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**InFocus Programme on Strengthening Social Dialogue**

**Working Paper**

**Social Dialogue and Tripartism in Poland: Evolution and Trends**

**Giuseppe Casale**

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## FOREWORD

Promoting and strengthening social dialogue in member States is one of the strategic objectives of the ILO. In accordance with this objective, the ILO's InFocus Programme on Strengthening Social Dialogue has taken important steps to study existing institutions, machinery and processes for social dialogue, to advocate the value of social dialogue and to provide technical assistance to member States aimed at strengthening social dialogue in their respective countries.

This report is one of a number of Country Reports on national institutions, machinery and processes for social dialogue undertaken by the InFocus Programme. The series seeks to elaborate on the concept of social dialogue as practised in member States, analyse the different approaches to social dialogue and identify best practices.

This paper analyses the present system of social dialogue in Poland, which is one of the front-runners for accession to the European Union. Its social dialogue system has been shaped by a continuous socio-political transformation which began in the late 1980s. The role played by the social partners and the public authorities throughout these years has been crucial for building social consensus at critical times. For example, the tripartite constituents, who were overwhelmed by the massive and chaotic wave of strikes between the end of the 1980s and the beginning of the 1990s, put forward proposals for tripartite national agreements. The core element of these national agreements (or social pacts) was the establishment of a Tripartite Commission for Socio-Economic Affairs which shaped the evolution of the Polish industrial relations system. The paper elaborates on the role and development of this Tripartite Commission and examines the various labour relations issues, especially in the context of the trend towards decentralization and deregulation. The paper also sheds light on the internal contradictions of the system especially in the context of an economic slowdown.

The draft report was the subject of a national tripartite seminar held in Warsaw in May 2001. During the seminar, the tripartite partners undertook a dispassionate assessment of the contribution of the social partnership protocols to the country's industrial relations system and national development. Many suggestions were made by the partners on how to further strengthen their social partnership and ensure its sustainability. The final report benefited from this direct involvement of the partners.

These country studies are designed to build up a body of knowledge on the practice of social dialogue in member States with a view to identifying its contribution to social and economic development. They also provide a sound basis for ILO technical assistance to its member States to assist with the development and strengthening of their institutions and processes for social dialogue.

I would like to record my appreciation to the tripartite constituents in Poland who generously shared their experience and expertise with us and to Giuseppe Casale, Senior Social Dialogue Specialist in the InFocus Programme, who was responsible for undertaking and coordinating this country study.

November, 2001

Patricia O'Donovan  
Director  
InFocus Programme on Strengthening  
Social Dialogue



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## Acknowledgements

This paper is the product of several meetings and discussions between the author and representatives of the major social partners and the Government of Poland throughout the last ten years. It started when the ILO implemented a technical cooperation project with Poland at the beginning of 1993 on the Promotion of Social Dialogue in Poland, which saw the establishment of the first Tripartite Commission on Social-Economic Affairs. Since then the labour relations system in Poland has evolved and taken several important steps towards harmonization with other European industrial relations systems. This has also been necessary for accession to the EU. The present study is part of wider research carried out by the ILO's InFocus Programme on Strengthening Social Dialogue on the evolution of social dialogue in a selected number of ILO member States. It is hoped that this research will contribute towards promoting the concept of social dialogue as an essential element of democratic participation by workers and employers in decision-making at the various levels of the economy.

This specific paper has benefited from several discussions and consultations with the major social actors in Poland. It would be difficult to thank all those whom the author met; among others, special thanks go to Ms. Elzbieta Sobotka, Deputy Minister, Ministry of Labour and Social Policy of Poland, (MOLSP), Prof. Marek Pliszkiwicz, Adviser to the Minister of Labour and Social Policy, Ms. Barbara Skulimowska, Director of the Social Dialogue Department, MOLSP, Ms. Danuta Jasi, Deputy Director of the Social Dialogue Department, MOLSP, Mr. Jerzy Chiechanski, Director, European Integration and International Cooperation Department, MOLSP, Mr. Czeslaw Nowicki, Adviser to the Minister, European Integration and International Cooperation Department, MOLSP, Mr. Krystian Zajac, Deputy President, Confederation of Polish Employers (KPP), Mr. Pawel Musiol, Chairperson of the Permanent Committee for Social Relations Issues, Confederation of Polish Employers (KPP), Mr. Andrej Rudka, Director of the Foreign Department, Polish Confederation of Private Employers (PKPP), Mr. Jacek Smagowicz, member of the Presidium, National Commission of NSZZ "Solidarnosc", Mr. Ryszard Lepik, Deputy President, All-Poland Alliance of Trade Unions (OPZZ), Prof. Maria Matey, Polish Academy of Sciences, Institute of Legal Studies, Warsaw, Ms. Danuta Stefanska, ILO National Correspondent in Warsaw.

Sole responsibility for the opinions expressed in this text lies with the author.

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## Introduction

The present system of social dialogue in Poland has been shaped by the process of political transformation, which began in the early 1980s. It is regulated by a labour code, which codifies a variety of Acts, dating largely from the early 1990s. The current system - often the result of reactions to political events - will certainly undergo further evolution. However, since the beginning of the transition period, the social partners and the Government have recognized the importance of building a system based on mutual recognition. From the outset, they all accepted that the best solution for them was to build a tripartite system to facilitate consensus on major economic and social policy issues.

After more than a decade of developments in the area of social dialogue, the tripartite approach still retains its importance, although the dialogue between the social partners (bipartite relations) is gaining more and more momentum.

As an additional introductory remark, it is worth mentioning that the notion of social dialogue is enshrined in the Polish Constitution of April 1997<sup>1</sup>, the Preamble to which states:

*We, the Polish Nation - all citizens of the Republic (...) hereby establish this Constitution of the Republic of Poland as the basic law for the State, based on respect for freedom and justice, co-operation between the public powers, social dialogue as well as on the principle of aiding in the strengthening the powers of citizens and their communities.*

Article 20 of the Constitution provides as follows:

*A social market economy, based on the freedom of economic activity, private ownership and solidarity, dialogue and co-operation between social partners shall be the basis of the economic system of the Republic of Poland.*

In the process of establishing a new system of social dialogue, particular attention was paid to the changing roles of the State and the social partners due to the sweeping socio-economic reforms introduced in the country. These reforms were accelerated when Poland ratified the EU Accession Partnership in 1994 which implied the introduction of a new employment system with a view to implementing the European Employment Strategy.

