to be milder than expected, however, Donald Tusk's Government gained confidence and again relegated the role of the Tripartite Commission.

As for collective bargaining, according to the Polish Labour Code, collective agreements are a source of law. These define the conditions, which should be met by the contents of an employment relationship, as well as the mutual obligations of the parties to the agreement, including those related to the application and observance of its dispositions.

Collective agreements in Poland are mainly concluded at the firm level, with a subsidiary role for sectoral/industry ones. Collective agreements are entered into registries kept by the Ministry of Labour (at the supra-enterprise level) or by the district labour inspector (enterprise agreements).

Hence, social dialogue in Poland is unevenly distributed among the various levels at which negotiations take place. It is effective and dynamic at the level of enterprises; it is relatively successful at the national tripartite level. However, it still has a long way to go at the branch and sector level, mainly due to the lack of powerful, representative employers´ organizations.

2. The economic crisis and labour market performance during the crisis

Poland's accession to the European Union, coupled with a favourable economic environment accelerated the modernization of the country's economy. Employers exposed to international competition increased the pace of investments. In the years 2004–08, national investments on GDP rose from 18 to 23.6 per cent. Moreover, the exports of Polish companies to the EU grew by on average 11.7 per cent in 2001–03, and as much as 18 per cent after entering the EU (2004–08). So, after extraordinary expansion following the accession to the EU, Poland became the only Member State that entirely avoided the recession (see Table 4.3). Hence, the catching-up process continues unabated: Polish GDP per capita (at Purchasing Power Parity) crept from 50.6 per cent of the EU-27 average in 2004 to 64.3 per cent in 2011.

The financial crisis had a strong impact on the Member States and quickly affected Poland as well. The EU accounts for approximately 77 per cent of Polish exports, 59 per cent of imports and 85 per cent of FDIs. A significant reduction of international orders hit the processing industry hard: production in 2009 fell in real terms by 3.9 per cent, leading to a reduction of employment in this sector. Increasing uncertainty and limited access to capital led to lower investments in the private sector; as a result, GDP growth decelerated to 1.7 per cent in 2009, but shot up to 3.9 per cent again in 2010.

Such good performance was supported by a steady increase of public investment in Poland, reaching as a percentage of GDP record levels in 2011–12. This was the result of various programmes, such as increased expenditures for infrastructure within the framework of the National Roads Construction Program and the National Local Roads Construction Program, as well as investment expenditures in connection with the European Football Championships – Euro 2012. Of course, this meant that general government expenditure was far higher than the revenues in 2008–11, leading to high deficits – nearing 8 per cent of GDP in 2010 (see Table 4.4). Consequently, the Council of the European Union launched in July 2009 an Excessive Deficit Procedure (EDP), which recommended reducing the deficit below 3 per cent by 2012 (which was later overshot).

In addition to public investments, individual consumption accelerated (possibly due to favourable conditions in the labour market) and, as of 2011, investments in the private sector resumed. Despite the expected slowdown in 2012, which has been the result of the deterioration of the economic prospects in several Member States, the growth of GDP in Poland in 2012 should nonetheless remain one of the highest in the EU.

TABLE 4.3
MAIN MACROECONOMIC INDICATORS 2008–11

GDP	2008	2009	2010	2011
Real GDP growth (%)	5.0	1.7	3.9	4.3
Nominal GDP (US$ billions)	529.3	429.6	468.9	513.0
Expenditure on GDP (% real change)				
Private consumption	5.3	2.4	3.0	2.5
Government consumption	6.7	2.7	3.6	-0.9
Gross fixed investment	9.6	-1.2	-0.4	9.0
Exports of goods and services	6.1	-6.0	12.1	7.8
Imports of goods and services	6.8	-11.4	13.8	5.6
Origin of GDP (% real change)				
Agriculture	-1.4	8.8	-4.3	-0.8
Industry	6.0	3.0	7.3	9.1
Services	5.3	0.2	3.0	2.5

Source: Economist Intelligence Unit.

In spite of the abovementioned excessive public spending, the public debt increase in Poland in 2008–11 was relatively low, and did not exceed 10 per cent of GDP. When confronted against average public debts in the Eurozone and EU-27 of over 80 per cent of GDP in 2011, Poland's indebtedness is moderate: 56.4 per cent of GDP.

TABLE 4.4
MAIN MACROECONOMIC INDICATORS 2008–11

	2008	2009	2010	2011
Total general government revenue	39.5	37.2	37.6	38.5
Total general government expenditure	43.2	44.6	45.4	43.6
Government consolidated gross debt	47.1	50.9	54.8	56.4
Budget balance (% of GDP)	-3.7	-7.4	-7.9	-5.0

Source: Eurostat.

Notwithstanding, these levels still created concerns in Poland, both because of the Maastricht convergence criteria and because of legal limits, as the Polish Constitution forbids contracting loans or providing guarantees and financial sureties if national public debt exceeds three-fifths of the annual GDP.

According to the Polish Ministry of Finance (2012), deficits in public finances are the principal factor behind debt growth in Poland. This was mitigated by relatively high economic growth, even during the harshest moments of the crisis, and by a healthy financial sector, which did not trigger any supportive governmental action and associated costs. Additionally, the public debt increase was tampered through privatization revenues, which yielded 29.3 billion Polish Złoty (PLN) (circa 7 billion Euros) in 2008–10.