Before analysing the social dialogue system and the role that the social partners have played in the system, it is worth briefly reviewing the economic context and developments in the labour market.

<sup>1</sup> Journal of Laws of 16<sup>th</sup> July 1997, N°. 78, item 483.

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## Chapter 1

### Economic context and labour market trends

Poland has a dynamic market economy, characterized by macroeconomic stability. Even though the Russian crisis induced a slowdown from the high rates of economic growth that Poland had experienced over the years, its macroeconomic performance remained quite high, with growth of 4.8 per cent in 1998 and 4.1 per cent in 1999. Poland was one of the fastest-growing economies in Europe in 2000, with a GDP for the first six months of 2000 some 5.6 per cent higher than the same period in 1999. Productivity in industry was up by 18 per cent and there were important shifts in the structure of industrial production, with a fall in the share of mining and an increase in that of processing industries. However, the trade and current account deficits, as a percentage of GDP, increased considerably and inflation was about 6 per cent at the beginning of 2001.

In the last few years, the main challenge for the Government has been to ensure medium-term macro-economic stability. In this regard, the Polish authorities embarked on a series of major social and structural reforms in the area of pensions, healthcare, provincial and local government and education. These were and are combined with privatization policies.

Poland is a functioning market economy, with an increasingly thriving private sector and a legal and institutional environment favourable to economic activity. In fact, the institutional framework is largely in place and further amendments are being made to the legal framework in which business and labour operate. Formal barriers to business activity have been removed in most sectors and the investment climate is quite good. Smaller domestic enterprises continue to experience difficulty in obtaining external finance and are faced with barriers when trying to establish joint-stock companies in certain sectors.

The private sector accounts for a substantial part of Polish GDP (61 per cent).<sup>1</sup> Controlled prices have been progressively liberalized, and market mechanisms are in place in most sectors of the economy. Nevertheless, prices directly affected by government decisions still represent roughly a quarter of the consumer price index. Intervention prices apply to a range of agricultural products. Trade is largely liberalized, but from time to time Poland has recourse to protective measures. More than 90 per cent of Polish enterprises are small and medium-sized enterprises and most of them are very small. SMEs contribute 45 per cent of GDP and account for more than 60 per cent of employment. Around 40 per cent of SMEs are involved in the trade sector with 10-12 per cent each in manufacturing, construction, real estate, transport and other services.

The privatization programme, which was adopted in July 1998, envisaged that 44 large enterprises would remain in public ownership. Over the period to 2001, over 70 per cent of the assets previously held by the State Treasury were privatized and, according to government estimates, raised more than 35 billion euros.

The financial sector has survived the consequences of the Russian crisis quite well. The Polish banking sector's exposure in Russia was very limited and it is now developing fast from a low base, in particular through the increased presence of foreign strategic investors in large Polish institutions.

<sup>1</sup> According to a Labour Force Survey which adopts ILO definitions, in February 1999 the private sector accounted for 62 per cent of all employment (Statistical Year Book GUS, Warsaw 2000). Unless otherwise stated, all data in this section relating to employment, unemployment and the workforce are based on the ILO definitions.

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Lending to the private sector has consistently increased in real terms over the last few years reaching 26 per cent of GDP in 1998. Nevertheless, Polish banks are limited in their ability to lend to firms for investment. At the same time, the financial markets in Poland continue to consolidate, notably as a result of the pension reform currently being implemented. Investment has increased openness to foreign capital and trade - key factors in Poland's improved competitiveness.

The rate of accumulation of capital goods in Poland has risen steadily since 1992; the investment-to-GDP ratio reached 26 per cent in 1998. Moreover, annual investment in machinery and equipment, including transport, is now practically equal to that in buildings and construction, compared with only one half in the early 1990s. In addition, the potential and dynamism of the Polish market has attracted a sizeable inflow of foreign direct investment over the years. This inflow has remained strong, and the accumulated stock of FDI exceeded US\$ 40 billion by mid-2000. A growing number of Polish companies have foreign shareholders, especially from Europe. Trade with the EU has increased substantially. However, Poland's export sectors, such as the agro-food sector, have some difficulty in competing in the EU, mainly because of the low productivity of Polish agriculture and poor quality.

Although market mechanisms work effectively in most sectors of the economy, a large number of firms in the public sector, such as steel, are not profitable, and restructuring them is a slow process. In addition, about 18 per cent of Polish employment remains in agriculture or at least in rural activities, mainly on small-scale family farms.<sup>2</sup> Overall, agricultural employment has declined slightly during transition, but the rate of unemployment in rural areas is currently above the average level. The agricultural sector is in urgent need of reform. An important part of the food industry has been privatized, but there is still over-capacity in some sectors and much needed restructuring is being held back, partly because of institutional barriers.

### **1.1. Sectoral trends**

The early years of transition between 1989 and 1992 saw major changes in the sectoral distribution of employment. Sectoral change continued during the period of rising employment growth. Between 1995 and 2000, agricultural employment fell by a further 700,000, industrial employment fell by about 200,000<sup>3</sup> and services employment grew by almost 750,000. Employment growth in services was more broadly based, with particularly rapid growth in distribution, real estate and business services, transport and communications, and hotels and restaurants. In general, it can be said that the sectoral structure of employment has been gradually converging with the pattern in the EU, although the employment rate in agriculture remains high by EU standards.

### **1.2. Creation of small-scale enterprises**

A combination of privatization of smaller state enterprises, together with the establishment of new small businesses, saw a rapid change in the pattern of ownership in the Polish economy in the early

<sup>2</sup> Figures for 1998 based on the Statistical Year Book GUS shows 25 per cent; according to the LFS, which adopts ILO definitions, in February 1999 the agricultural sector employed 18 per cent of all employed.

<sup>3</sup> Industrial employment in fact rose by 150,000 between 1995 and 1998, but has fallen by over 350,000 in the last two years.

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1990s. By 1994, some 53 per cent of employment was in the private sector (including co-operatives). The private sector share has continued to increase, rising to 62 per cent in 1999 and 64 per cent in early 2000.

The extent of private ownership varies greatly by sector. The share of private-sector employment in 1998 was highest in construction, distribution and hotels and catering (at over 80 per cent) and lowest in mining, healthcare and education. In transport and communications and financial services, it lay somewhere in between.

### **1.3. Self-employment**

Many of the new businesses established in the transition period were sole-trader enterprises. By 1994, almost one-third of workers in the non-agricultural private sector were self-employed. While self-employment continued to grow after 1994, dependent employment in the private sector rose even more rapidly, reflecting the pattern of enterprise growth (based on expansion and consolidation of existing firms rather than accelerated creation of new small enterprises).

### **1.4. Regional framework**

According to the statistics for February 1999 the employment rate for voivodship (regions), defined as a percentage of the employed population aged 15 years or over, varied between 45.2 per cent for the Lubuskie Voivodship and 52.6 per cent for the Mazowieckie Voivodship. Of the sixteen voivodships, two had employment rates in the range of 45 - 47 per cent, nine had rates between 47 - 50 per cent and five voivodships had rates between 50 - 53 per cent.

The relative share of the rural and agricultural population is an important factor determining regional variations in employment rates. Given the high reported employment rate in the rural population, voivodships that are predominantly rural tend to have high overall employment.

Since 1994, employment has grown rather faster in the Warsaw area and in the western voivodships, and slowest in the eastern part of the country.

### **1.5. Labour force**

The overall population has also changed in recent years - growing by less than 0.1 per cent annually. However, the population of working age (15-64) has been growing rather more rapidly - by 0.7 per cent annually - and is estimated at approximately 25.6 million in early 2000.<sup>4</sup> Patterns of labour supply have shifted significantly during the transition in response to both the fall in employment and to other factors such as rising educational participation among young adults.

There are some variations in labour force participation at regional level. The highest participation is found in regions dominated by private agriculture (perhaps reflecting high reported participation among older people in these areas), while the lowest is found in the industrial regions. Overall, the continuing decline in participation has meant that the absolute size of the labour force

<sup>4</sup> Labour Force Survey, GUS.

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remained almost unchanged between 1994 and 2000 at about 17.2 million, despite rapid growth in the working-age population. With participation now stabilizing and demographic factors continuing to increase the population of working age, the labour force is likely to grow in the years immediately ahead.

Education levels in the labour force are low, but tending to rise. Between 1994 and 1998, the share of the labour force with tertiary or secondary vocational qualifications rose from 36 per cent to 41 per cent, while the share with only elementary education fell from 23 per cent to 18 per cent. The recent rise in the numbers going on to further education is likely, in the coming years, to lead to a more rapid increase in the proportion of the workforce with higher qualifications.

## **1.6. Unemployment**

### Overall trends

As in other countries of Central and Eastern Europe, the labour force declined less rapidly than employment during the early transition years. As a result, unemployment rose sharply - from approximately 6 per cent in 1990 to a peak of 15.9 per cent in the first quarter of 1994.<sup>5</sup> Thereafter, a combination of resumed employment growth and continued decline in the size of the labour force saw unemployment decline significantly. The unemployment rate fell to just over 10 per cent in the second quarter of 1998 but rose sharply after mid-1998, averaging 13.9 per cent in 1999 (ILO basis).<sup>6</sup> By early 2001, unemployment had risen to over 16 per cent.<sup>7</sup> This increase reflects the general economic slowdown and an acceleration in restructuring during 1999.

### Structural features

A significant proportion - just over one-third - of the unemployed are long-term unemployed (i.e. over one year). However, this proportion has been falling in recent years - from almost 40 per cent in 1994 to 35 per cent in 1999/2000. Unemployment is significantly higher among women (18.5 per cent in early 2000) than men (15.2 per cent). The gap between women and men has been widening - the ratio of female to male unemployment rose from 1.09 in 1996 to 1.22 in 2000. At this level, the gender gap remains relatively low by EU standards. However, women appear to be particularly prone to long-term unemployment, and their relative disadvantage has been worsening over time.

Unemployment also varies by region. In early 2000, the lowest rate of unemployment occurred in highly urbanized voivodships such as Malopolskie (11.9 per cent), Mazowieckie (13.8 per cent) whereas the highest occurred in the northern belt voivodships which have a history of state-owned farming, such as Warmisko-Mazurskie (26.3 per cent) and Dolnoslaskie (22.7 per cent). Unemployment also varies greatly according to the levels of educational qualification. In February 2000, the

<sup>5</sup> Estimate of ILO-basis unemployment derived from trends in registered unemployment. Actual ILO dates are not available for years prior to 1992.

<sup>6</sup> References to 1999 unemployment rates here and below are to the average value from the LFS for the first and last quarters of the year. The survey was suspended for the intervening quarters.

<sup>7</sup> Average of the LFS estimates for the first two quarters of the year. LFS unemployment tends to be relatively higher in the first half of the year because of seasonal factors.

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unemployment rate for those with tertiary education was under 5 per cent, as compared to 22 per cent for those who have only primary education.

### **1.7. Wage policy**

Overall, average real wages fell sharply in the early 1990s but have been increasing steadily since 1993. However, in 1994 and 1995, the increase in real wages still remained below the growth of productivity. During the 1996-98 period, average real wages grew more rapidly than productivity each year. Over this period, average real wages rose by approximately 19 per cent as compared with a productivity increase of 13 per cent. However, this trend appears to have been partially reversed during 1999-2000. Several factors have underpinned overall wage trends. First, the minimum wage was increased significantly in 1993 and since then has been maintained at approximately 40 per cent of average wages. Second, across virtually all sectors of the economy, wages in public enterprises have remained above those in private firms. Third, tax levels in Poland are high by international standards, even at relatively low wage levels. This tends to put direct upward pressure on wages, and indirectly reduces the labour supply.

In addition, there has been a tendency to increased wage differentiation in recent years. The clearest trend has been in the relationship between education and training levels and wages. Relative hourly earnings have been rising for workers with higher education and for those with general secondary education; those with secondary or basic vocational education and those with only elementary education have seen a relative decline in their wage levels. By comparison, wage differentials across sectors and between men and women, have been relatively stable in recent years.