What caused the 10 per cent hike was (similarly to Romania, Hungary, and Latvia) a clear weakening of the national currency. The depreciation of the Polish Złoty, due to the substantial share of debt denominated in foreign currencies, caused a debt increase of some 4 per cent of GDP in 2008–11. Compared to the Member States hit by the debt crisis, Poland fares relatively well; the perspective of achieving, maybe not a suppression of debt growth, but at least its systematic reduction, have protected the country against a downgrade of its creditworthiness. The recent consolidation of public finances (a revised 2012 Budget Law was passed on 8 December 2011) provides a chance for improving the rating of Polish economy. As an additional source of financing stability, the IMF granted in 2010 a Flexible Credit Line (FCL) to Poland, which helped maintaining access to market financing under relatively favourable conditions, although so far Poland has not drawn FCL resources.

Better economic results, compared to the rest of Europe, were also reflected in the performance of the Polish labour market (see Table 4.5). Despite the slowdown, the number of employed persons grew by almost 0.9 million in 2007–11. In particular, the limitations, as of 2009, placed on early retirement, led to greater employment levels of people aged 55–64. As Poland had one of the lowest employment rates of older workers, which was a major weakness of its economy, in the long term this increase in the labour supply may actually strengthen the growth potential of the country.

TABLE 4.5
EMPLOYMENT RATES IN POLAND (2007–11)

	2007	2008	2009	2010	2011
Employment rate >15	48.5	50.4	50.4	50.4	50.7
15–24	25.8	27.3	26.8	26.3	24.9
15–64	57.0	59.2	59.3	59.3	59.7
55–64	29.7	31.6	32.3	34.0	36.9
Men >15	56.4	58.6	58.5	58.1	58.7
15–24	29.2	31.0	30.4	30.3	29.6
15–64	63.6	66.3	66.1	65.6	66.3
55–64	41.4	44.1	44.3	45.3	47.8
Women >15	41.5	42.9	43.2	43.4	43.4
15–24	22.4	23.7	23.2	22.1	20.1
15–64	50.6	52.4	52.8	53.0	53.1
55–64	19.4	20.7	21.9	24.2	27.3

Source: Eurostat.

Despite an increase in the unemployment rate in 2009–11, its strong fall in 2008 implied that at 9.8 per cent, it rose by only 0.1 per cent from 2007 to 2011, as shown in Table 4.6. Unemployment could have actually fallen, because the demand for labour increased during the period. However, as a consequence of the rise in the effective retirement age (see above), young persons struggled to find new occupations; such a spike will possibly be only temporary.

TABLE 4.6
UNEMPLOYMENT INDICATORS IN POLAND (2007–11)

	2007	2008	2009	2010	2011
Total 15–64	9.7	7.2	8.3	9.6	9.8
15–24	21.7	17.3	20.6	23.7	25.8
50–64	7.5	5.8	6.5	7.6	7.4
55–64	6.8	5.3	6.3	7.1	6.9
Men 15–64	9.1	6.5	7.9	9.4	9.1
15–24	20.0	15.2	20.2	22.4	23.6
50–64	7.7	5.7	6.5	7.9	7.6
55–64	7.4	5.8	6.7	7.5	7.4
Women 15–64	10.4	8.0	8.8	10.1	10.5
15–24	23.8	19.9	21.2	25.4	28.9
50–64	7.3	5.8	6.4	7.3	7.1
55–64	5.7	4.4	5.5	6.5	6.2

Source: Eurostat.

As for the structural problems of the Polish labour market – informal employment, dependent work disguised as self-employment, abuse of atypical contracts in low-skilled jobs – these have not been solved, but apparently they did not substantially intensify during the crisis. In particular, the share of fixed-term contracts, which tripled between 2001 and 2007, has declined slightly (Table 4.7). However, Poland having the highest share of temporary employees in Europe (Spain is now second), excessive precariousness is a proper pathology of the Polish labour market (Wratny, 2007: 9; see also Guardiancich, 2012). Among fixed-term contracts, a particular category of civil law contracts combines insecurity with the potential for abuse of social protection rules, as most of the provisions of the Labour Code do not apply, and they are partly exempt from social security contributions. The so-called false self-employed (nearly two million people, according to some estimates) are often employed through these contracts, and the lower tax wedge favoured their widespread diffusion (Czarzasty, 2007).

TABLE 4.7
TEMPORARY EMPLOYEES AS A PERCENTAGE OF THE TOTAL NUMBER OF EMPLOYEES

	2007	2008	2009	2010	2011
Total >15	28.2	27.0	26.5	27.3	26.9
15–24	65.7	62.8	62.0	64.6	65.6
15–64	28.2	26.9	26.4	27.2	26.9
55–64	19.9	21.8	22.0	21.1	19.1
Men > 15	28.4	26.3	26.3	27.4	27.6
15–24	62.7	58.9	59.8	61.8	64.0
15–64	28.4	26.2	26.2	27.3	27.5
55–64	19.3	20.8	19.5	19.8	19.3
Women > 15	20.9	23.8	26.6	23.2	18.8
15–24	69.4	67.7	64.7	68.3	68.0
15–64	27.9	27.6	26.6	27.1	26.2
55–64	20.9	23.8	26.6	23.2	18.8

Source: Eurostat.

3. Policy measures and social concertation

In order to prevent a recession from hitting Poland, Donald Tusk's centre-right coalition Government (Civic Platform, PO, and the Polish People's Party, PSL) together with the social partners, worked in parallel on two lines of action. First, the Government presented in late 2008 the Stability and Development Plan, with the aim to improve the financial condition of enterprises across the country. Second, the representatives of the Government, unions and employers under the aegis of the Tripartite Commission started negotiating an anti-crisis package, in order to protect existing jobs and provide support for those who had been made redundant (Semenowicz, 2009).

3.1 The Stability and Development Plan

On 30 November 2008 the Minister of Finance Jacek Rostowski of Civic Platform, together with the Prime Minister, presented the 'Stability and Development Plan – strengthening the Polish economy in the time of the world financial crisis'. The Polish Government and the National Bank of Poland drew this master plan to strengthen macroeconomic stability and economic growth in the country.