### **1.8. Key current issues in the labour market**

Labour market policies must be seen in the context of the overall economic challenges facing Poland. Poland's over-riding economic objective is to achieve high levels of sustainable growth accompanied by a modern labour market system. These two goals are clearly inter-linked and mutually supportive. In turn, they help identify strategic issues for the conduct of policies in employment and labour relations. Before analysing the system of social dialogue and its specific characteristics, it may be useful to summarize the main current and prospective issues facing employment and labour market policies in Poland.

1. Unemployment was high at approximately 16 per cent in early 2001. This in part reflects difficulties relating to demographic change, incomes, tax policy, and reform of healthcare. The main structural features of unemployment can be summarized as follows: substantial long-term unemployment; a significantly higher unemployment rate among women than men; a high unemployment rate among those with lower levels of education, high youth unemployment and wide regional variations in unemployment. The rate of youth unemployment is of particular concern, having risen sharply over 2000 to 38 per cent.
2. Employment ratios have now fallen below EU levels, particularly males aged between 45 and retirement age.
3. The extent of re-structuring to date is substantial. However, further significant job losses are to be expected in two areas of the economy: agriculture and state enterprises in the industrial and transportation sectors. Additional job losses are likely to occur in parts of "traditional" industry that are already in private ownership.
4. Educational levels in the workforce, although rising, are still relatively low. In addition, even where workers have qualifications, these may not match the requirements of those economic sectors most likely to provide additional jobs in the future or the need for greater flexibility and adaptability in the workforce.

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5. Significant inequalities of opportunity between men and women in the labour market remain. These are reflected in higher female unemployment, particularly long-term unemployment, and in the relatively lower earnings of women. These differences persist despite generally higher levels of education among women than men.

In these circumstances, the overriding strategic challenge for employment policy is the improvement of the overall climate for enterprise and entrepreneurship, including SME development. Labour-market policies should also support this process. They must also ensure that the large numbers of young people entering the labour market in the coming years are adequately prepared for the new economic structures and patterns of employment now taking shape. In so doing, the social partners and the Government have an overall interest in boosting social dialogue at the various levels of economy.

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## Chapter 2

### Social dialogue and tripartism: actors, institutions and mechanisms

Against this background, the social dialogue system in Poland has evolved at various levels. This evolution was not always clear and coherent partly due to the difficult political, economic and social context within which the social partners and public authorities had to operate. The following paragraphs describe who is who in Polish industrial relations, and this is followed by our analysis of the institutions and mechanisms of social dialogue.

#### 2.1. Trade unions

The operation of Polish trade unions is governed by trade union legislation dating from May, 1991, the Trade Unions Act.<sup>8</sup> Arising from the events of the 1980s, the Polish trade union movement has been dominated by two major groups: the Independent and Self-Governing Trade Union “Solidarity” (Niezależny Samorządny Związek Zawodowy “Solidarnosc - NSZZ Solidarnosc) and the All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych-OPZZ).

The Solidarity trade union was established in September 1980 and registered in November of that year following an agreement between the Interfactory Strike Committee (Miedzynakładowy Komitet Strajkowy) and the communist authorities. In 1982, during the period of martial law, Solidarity- together with other trade-union organizations - was dissolved. It was registered again in April, 1989 following the Round Table Agreement.

Solidarity estimates its membership at 1.3 million, organized in 17,000 factory committees. The union is governed by a National Convention of Delegates (Krajowy Zjazd Delegatów) whose ordinary meetings are held at least once a year; the National Committee (Komisja Krajowa) and the National Revision Committee (Krajowa Komisja Rewizyjna). The National Committee supervises regional boards as well as the secretariat and branch councils.

The OPZZ was established in 1984 by the Meeting of Branch Union Representatives (Zgromadzenie Przedstawicieli Branżowych Związków Zawodowych). According to OPZZ data (released in January 2001), the union has 1.8 million members, 300,000 of whom are retired. The OPZZ’s supreme body is the Congress, which meets every four years. Its main body is the Council whose members are elected in 12 branches - associating 110 national trade union organizations - and in 16 regions (voivodship). The OPZZ is structured along administrative regional lines and also comprises some 265 municipal structures.

In addition to Solidarity and the OPZZ, there are numerous other federations (about 300), as well as 273 trade union organizations which operate nationally and 23,955 local trade unions, of which 17,000 belong to the OPZZ. There are thus approximately 7,000 separate trade unions which are exclusively local and not affiliated to any of the main trade union organizations. Farmers’ trade unions have a separate legal status, and they are becoming more and more active in social dialogue due to the current agricultural reforms. The farmers’ unions are:

<sup>8</sup> Register of Acts, 1991, No.55, item 234.

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- the National Union of Farmers' Co-operatives and Organizations (Krajowy Związek Rolników, Kólek i Oranizacji Rolniczych, - KZRKIOR);
  - the Solidarity Farmers' Union (NSZZ Rolników Indy Widualnych "Solidarnosc"); and
  - the "Self-defence" Farmers' Trade Union (Związek Zawodowy Rolnictowa "Samobrona").

## **2.2. Trade union density**

There are no reliable statistics in Poland regarding trade union membership and the level of unionization in enterprises. The most recent research indicates that trade unions currently operate in about 45 per cent of enterprises. It should be remembered that this is much higher in the public sector than in the private sector. Trade unions are widespread in traditional state-owned enterprises and State Treasury stock companies, while they operate in only 9 per cent of enterprises established since the 1990s as private undertakings. The average level of unionization in enterprises where trade unions operate is 50 per cent, though this figure is declining. A distinctive feature of Polish trade unions is their political activity and the significant role they play in the political system. Since its establishment in 1980, Solidarity was in fact a huge social movement that also fulfilled the function of a trade union organization. The two largest trade union organizations form the basis of the two main political parties in the country: the Solidarity Electoral Alliance (Akcja Wyborcza "Solidarnosc"- AWS), which has only recently been dissolved and the Democratic Left Alliance (Sojusz Lewicy Demokratycznej - SLD). The political position of Solidarity is mainly determined by its participation in the Governments of the 1991-93 and post-1997 periods.