The main points were to increase the confidence on the inter-bank market, to lower the cost of money, and to increase investments and consumption by implementing a wide-range of mechanisms, such as higher bank guarantees, additional credit creation for SMEs, and increasing the number of investments financed from EU funds. The Plan foresaw 91.3 billion PLN (circa 21.9 billion Euros) of additional money to stimulate the Polish economy.

While this document cannot enter into all the details of the plan, what follows are some of the Plan's anti-crisis actions (Kryńska, 2009):

– Increasing the credit availability to companies through higher credit limits and warranties;
– Support for financial market institutions;
– Strengthening the system of warranties for SMEs;
– Accelerating investments co-financed from EU funds;
– Introduction of higher investment relief for newly set-up companies;
– Reducing barriers for investments in telecommunications infrastructure;
– Enabling the inclusion of R&D expenditures to the cost of obtaining revenue;
– Support for investments into renewable energy resources;
– Strengthening the position of energy buyers, strengthening the competitiveness, strengthening the power of the regulatory institution in order to protect both the economy and households against an uncontrolled rise in energy prices;
– Setting up the Social Solidarity Reserve.

In addition to providing warranties and funds to SMEs and start-ups, the Government set up special support for the most needy within the framework of the newly established Social Solidarity Reserve. The funds (circa 1.14 billion PLN, i.e., circa 280 million Euros) were used to subsidize the income of households living below the poverty threshold, through a new model of valorization of family benefits that better reflects the needs of large families; provide support to children, mainly regarding nutrition needs; and guarantee basic support for dependent persons, especially the elderly.

3.2 The anti-crisis package

Although the Tripartite Commission was heavily involved in the discussions on how to alleviate the effects of the crisis, Donald Tusk's Government never officially presented any anti-crisis plans dealing with employment and the labour market. This led the social partners to autonomously negotiate and prepare a list of demands that the Government should address. Consequently, the Government prepared an urgent legislative package that took into consideration the positions of the social partners. For the aims of this study, the most important act to be adopted was the "Act on the Relief of the Effects of the Economic Crisis". The following paragraphs describe in detail the process of social dialogue that led to this remarkable result and the content of the law.

According to the Ministry of Labour and Social Policy, the Government was at the onset of the crisis committed to holding negotiations in the forum of the Tripartite Commission in order to address the upcoming problems. A number of teams within the Tripartite Commission (the Team for Economic Policy and Labour Market Affairs, the Team for Labour Law and Collective Agreements, the Team for the Budget, Wages and Social Benefits, etc.) had to diagnose the situation and suggest preliminary solutions. Initially, the Ministries for the Economy and for Finance also presented preparatory analyses, to be used for further discussions. Moreover, in late 2008, the social partners had already started discussions on what the best course of action would be.

On 18 December 2008, at a session of the Tripartite Commission Presidium devoted to the global economic downturn, all partners pointed out that constant monitoring of the economic situation and, possibly, a stimulus package were needed. The Team for Economic Policy and Labour Market Affairs was assigned the coordination of the Commission in this area. It presented its first assessment and a working schedule at the following session of the Presidium, in late January 2009.

At this point, intense work started within the Committee and its task teams. Additionally, the social partners were engaged in dialogue as well. Even though there was substantial information flows between the Government and the social partners (information on the economic and financial situation of the country for the latter; proposals submitted for evaluation for the former), the unions and employers´ organizations believed that the Government was acting too slowly. For example, the National Commission of Solidarność argued that subsidies to firms and households, which could increase domestic demand and business confidence, as well as measures to guarantee solidarity and social justice, including job protection and support for the poorest, were fundamental elements for alleviating the crisis. To this end, the union prepared a detailed list of areas that needed to be addressed by the Government.

These interventions started a debate among the social partners and members of the Tripartite Commission, which lasted three months. Such effective bilateral social dialogue was unprecedented in Poland (Demetriades and Welz, 2012). Its objective was not the creation of a social pact to exit the crisis, but rather a list of (thirteen) problems that were symmetrically ordered, and reflected demands and concessions on both the part of the trade unions and employers' organizations. The objectives were presented to the Government on 13 March 2009.

TABLE 4.8
THE 13 POINTS OF THE SOCIAL PARTNERS' ANTI-CRISIS PACKAGE

I.	**Wages and social benefits**
1.	Social support for less affluent families and increasing welfare benefits for redundant employees.
2.	Introduction of a tax exemption on allowances paid by trade unions and on benefits from company social funds.
3.	Making vouchers convertible to goods or services exempt from personal income tax.
4.	Repeal the Act on the negotiation system of fixing the average pay growth in corporations and revoke the Act on remuneration of management executives in state-owned companies (stipulating a salary cap).
5.	Gradually increase the national minimum wage to 50 per cent of the national average wage.
II.	**Labour market and labour relations**
6.	Introduction of a 12-month working hour settlement period.
7.	Establishment of enterprise training funds.
8.	Rationalization of a 24-hour work cycle in the context of the working hour settlement period.
9.	Recognition of social benefit packages (social pacts or collective agreements) as a source of labour law.
10.	Introduction of flexible working hours as a way of reconciling family and work responsibilities.
11.	Stabilization of employment by limiting the use of fixed-term employment contracts.
III.	**Economic policy**
12.	Accelerated amortization of fixed assets (mainly for SMEs and new entrepreneurs).
13.	Subsidized employment as an alternative to mass dismissals.

Source: Czarzasty (2009).

Soon after, on 27 March 2009, the Government presented its own proposals and discussed them at the Tripartite Commission. At a Presidium meeting, in May, Prime Minister Tusk decided to transform these points into legislation (as far as possible) and transmit them for consultation to the social partners, who in turn agreed to perform an assessment.

At that time, accelerated amortization was already implemented, and Tusk stated that the legislative process would be conducted in stages. In particular, the points regarding minimum wages and the salary cap would be discussed later in the year, as they were not, according to him, crisis-related. Additionally, the measures would follow some general principles: i) they will be temporary (for a period of 2 years), with potential extensions; and, ii) financial support will be disbursed if the employer meets several conditions.

The first draft laws already saw the light in June 2009, prepared by the Ministry of Labour and Social Policy as well as the Ministry of Finance. The two main acts that partly implemented the 13 points were the Act of 17 July 2009 amending the law on personal income tax and the law on corporate income tax (Dziennik Ustaw, 7 August 2009, No. 125, item. No. 1037) and the Act of 1 July 2009 on the relief of the effects of the economic crisis for employers and workers (Dziennik Ustaw, 7 August 2009, No. 125, item No. 1035).[3] This

3 Other acts related to the package were also adopted: Act of 29 October 2010 amending the Act on the relief of the effects of economic crisis for workers and employers (Dziennik Ustaw, 23 November 2010, No. 219, item No. 1445); Act of 19 June 2009 on state's aid in the repayment of some housing loans granted to people who lost their jobs (Dziennik Ustaw, 21 July 2009, No. 115, item No. 964); Act of 17 July 2009 amending the law on personal income tax and the law on corporate income tax (Dziennik Ustaw, 7 August 2009, No. 125, item No. 1037); Act of 5 March 2009 amending the law on income tax from individuals and the law on corporate income tax (Dziennik Ustaw, 7 May 2009, No. 69, item No. 587).

Act to a certain extent implemented the six points of the anti-crisis package related to the labour market and labour relations. Notably, the Government went beyond the measures contained in the package by negotiating in the Tripartite Commission and then transforming into law the Act of 19 June 2009 on state aid in the repayment of housing loans granted to people who lost their jobs (Dziennik Ustaw, 21 July 2009, No. 115, item No. 964). This type of support was also disbursed until the end of 2011.

Even though there were issues regarding both the implementation of these measures, there was less involvement of the social partners during the legislative phase, and the proposals were not taken into consideration by the Government. The mobilization of the unions and employers proved to be an effective and welcome precedent in Poland's troubled post-1989 history of industrial relations. The tripartite institutions played a positive role in the shaping of anti-crisis strategies, which were accepted by all three parties, and which were then transformed into legislation.

The Act on the relief of the effects of the economic crisis, which soon after the promulgation received the approval of the European Commission (as to how the aid should be classified), can be described as a success. Over 1,000 undertakings, employing more than 100,000 workers, have taken advantage of it. The law played a promotional and educational role, proving that the Polish social partners and the Government can engage in productive collective action.

3.3 Relief of the Effects of the Economic Crisis on Workers and Employers

The Act of 1 July 2009 mainly aimed to alleviate the short-term difficulties of employers while simultaneously avoiding mass dismissals. The Act introduced measures related to temporary lay-offs (exemption from work for employees working at enterprises undergoing temporary financial difficulties)[4] and reductions in working time (up to half of the full working time). Both of these entitle workers to compensatory benefits (not cumulative), financed by the Guaranteed Employee Benefit Fund, or stipends and reimbursements to attend training or graduate courses paid by the Labour Fund, in addition to a salary.

Furthermore, whereas some measures included in the Act increased the flexibility of the labour market (the extension of the working time calculation period and more flexible individual working time schedules), others limited the abuses leading to excessive precariousness. The limitations to the use of fixed-term contracts are, in fact, aimed at reversing the trend away from permanent contracts.

The Law is applicable to employers in temporary difficulties, who have suffered a loss in sales of no less than 25 per cent over three consecutive months after 1 July 2008,[5] who pay taxes, social insurance contributions, health insurance and contributions towards the Labour Fund; and who must not be in a situation warranting a declaration of bankruptcy. Employers have the additional obligation not to dismiss a worker (for reasons not attributable to the worker), when he/she is receiving the benefits disbursed according to the law, and for a period of up to six months after fruition is over. The Act granted benefits until 31 December 2011.

Reductions in working time and temporary lay-offs

The working time specified in an employment contract may be reduced for a period no longer than 6 months and no more than half of the full amount of working time; in such case, the salary is also proportionally reduced. This solution is introduced in the same manner as an extension of the working time calculation period (see below).

The collective labour agreement or the agreement with trade unions or workers' representatives should

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4 To be precise, temporary lay-offs are defined by the Act of 1 July 2009 as 'non-carrying out of work at an enterprise undergoing temporary financial difficulties, for economic reasons, which do not involve the employee, by an employee who is ready to work.'

5 This threshold was lowered to 15 per cent by the Act of 29 October 2010, amending the Act on the relief of the effects of the economic crisis on workers and employers.

specify the professional categories affected by the reduction in working time; the reduced working time that applies to workers; and the period in which the reduced working time is applied.

As for the temporary lay-offs, a worker employed by an employer suffering temporary financial difficulties, who gives consent to their inactivity (so collective agreements do not apply) is entitled to receive for a period no longer than six months a benefit paid by the Guaranteed Employee Benefit Fund; or a stipend, paid from the Labour Fund, and a salary, whose amount is equivalent to the minimum wage.

Benefits from the Guaranteed Employee Benefit Fund and the Labour Fund

According to the Act, a worker subject to a temporary lay-off may receive a benefit from the Guaranteed Employee Benefit Fund amounting to 100 per cent of the unemployment benefit. A worker whose working time has been reduced has the right to a benefit amounting to 70 per cent of an unemployment benefit.