The political role of both major trade unions is also evidenced by the fact that numerous union leaders sit in Parliament. Following the 1997 elections, 63 Members of Parliament and Senators nominated by Solidarity took their seats in Parliament, as well as two MPs nominated by the Solidarity Farmers' Union (together representing 11.6 per cent of the total number of MPs and senators), and 46 MPs nominated by the OPZZ (representing 8.2 per cent of the total).

A further issue for the Polish trade union movement is the question of how representative trade unions really are, especially at the enterprise level. For the time being, the representativeness of trade unions is regulated by law, yet the issue remains unresolved. In extreme cases, for example in the mining industry, there may be more than a dozen trade unions in a single enterprise, all struggling fiercely to gain influence. The union representation question is under examination and several proposals for resolving this matter are under consideration.

## **2.3. Employers' organizations**

There are two main employers' confederations in Poland.<sup>9</sup> One is the Confederation of Polish Employers (KPP) which was created in 1989. It has been active in its present form since September 1991 and based on the Employers' Organization Act of May 1991. The Confederation is composed of both state-owned enterprises as well as private employers. For historical reasons, the KPP represents the employers' side in the Tripartite Commission for Social and Economic Affairs. The KPP governing structures are the General Assembly, the Executive Committee, the Presidency and the President. Permanent Committees act as advisory bodies to the President. The KPP participates in meetings of the

<sup>9</sup> On the basis of the agreement signed in May, 2001, the social partners have agreed that the Union of Handicrafts will become the third confederation of employers to sit in the new Tripartite Commission on Social and Economic Affairs. See below for signatory parties.

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International Labour Conference. The KPP has observer status at the Union of Industrial and Employers' Confederation of Europe (UNICE) and is a member of the International Organization of Employers (IOE) and of the Business and Industry Advisory Committee (BIAC) of the OECD.

The second organization is the Polish Confederation of Private Employers (PKPP) which was registered in January 1999. This Confederation is an organization of private employers and is registered in accordance with the Employers' Organizations Act of May 1991.<sup>10</sup> The Confederation's fundamental objective is the protection of employers' rights and the representation of the interests of member organizations vis-à-vis trade unions, the Government and public administration as well as local government. Its governing structures are:

- a) General Assembly;
- b) Main Board;
- c) Management Board and
- d) President.

The Confederation was not a member of the Tripartite Commission for Social and Economic Affairs until the tripartite agreement reached by the social partners in May, 2001 provided that the PKPP would be a member of the newly reformed Tripartite Commission. The Confederation co-operates with the International Labour Organization (ILO), the International Organization of Employers (IOE), and has observer status at the Union of Industrial and Employers' Confederation of Europe (UNICE). In this regard, it should be noted that PKPP opened an office in Brussels in March, 2001. This Confederation represents a wide range of companies including small and medium sized enterprises. According to PKPP data (April 2001), it has 22 branches and 12 regional associations covering 2,150 enterprises employing 450,000 employees.

From a legislative point of view, the Employers' Organizations Act of May 1991 grants all employers the opportunity to organize themselves as associations, giving them full freedom in that respect. It also guarantees them full self-government and independence from government departments, local government and other organizations. The fundamental goal of employers' organizations is to defend the rights and represent the interests of member employers. These organizations also have the right to bargain collectively and to conclude collective labour agreements.

However, it should be said that the low level of activity of trade unions in enterprises meant that there was little incentive for private entrepreneurs to organize, especially at the beginning of the transition period. Many preferred to operate in the grey economy (in this way inducing unfair competition) and it was only public sector employers who initially felt the need to organize. Today, with the substantial changes brought about through economic reforms, more and more private employers and entrepreneurs feel the pressure to organize themselves and to be represented at national level. By strengthening their representation at national level, employers' organizations are trying to gain institutional credibility, but this also needs the loyalty and support of its individual members.

#### **2.4. Tripartite institutions and mechanisms**

During the early years of economic transition, the Government was completely overwhelmed by a massive and chaotic wave of strikes. In 1992, the social partners and the Government launched discussions about the possibility of introducing a social contract which was eventually signed in

<sup>10</sup> Journal of Laws No. 55 of 1991, item 235, as amended.

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February 1993 by the Government, Solidarity, OPZZ and seven other national branch trade unions.<sup>11</sup> The new Pact on state-owned enterprises in transition included the creation of a tripartite body called the Tripartite Commission for Social and Economic Affairs. This was established by a Resolution of the Council of Ministers.<sup>12</sup>

By the end of 2000, the Tripartite Commission had met 75 times in plenary sittings. In addition, the Commission established a number of problem-solving committees, of which the committee for social security reform has proved to be the most productive.

- The Commission succeeded in establishing common positions on the following issues:
- the growth rate of average monthly wages in enterprises during the third and fourth quarters of 1994;
- the level of resources to be allocated to wages in budget sector institutions in 1995 (central and local government institutions);
- the maximum annual growth rate of average monthly wages in enterprises for 1995, 1996 and 1997;
- the expected level of average pay in budget sector institutions and the difference in pay among subsectors for 1996 and 1997;
- changes to the programme of social security reform;
- the draft budget for 1996 and 1997;
- draft legislation on employment and unemployment; and
- mediators' salaries.

The Tripartite Commission became the main institution of social dialogue in Poland. Its position was strong and its public recognition was especially high during the 1995-97 period when it was headed by the late Andrzej Baczkowski, first as Under-Secretary of State at the Ministry of Labour and Social Policy, and in subsequent years, as Minister. At the time, the Commission was the main forum for wage negotiations, especially wages in the publicly financed sector (central and local government institutions), but also wages in the private sector. This was related to the two major pieces of wage legislation which came into force in late 1994: the Negotiation-based System for Setting Average Wage Increases in Enterprises Act, December 1994 and the Determining Resources for Budget Sector Wages Act, December 1994.<sup>13</sup>

<sup>11</sup> The Federation of Polish Rail Workers (Federacja Związków Zawodowych Pracowników PKP), the Confederation of Energy Industry Workers (Konfederacja Związków Zawodowych Energetyków), the "Kadra" Trade Union Association (Porozumienie Związków Zawodowych "Kadra"), the Engineering and Technical Workers' Trade Union (Związek Zawodowy Inżynierów i Techników), the Railway Engine Drivers' Trade Union (Związek Zawodowy Maszynistów Kolejowych w Polsce), the Municipal Transport Workers' Trade Union (Związek Zawodowy Pracowników Komunikacji Miejskiej), and the Electrical Industry Workers' Trade Union (Związek Zawodowy Przemysłu Elektromaszynowego).