These benefits are granted at the request of the employer for a period of up to six months. The employer may obtain support to pay social insurance contributions, as well as define new conditions for making payments to the Fund with respect to commitments arising prior to 30 June 2008.

Workers subject to temporary lay-offs can strengthen their qualifications through training or graduate studies. The financial means available through the Labour Fund partly cover the costs of training not exceeding six months and the costs of graduate studies not exceeding 12 months.

The amount of funding per person is limited to 80 per cent of costs and up to 300 per cent of an average wage. During the training, a worker is entitled to a stipend, paid by the employer, equal to the unemployment benefit (such a stipend could be granted also to workers whose working time was reduced).

When benefits, stipends or training are disbursed through the Labour Fund or the Guaranteed Employee Benefit Fund, and during the periods immediately following (up to six months), workers enjoy special protection of their employment relationship. Termination of the contract for reasons not attributable to the worker is prohibited.

Extension of the working time calculation period

If justified by organizational or technological reasons, the calculation period may be extended up to 12 months. This measure helps employers in temporary financial difficulties to balance periods of longer and shorter working time as well as periods in which no work is performed.

By 31 December 2011, the regional labour inspectorates registered 1076 cases of extensions of the calculation period. In 720 cases the extension of the calculation period was stipulated through an agreement with workers' representatives (where there was no trade union organization operating in the workplace), in 336 cases on the basis of an agreement with representative trade unions, and in 20 cases the extension was made through collective bargaining with all enterprise trade union organizations. In almost 750 cases the longest period of 12 months was agreed upon.

Individual working time schedules

Again to increase flexibility for employers in distress, individual working time schedules include different times of commencement and end of work; in such cases the return to work by an employee within a 24-hour period is not regarded as overtime work. These were introduced in the same manner as an extension of the working time calculation period.

Limitations to the stipulation of fixed-term contracts

The period of employment on the basis of (one or a sequence of) fixed-term contracts cannot exceed 24 months. Fixed-term contracts concluded within three months of the termination or expiration of the previous fixed-term contract form a sequence of contracts, according to this Act.

4. Bipartite responses to the crisis

The social partners, unions and employers, engaged in bipartite social dialogue in 2008–11 in order to reduce the effects of the crisis and maintain existing employment, but did not adopt any innovative, high-road strategies. There were no efforts on behalf of the social partners to strengthen the link between wages and productivity during recovery, introduce changes in work organization (e.g. changes in job definitions and classifications), or regulate through collective agreements the employment of non-standard workers (agency work, fixed-term, part-time contracts and so on).

Notwithstanding, bipartite social dialogue thrived and the adopted solutions were closely linked to the 13 points agreed by the social partners, members of the Tripartite Commission, as well as to the Act on the relief of the effects of the economic crisis. When concluding or modifying collective agreements, the social partners relied on the provisions of this Act, which allowed the adoption of flexible legal solutions for all the anti-crisis measures above. Temporary lay-offs as well as the benefits from the Labour Fund or the Guaranteed Employee Benefit Fund could be determined through individual agreements only.

Apart from the anti-crisis measures that were successfully included into collective agreements, the crisis exacerbated several negative trends in Polish social dialogue. First, employers continued to avoid introducing through new collective agreements more favourable conditions beyond those determined by the Labour Code, and to downgrade existing ones to just the minimum working rights.[6]

Second, the crisis further discouraged the negotiation of new collective agreements and led to the discontinuation of existing ones. Not only is the number of new employers who enter into collective agreements relatively low, but also many firms have been liquidated or their structure transformed. Consequently either trade union organizations at enterprise level no longer exist, or they lose their status because of reductions in membership, but in both cases the possibility for employees to enter collective bargaining with the employer is thwarted.

Third, and in (minimal) contrast to the reduction in collective agreements, there were some requests to apply agreements stipulated by third parties (other employers and unions). Such 'delegation' avoids long negotiations, the intention being to use solutions determined by other parties or to harmonize the conditions of employment in a given sector. Often the firms, which cease to be covered by a collective agreement as a result of divisions or ownership changes, apply this solution.

Fourth, employers suffering from temporary financial difficulties often relied on the possibility, offered by the Labour Code, to suspend the application of labour law regulations, of a firm- or higher-level (sectoral) collective agreement, or to apply less favourable conditions than those determined in the employment contracts stipulated with the employees. In the case of suspension of labour law regulations, this can last up to three years and must be agreed with the representative unions or employee representatives. Of course, the suspension does not apply to the provisions of the Labour Code or rules contained in other laws and executive acts. In 2009, 152 of such accords were concluded. In the case of less favourable conditions, this provision applies only to firms not covered by a collective agreement or employing fewer than 20 workers. In 2009, regional labour inspectorates registered 78 such agreements.

Among the three options, in 2008–11, the suspension of collective agreements at various levels was the most common and happened mostly in the processing industry, transport, and management of stock. Most accords suspended the application of an agreement in part, usually with respect to basic salary rates and additional benefits, such as higher pension contributions than those stipulated in the Labour Code, jubilee awards, additional payments for monitoring work and nightshifts, length of service awards, and so on. Provisions relating to the enterprise's social fund were also suspended in many instances.

Table 4.9 summarizes the four trends above, listing the number of new collective agreements, additional

6 The provisions of collective arrangements, regulations or by-laws cannot be less favourable to workers than the provisions of the Labour Code and other laws.

protocols modifying existing agreements, suspensions, terminations, dissolutions and applications of agreements stipulated by third parties during 2008–11.