<sup>12</sup> This was the result of ILO direct assistance to Poland during those years. The Commission's work was based on the following legal instruments: Council of Ministers' Resolution No. 7/94 of February, 1994 on the creation of the Tripartite Commission for Social and Economic Affairs, Resolution No 69/96 of June, 1996 amending the Resolution on the creation of the Tripartite Commission for Social and Economic Affairs as well as the Commission's Statute of March, 1994. In addition, specific tasks are assigned to the Commission by the following Acts: Act of January, 1995 regarding a system for negotiating and determining the average wage within enterprises (Journal of Laws No. 1 of 1995 Text 2) and Act of December, 1999 regarding the allocation of funds for public sector wages (Journal of Laws, No. 34 of 1999 Text 163).

<sup>13</sup> Register of Acts, 1995, No. 1, item 2.

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Initially, the negotiation mechanism set out in these Acts functioned very efficiently, not only because it was possible in 1995 and 1996 to reach wage agreements within the framework of the Tripartite Commission, but also because the agreements were respected. This fact should be emphasized in relation to private sector pay where the mechanism set the approximate ceiling for wage increases. The ceiling could be exceeded but sanctions could be implemented only in the case of state enterprises where excessive wage increases took place in a loss-making enterprises. However, the system did not function properly as a number of state enterprises, especially the larger ones, did not respect wage discipline and increased wages beyond the negotiated ceiling despite poor financial performance. Sanctions were not applied in a consistent manner and this, in turn, meant that the negotiated, approximate ceiling on wage increases lost its regulatory force. This led to the suspension of the negotiation-based wage regulatory mechanism at the end of 1996.

A second factor contributing to this development was the approach taken by Solidarity. In 1997, for political reasons related to imminent Parliamentary elections, Solidarity withdrew its support for the wage agreements negotiated by the Commission which meant that wage increases in the public sector were effectively determined solely by the Government. Again, no tripartite agreement was reached. Some of the trade unions attributed this to the inflexibility of the Government. These developments weakened the Tripartite Commission as the main forum for social dialogue. Additionally, towards the end of 1998, the OPZZ suspended its participation in the Commission, on the grounds of a lack of real information, which effectively blocked any further work.

The gradual weakening of the Tripartite Commission can also be attributed to its composition as neither the trade unions nor the employers were properly represented. The composition of the Commission was the result of negotiations over the Pact on State-Owned Enterprises. A number of influential trade unions representing workers in the service sector, especially public services, took part in these negotiations. Since then it has proved impossible to regulate the status of the Commission by legislation, and impossible to put a mechanism in place which would ensure that the Commission was composed of truly representative social partners.

In the case of the private sector, the decline in the importance of the Tripartite Commission has led to the spontaneous decentralization of industrial relations, and wage bargaining is now determined more by the balance of forces at local level. The centralized bargaining mechanism operates in a rather chaotic way and influences only a few key sectors in the economy still dominated by state enterprises, such as mining. In the case of the public financed sector, the effect has been to shift bargaining once again towards the sectoral ministries (e.g. the Ministry of Health and Social Security).

The debate on reform of the Commission has ignited a public and "political" debate among all the major social actors. The most important issue at stake is the determination of criteria of representativeness for both trade unions and employers' associations, as well as representation of the Polish National Bank, the State administration, local community institutions and services and other social and professional organizations. In principle, both social partners and the Government have agreed on this representation, although with a number of reservations. The major problem remains the determination of the quantitative criteria. There have been proposals to designate in legislation the trade unions and employers' organizations which could sit in the Commission.

The Polish Parliament began work in early 2001 on new legal regulations to establish a national social dialogue institution to replace the existing Tripartite Commission for Social and Economic Affairs. Activities are based on two separate projects presented respectively by the Government and by Parliament. Legislation on the role, composition and functioning of a tripartite Commission was already envisaged in the Pact on State-Owned Enterprises concluded in 1994. The importance of this topic grew considerably following the adoption of the new Constitution of the Republic of Poland in April, 1997. In May 2001, following a series of initiatives and consultations among the social parties, a Joint Declaration was signed by the following national social actors: OPZZ, Solidarity, PKPP, Union of Handicrafts and the Deputy Prime Minister and Minister of Labour and Social Policy. This Declaration addresses the questions of unemployment and job creation, and lays down the basis for the establishment of a new Tripartite Commission on Social and Economic Affairs. The main role of the

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new Commission will be the development of social dialogue to counteract unemployment and promote job creation, to deal with macroeconomic, fiscal and monetary policies, promotion of economic development, improving competitiveness, labour law reform and relations between employers and employees, education and continuing education and training programmes.

The legal text establishing the new Tripartite Commission was approved by the Parliament (Sejm) in July 2001.<sup>14</sup> According to press statements issued by the major social partners, the Commission will finally establish a legal framework for permanent social dialogue. It is interesting to note that Parliament has accepted the proposal that meetings of the Commission will also be attended by representatives of local government, the President of the National Bank of Poland and the President of the Central Statistical Office in an advisory capacity.<sup>15</sup> In addition to the composition and organization of the Tripartite Commission at the national level, the law deals with the so-called “voivodship social dialogue commissions” – these are new bodies created at the local level with a view to expressing opinions on matters of mutual concern to the public authorities and the social partners, dealing with all economic and social aspects of the reforms. Its composition is tripartite, although it is possible to extend participation in its meetings to representatives of other interest groups. These commissions are also served by a permanent secretariat (organizational unit) which is considered to be part of the voivodship administration. The law of July 2001 links the new Tripartite Commission with the Prime Minister and his Chancellery. The Chairman and all members of the Tripartite Commission are appointed by the Prime Minister, based on proposals from representative employees’ and employers’ organisations respectively, local self-government, the President of the National Bank of Poland and the President of the Central Statistical Office. The Chairman of the Tripartite Commission is appointed by the Prime Minister from among member of the Council of Ministers, representing the Council of Ministers in the Commission (their number is defined by the Prime Minister who also appoints and recalls them); thus according to the law the Chairman of the Tripartite Commission and its staff are situated in the Prime Minister Chancellery and as its organisational unit; the operational costs of the Commissions are covered by the Prime Ministers’ Chancellery Budget. It is too early to say whether the Commission will function effectively. The attitude and approach as well as the representativeness of the parties will determine its success.

## **2.5. Sectoral and industry committees**

In recent years, due to wide-scale industrial restructuring, privatization and re-organization of work in several industries, the Ministry of Labour and Social Policy have created a number of tripartite problem-solving committees. Each of these committees is composed of representatives of the social partners on an equal basis.

Some of the first committees established were:

- The Tripartite Group for Miners’ Social Security;
- The Tripartite Group for Social Conditions in the Restructuring of the Metal Industry;

<sup>14</sup> Law concerning the Tripartite Commission for Socio-Economic Issues and voivodship social dialogue commissions (Dziennik Ustaw – Journal of Laws N<sup>o</sup>. 100, Text 1080)

<sup>15</sup> In addition to the composition and organization of the Tripartite Commission at the national level, the law deals with the so-called “voivodship social dialogue commissions” – these are new bodies created at the local level with a view to expressing opinions on matters of mutual concern to the public authorities and the social partners, dealing with all economic and social aspects of the reforms. Its composition is tripartite, although it is possible to extend participation in its meetings to representatives of other interest groups. These commissions are also served by a permanent secretariat (organizational unit) which is considered to be part of the voivodship administration.

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- The Tripartite Group for Restructuring of the Energy Sector;
  - The Tripartite Group for Social Protection of Workers in the Asbestos Industry;
  - The Tripartite Group for Restructuring of the Defence Industry;
  - The Tripartite Group for Restructuring of the Mining and Sulphur Processing Industry;
  - The Tripartite Group for the Textile Industry.

These sectoral committees provided fora for consultations on the social consequences of industrial restructuring. They worked in a very formal manner according to rules and procedures agreed on by the parties themselves. Some consultations resulted in real negotiations and the conclusion of industry agreements including the following:

1. the metallurgy social package (agreement on social protection conditions in the restructuring of the iron and steel industry);
2. agreement on the restructuring programme for the defence industry and support in the field of technical modernization of the Armed Forces of the Republic of Poland,
3. the social protection package for workers in the asbestos industry,
4. a strategic agreement for the textile industry (1999-2002),
5. a restructuring programme for the mining and sulphur processing industries.

In addition to the above, several other sectoral committees have been established. Among others, the Tripartite Commission on Maritime Affairs and Deep Sea Fishing was established in October, 2000.

A new bipartite metal industry committee was created in early 2000. It acts as an advisory group to the Minister for Labour and Social Policy and it monitors the working and employment conditions of metal workers in the restructured metal industry. The committee is composed of representatives of trade unions and employers' organizations in the metallurgy sector.

In addition to these tripartite and bipartite structures, some committees include other actors in society such as chambers of industry and commerce, local and regional government. In these committees, social dialogue has focused on highly specific issues, where it is seen as an essential vehicle for reaching compromise in industries and sectors undergoing restructuring. This practice has been supported by new legislation introduced in Poland in 1991.<sup>16</sup> For example, the public authorities have the obligation to consult workers' and employers' organizations prior to the launching of any industrial restructuring process which is taken at the Government's initiative.<sup>17</sup>

## **2.6. Commission for Collective Labour Agreements**

In addition to the above sectoral and industry committees, a Tripartite Commission for Collective Labour Agreements was also established to deal with the amendment of the Labour Code and amendments to selected Acts.<sup>18</sup> This Commission is composed of representatives of the following

<sup>16</sup> See art. 19 of the Trade Unions Act and art. 16 of the Employers' Organizations Act.

<sup>17</sup> Overall, the Department of Social Dialogue organized a total of 106 tripartite meetings during 2000.

<sup>18</sup> Journal of Laws NR. 113, item 547 and Minister of Labour and Social Policy Regulation of 13 March 1995 on the establishment, composition and principles of the work of the Commission for Collective Labour Agreements.

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institutions: central government, the Polish Employers' Confederation, Polish Confederation of Private Employers, supra-enterprise trade union organizations<sup>19</sup> and the State Labour Inspectorate. The Commission meets when the parties consider it useful to discuss amendments to labour laws.

## **2.7. Polish Tripartite Committee for Co-operation with the ILO**

The Polish Tripartite Committee for Cooperation with the ILO was established following the ratification of ILO Convention No. 144, in January 1990. It is composed of government representatives (20), employers' organizations representatives (10) and workers' representatives (10). It meets at appropriate intervals, at least once a year. The Minister for Labour and Social Policy is the President of the Committee. Its main functions are:

- to consult in relation to items on the agenda of the International Labour Conference (ILC),
- to give its opinions on Conventions and Recommendations elaborated by the ILC,
- to formulate opinions to present to the competent authorities in relation to the ratification of ILO Conventions and Recommendations,
- to issue an opinion on article 22 reports submitted by the Government to the ILO,
- to submit, on its own initiative, proposals for the re-examination of unratified Conventions in order to decide measures that could be taken in order to accelerate their ratification,
- to take initiatives in relation to other proposals for the development of tripartite consultations in Poland in collaboration with the ILO, including the formulation of advice on the development of cooperation projects,
- to promote at national level, the principles of the ILO Constitution and the aims and programmes of the ILO.

## **2.8. Other bodies for social dialogue**

Apart from the tripartite and bipartite institutions described above, there are also a number of other institutions specializing in social dialogue in Poland. Alongside the representatives of workers and employers other interest groups take part in the wider consultation processes of some of these. Usually, these institutions are organized countrywide. The main areas are:

- The Central Employment Council (bipartite structure);<sup>20</sup>
- The Labour Protection Council (multipartite structure);<sup>21</sup>
- The Social Assistance Council (multipartite structure);<sup>22</sup>

<sup>19</sup> By supra-enterprise trade unions is meant those union organizations acting at the sectoral/branch level.