TABLE 4.9
OUTCOMES OF BIPARTITE SOCIAL DIALOGUE IN 2008–11

Year	Requests for registration (total)	Registered					
		Collective agreements	Additional protocols	Suspended collective agreements	Application of third-party agreements	Terminated agreements	Dissolved agreements
2008	2746	155	1732	45	4	71	92
2009	2830	123	1688	206	2	81	95
2010	2304	130	1396	130	1	74	67
2011	2169	136	1291	85	3	93	83

Source: National Labour Inspectorate (*Państwowa Inspekcja Pracy*, PIP).

5. Austerity measures and the role of social dialogue

During the second part of the crisis (2010–11), as Poland did not enter a recession, a U-turn happened in tripartite social dialogue, which had proved to be relatively effective just two years earlier. Even though debates with the social partners took place, Donald Tusk's Government started disregarding the social partners' opinions, and its main priority shifted from anti-crisis measures stimulating firms, protecting existing jobs and creating a safety net for the most needy, to the consolidation of public finances.

Even though Poland fared relatively well with respect to its public debt, compared to other Member States, in July 2009, the Council of the European Union recommended that the Government bring the deficit below 3 per cent of GDP by 2012. According to the Ministry of Finance (2012), the 2008 budget was too expansive and the period of very favourable economic conditions were not used to limit public spending. Additionally, the policy implemented in Poland in 2009–10 was directed at supporting the fragile foundations of economic growth, simultaneously but ineffectively trying to limit the deepening imbalance in public finances. As a consequence of such expansionary policy, the European Commission's 2011 Autumn Forecast announced that the targets set in the Convergence Programme of Poland 2009–12 had been overshot, as deficit was projected to be greater than 5, 4, and 3 per cent of GDP in, respectively, 2011, 2012, and 2013.

Hence, the Government did not renew the validity of the anti-crisis measures, which expired at the end of 2011 (there are, however, ongoing discussions to permanently implement some of the provisions), and it prepared a number of interventions that would bring public spending under control. For example, it introduced a new expenditure rule that limits the increase in the Government's discretionary spending and all newly enacted spending to 1 per cent in real terms. This may help avoiding the repetition of past errors, such as not sufficiently reducing public debt despite favourable economic conditions.

The Government's actions gained momentum at the end of 2011, as the PO-PSL (Civic Platform and the Polish People's Party) got reelected in October. Donald Tusk's Government adopted a revised 2012 Budget Law in December. Based on the Commission's assessment of the revised budget, the deficit is projected to decrease to 3.3 per cent of GDP in 2012 and to 2.6 per cent in 2013.

Among the Government's toughest moves was to tackle perhaps the major culprit for the excessive Polish deficits and growing debt: the mandatory (public and private) pension insurance system. In fact, roughly a third of the Polish public debt is imputable to the creation of a mandatory second fully funded pension pillar in 1999 and to persistent deficits of the Social Insurance Institute (*Zakład Ubezpieczeń Społecznych*, ZUS) and the Agricultural Social Insurance Fund (*Kasa Rolniczego Ubezpieczenia Społecznego*, KRUS) (for details, see Guardiancich, 2013; Wojciechowski and Rzońca, 2010).

ZUS's deficit is the legacy of the pensioner boom of the early 1990s (a common response to labour market redundancies in post-socialist countries) and shall disappear in the long-term, due to the introduction of the Notional Defined Contribution (NDC) calculation formula in the public pension pillar.[7] However, in the period 2006–10, budgetary transfers to ZUS (for the public pillar only) averaged almost 2.4 per cent of GDP. Moreover, the diversion of contributions to Open Pension Funds (OFEs), the second mandatory private pillar, absorbed an additional 1.5 per cent of GDP per year. The last straw are of course the subsidies to KRUS, which basically acts as a social assistance scheme for farmers, which should stabilize at 0.3 per cent of GDP in the long term, but which amounted to almost 2 per cent of GDP in the mid-1990s.

Hence, Tusk's Governments launched two major reforms. During its first term in office, in early 2011, the Government temporarily reduced the contributions flowing to the private pillar, while after its reelection, it raised and equalized by gender the statutory retirement age.[8]

No socio-economic area, other than pensions, proves better the point that social dialogue entered a stalemate in Poland as soon as the worst effects of the crisis seemed to be over. During the first, rather technical, reform most employer organizations disapproved of the cuts to the contributions to OFEs, while the unions were divided on the topic. In the second case, the trade unions mobilized against the proposed retirement age increase, while the employers gave their conditional approval, arguing, however, that lack of consultation is harmful for Polish tripartism. Both reforms were ultimately and unilaterally adopted, casting a dark shadow on the future of the relations between the Polish Government and the social partners during Donald Tusk's second term in office.

5.1 Reform of funded pensions

During the unfolding of the financial crisis, the PO-PSL coalition Government shifted from supporting the 1997–8 pension reform – 'Security through Diversity' was one of the few bipartisan and consensual reforms in Polish post-1989 history – to openly challenging the Open Pension Funds (OFEs), which have operated since 1999, for their poor performance (Cienski, 2010).

Internal tensions within the coalition were at the core of this negative assessment: PSL and its agrarian constituencies felt threatened as pressures were mounting to reform the heavily subsidized KRUS. Therefore, the Minister for Labour and Social Policy Jolanta Fedak (PSL) accused OFEs of inefficiency and mismanagement. In January 2010, she proposed to substantially lower the contributions flowing to OFEs and to allow some members switching back to the public pillar only (Żukowski, 2010). The employers´ organizations as well as some members of the Government (e.g., the Prime Minister's Chief Economic Advisor Michał Boni) were outraged. The three main employer associations (PKPP Lewiatan, the Business Centre Club and the Employers of Poland), the Polish Chamber of Pension Funds (*Izba Gospodarcza Towarzystw Emerytalnych*, IGTE), and the influential Civil Development Forum *(Forum Obywatelskiego Rozwoju)*, founded by former Minister of Finance Leszek Balcerowicz, condemned the reduction in contributions to OFEs as an attempt to liquidate the second pillar. This would have instead benefitted from deeper structural reforms, as OFEs' investment activities are extremely valuable for the economy.

The trade unions were divided. Solidarność criticized the proposed cuts as a short-term measure to thwart the deficit. OPZZ, instead, supported the idea that employees should be allowed to choose whether

7 NDC schemes, a fundamental innovation of the 1990s. are Pay-As-You-Go (PAYG) schemes that by design mimic funded schemes (Holzmann and Palmer, 2006: 4). The worker's contributions are noted on individual accounts, which are credited with a rate of return. Account values accumulate as long as the participant pays contributions. There is no 'full-benefit' age, as all new contributions increase the value of the account, thereby enhancing the size of the individual's annuity. The annuity is obtained by dividing the account balance with the estimated life expectancy at retirement. There are two main differences between NDC and funded schemes: an NDC rate of return depends on productivity and/or labour force growth, as opposed to the financial market rate of return; the only financial saving is in the form of a buffer fund (the surplus of balances the system when larger cohorts retire).

8 Additionally, the Government reformed the pension system for uniformed services, which also led to controversies with the trade unions.

to invest in OFEs or leave their contributions in ZUS. Finally, public opinion opposed the cuts, as only 21 per cent of survey respondents supported the reform package (Guardiancich, 2013; Wojciechowski and Rzońca, 2010; Mrozowicki 2011; Rae 2011).

Notwithstanding, the Minister of Finance Rostowski endorsed the return of contributions to the state budget to amend for the fiscal overruns during the crisis. Prime Minister Tusk finally gave in and endorsed the Labour Minister's proposals. Since March 2011, the contributions flowing to OFEs decreased from 7.3 per cent to 2.3 per cent, and are to be raised to 3.5 per cent in 2017.

Retirement age increase

One of the main problems of the Polish pension system was the excessively low effective retirement age and the discrimination between men (retiring at 65) and women (at 60) (for the negative effects of differential retirement ages, see Barr, 2012). Hence, Civic Platform, already during its electoral campaign for the second term in office, promised that it would raise and equalize the pensionable age to 67, which may simultaneously reduce ZUS's deficits in the future, and raise pension benefits, especially for women.

After the PO-PSL coalition got reelected, Donald Tusk unveiled the Government's programme for the four years in office. This included, among others, the following reform proposals (Kuźmicz, 2012a):

– equalizing the retirement age of women and men and raising the retirement age to 67;
– restricting retirement privileges for miners to those working underground;
– raising the retirement age for uniformed services to 55;
– increasing the employers' pension contributions by two percentage points;
– raising tax allowances for families with children by 50 per cent for families with three children or more;
– taxing the extraction of copper, shale gas, and silver;
– bringing the taxation of farmers in line with that of other taxpayers.

The very controversial reform plans would have required the active engagement of Donald Tusk's Government in tripartite social dialogue. Instead, just the opposite happened. Days after the unveiling of the programme, the social partners unanimously appealed to the Government to start consultations at the Tripartite Commission for Social and Economic Affairs, as the reforms touched upon all aspects of social dialogue.

However, after the 2011 elections, both the Ministers and the Government as a whole took a negative stance against the social partners. The Minister of the Economy (and Deputy PM) Waldemar Pawlak of PSL refused to continue chairing the Tripartite Commission and suggested that Finance Minister Rostowski take the post. Rostowski declined, and Prime Minister Tusk nominated the Minister of Labour and Social Policy Władysław Kosiniak-Kamysz failed in January 2012. By then, the Presidium of the Tripartite Commission had not met since June 2011. As Kuźmicz (2012a) points out, both the unions and the employers´ organizations accused the Government of obstructing the work of the Tripartite Commission by not showing up at its meetings or coming unprepared, and by failing to nominate new members for a number of months after the elections.

In mid-February 2012, Prime Minister Tusk announced the decision to raise the retirement age for men and women to 67, albeit very gradually: the pensionable age would increase by three months per year, so that the target age of 67 would be reached by 2020 for men and 2040 for women. A debate with the social partners was held on 22 March at the Tripartite Commission. There, the employers approved the reform, but also proposed supplementary measures as pro-family benefits and reducing pension privileges for some working categories. The unions, instead, unanimously opposed the proposal. The Chair of Solidarność, Piotr Duda, accused the Prime Minister of tabling the proposal to please international credit rating agencies; and Jan Guz, the Chair of OPZZ, said that without tripartite social dialogue the retirement age could not start increasing in 2013 (Kuźmicz, 2012b).

Both unions made alternative proposals. OPZZ, already in 2010, suggested that workers should be entitled to a seniority pensions, thereby being able to retire after 35 and 40 years of work, respectively for women and men. Solidarność instead prepared a list of alternatives, such as the introduction of social security contributions for all forms of employment, including the very precarious civil law contracts; the regulation of temporary work to avoid the abuse of social security rules; better health and safety for people in pre-retirement age and Active Labour Market Policies (ALMPs) for the young; greater control of the social partners over the Labour Fund to generate better ALMPs; and social security contributions for employers based on real and not declared income (Mrozowicki, 2012).

As a meeting of the Tripartite Commission on 13 April did not lead to an agreement, the Government declared that consultations with the social partners were over; all the mobilization efforts of the unions became redundant.

First, in February, Solidarność collected and handed in to the Polish Parliament (Sejm) 1.4 million signatures for a referendum on the pension reform. Despite exceeding the needed 500 thousand signatures by such a high margin, PO and PSL voted down the referendum proposal on 2 April. Second, the unions set up the Pension Village, a protester's camp, in front of the Prime Minister's office in late March and outside the Sejm in mid-May. Solidarność and OPZZ held demonstrations in front of the Presidential palace in late May and early June. Opposition parties Law and Justice (*Prawo i Sprawiedliwość,* PiS) and the Democratic Left Alliance (SLD) joined the protests. Third, the unions advertised their campaign in nationwide media and through a website (Mrozowicki, 2012).

In addition to these actions, public opinion in Poland was traditionally opposed to retirement age equalization. Surveys showed that the vast majority of respondents supported differentiated pensionable age and that early retirement became a deeply entrenched right of women (Chłoń, 2000; Szczepańska, 2007). Yet another confirmation came in a poll conducted in March 2012, as 84 per cent of those surveyed disapproved of the increase in the retirement age of men (64 per cent strong opponents) and 91 per cent opposed the change for women (75 per cent strong opponents). As many as 80 per cent of respondents thought that a lower retirement age for women is justified (CBOS, 2012).

Despite all the opposition, the Government pressed ahead. PO, PSL and Palikot's Movement voted in the Sejm for the amendment of the Act on pensions from the Social Insurance Fund on 11 May. The President, Bronisław Komorowski, signed it on 1 June.

In addition to raising the retirement age (as originally planned), the Act introduced the possibility to draw a partial pension, amounting to half of the full one, from the age of 62/65 with 35/40 years of contributions for women/men. Additionally, by December 2013, the Labour Minister is obliged to prepare proposals on ALMPs for workers older than 60.

6. Conclusions

Among the new Member States, Poland was the country where the global financial crisis had the lightest impact. The Polish economy experienced just a slowdown in 2009 and resumed a very healthy growth the year after.

Notwithstanding, at the onset of the crisis, Donald Tusk's centre-right Government, as well as the social partners, were expecting that the international credit crunch and recession would have a much harsher effect. Hence, during 2008–09 frequent negotiations took place in the main tripartite social dialogue forum in the country, the Tripartite Commission for Social and Economic Affairs. This looked like one of the several previous attempts at forging a social pact in Poland, which all failed due to the opposition of the two main trade union confederations (Solidarność and OPZZ), or were undertaken half-heartedly by disinterested governments.

In 2008–09, however, a positive development in Polish industrial relations took place. Even though, a formal social pact was not drafted and despite the Government's only marginal involvement in tripartite social dialogue, the social partners managed to hammer out a comprehensive anti-crisis package. This represents an almost unprecedented success in post-socialist Poland and testifies to the growing maturity of the social partners in the country.

Through bipartite social dialogue, the employers and the unions, members of the Tripartite Commission, agreed on a list of 13 proposals that may alleviate the impact of the crisis on the labour market. Tusk's Government positively reacted to the effort and (at least partly) translated these demands into legislation. Most of the measures were temporary and expired at the end of 2011, but their relative success was evident. In fact, several collective agreements at firm and, less common, at sectoral levels adopted these same anti-crisis solutions.

Despite these positive developments, tripartite social dialogue lost momentum during the second part of the crisis, in 2010–11. The PO-PSL Government strengthened its position vis-à-vis the social partners to the extent that it started to disregard their opinions and the consultations at tripartite level. Such strengthening originated in the milder-than-expected impact of the global recession on Poland, as well as due to Tusk's electoral success. He, in fact, became the first Prime Minister to be reelected for a second term in the country's post-socialist history. An emboldened Government pushed ahead with fiscal consolidation measures, in order to abide by the Council of the European Union's requirements under the Excessive Deficit Procedure.

The best example of this new balance of power was the 2012 pension reform, which raised and equalized the retirement age for men and women. These measures received conditional support of the employers, who, however, decried the lack of social dialogue, but which were harshly opposed by both Solidarność and OPZZ. The former organized a number of protest actions: it collected over a million signatures to call for a referendum; it organized demonstrations; and led an opposition campaign in the national media. This notwithstanding, the Government did not give in and unilaterally legislated the reform.

Hence, by 2012 industrial relations in Poland show a mixed picture. On the positive side, the social partners started to collaborate: the three national union confederations have created closer links since 2008 and they have successfully negotiated with the employers a comprehensive anti-crisis package. On the negative side, the persistent disregard of social dialogue by Polish governments continues. As partial comfort, this disregard originates in the success of the Polish economy, and not, as in several less fortunate Member States, in its collapse.

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Annex I: List of interviewees

Ministry of Labour and Social Policies:

Wiesław Kopeć – State Secretary at the Ministry of Labour and Social Policy

Jacek Męcina – State Secretary at the Ministry of Labour and Social Policy

Trade unions:

Zbigniew Kruszyński – Independent Self-Governed Trade Union "Solidarność", Secretary of the Tripartite Commission for Social and Economic Affairs

Janusz Gołąb – All-Polish Trade Union Alliance (OPZZ), Secretary of the Presidium of the Tripartite Commission for Social and Economic Affairs

Tadeusz Chwałka – President of the Trade Union Forum (FZZ)

Zygmunt Mierzejewski – Vice President of the Trade Union Forum (FZZ)

Employers' organizations:

Jacek Męcina – Director of the Department of Industrial Relations of the Polish Confederation of Private Employers "Lewiatan"

Piotr Rogowiecki – Employers RP, Director of the Centre for Monitoring Legislation

Zbigniew Zurek – Vice President of the Business Centre Club

Experts/academia:

Juliusz Gardawski – Professor, Warsaw School of Economics