<sup>20</sup> The Employment and Counteracting Unemployment Act of December, 1994, Order of the Minister of Labour and Social Policy of March, 1995 on the organization and working methods of employment councils Journal of Laws NR 47/1996 and NR 38-1995);

<sup>21</sup> The State Labour Inspectorate Act of March 1981, Journal of Laws of 1985 NR 54.

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- The Council of the Guaranteed Worker's Benefits Fund (bipartite structure);<sup>23</sup>
  - The Joint Consultation Committee of the Republic of Poland and the Economic and Social Committee of the EU.<sup>24</sup>

The Polish Communication Committee for Co-operation with the Economic and Social Committee of the European Community was created following agreement between non-governmental organizations. The main task of this Committee is to support the promotion of dialogue and co-operation between groups representing economic and social interests in the European Union and in Poland. The dialogue and co-operation cover the entire span of economic and social aspects of the relationship between the European Union and Poland, especially in the context of implementation of the accession agreement. The Communication Committee is independent of the Government.<sup>25</sup>

## Chapter 3

### Social dialogue and employment policy: a recurrent concern

Issues related to employment policy have been and continue to be the main subject of social dialogue. This dialogue takes place at various levels:

- ▶ national level - particularly cross-sectoral dialogue - in the forum of the Tripartite Commission for Social and Economic Affairs
- ▶ regional level<sup>26</sup>

<sup>22</sup> The Social Assistance Act of 29 November 1990, Journal of Laws NR 87 item 506 with further amendments, Order of the Minister of Labour and Social Policy of 9th April 1991 on the organization and procedure of the Social Assistance Council - Journal of Laws NR 33 item 144)

<sup>23</sup> The Protection of Workers' Claims (Employer's Insolvency) Act of December 1993 - Journal of Laws of 1994 NR 1 with further amendments; Minister of Labour and Social Policy Regulation of 21 February 1994, Statutes of the Council of the Fund of Guaranteed Workers Benefits - Monitor Polski NR 14 item 109.

<sup>24</sup> It is composed of 9 representatives of the Economic and Social Committee of the European Community and 9 representatives of the Polish Communication Committee for Cooperation with the Economic and Social Committee of the European Community. Poland is represented by the following organizations: Independent Self-Governing Trade Union "Solidarity"; the Business Centre Club; the Federation of Agriculture Employers' Unions; the Polish Confederation of Private Employers; the National Chamber of Industry and Commerce; the All-Polish Alliance of Trade Unions; Union of Handicrafts; the National Council of Agricultural Chambers and the Consumers' Federation.

<sup>25</sup> The first meeting of the Polish Communication Committee for Cooperation with the Economic and Social Committee of the European Community was held in Warsaw in January, 2000.

<sup>26</sup> For example, the "Regional Contract for the Voivodship of Katowice", concluded in 1995 by the Katowice Voivodship and the Social Party represented by the President of the Regional Partnership

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- ▶ sectoral level - sectoral labour collective agreements on economic and social issues related to restructuring
  - ▶ enterprise level in the form of the right to information, co-operation, collective labour agreements and other agreements provided for by law.

Collective agreements are the direct result of social dialogue. They also provide an opportunity for negotiating provisions on employment policy such as a commitment to create conditions for restructuring, development of plans for adapting workers' skills to the changing needs of employers, adoption of flexible forms of employment and working hours.

In June 2000 the Government initiated a dialogue on a Pact for Employment through a number of working parties set up within the framework of the Tripartite Commission for Social and Economic Affairs. The intention was that the social partners should comment on the labour market analysis prepared by the Government, as well as on the proposed package of decisions and institutional changes aimed at reducing and counteracting unemployment. Unfortunately, due to a series of political circumstances, the Pact never materialized.

Social dialogue at the sectoral level is largely concerned with industrial restructuring and privatization processes, and can be either tripartite or bi-partite. The Government's participation at this level reflects the fact that the State is still the owner of large public enterprises and that the restructuring initiative (including liquidation of enterprises) is initiated by the Government itself and carries significant implications for public expenditure. However, the role of the Government at the sector level is likely to diminish as its role as an employer is reduced. The Government, therefore, supports the development of "autonomous dialogue" between employers and employees. For this purpose, some legal provisions have been adopted and others are in the pipeline, especially in the field of labour law, labour relations, tax law and social insurance law.

Committee and the President of the Self-Governing body of the Katowice Voivodship (Sejmik Samorządowy Województwa Katowickiego). It is also worth mentioning collective agreements on cooperation, as for example the "Tripartite Agreement" of 1996 between the Voivodship of Zielona Góra, the Employers' Organization of the Zielona Góra area, the NSZZ "Solidarity" Regional Board and the voivodship Council of the OPZZ, aimed at improving working conditions and the quality of life in the Zielona Góra Voivodship. Cooperation agreements can also have a bilateral character. The "Agreement on cooperation on social dialogue" concluded in 1996 between NSZZ "Solidarity" of the Lower Silesia Region and the Employers Union of the Walbrzych Voivodship is an example. In July 1999, representatives of employers, chambers of industry and commerce and local government, engaged in a discussion forum on "Fields and Methods of Local Government Cooperation with the Rudzka Spoika Wglowa S.A. (Rudzka Coal Mining Company S.A.) in the period of mining reforms", and signed a Declaration in which they expressed their will to cooperate in solving economic and social problems. Mention can also be made of the "Pact for agriculture and countryside areas" of September 2000, prepared by the Polish Government in cooperation with social partners representing various categories of the Polish countryside. The activities included in the Pact are based on four interrelated pillars:

- 1) support for agriculture and its environment,
- 2) development of market initiatives and creation of non-agricultural jobs,
- 3) support for a complex social policy for the countryside and agriculture as well as the development of civil institutions in countryside areas, 4) institutionalization of partnership and social dialogue in relation to countryside and agricultural affairs.

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### **3.1. Negotiating issues: wage flexibility and reduction of labour costs**

At present, information, consultation and negotiation at the national level is concerned with the urgent need to boost employment and reduce unemployment which is currently at 16 per cent of the registered workforce. The main issues at stake are the reduction of labour costs and flexibility.

During 2001 significant attention was paid to increasing wage flexibility by changing the rules governing the setting of the minimum wage. This reflects the employer's view that the minimum wage in Poland, which is binding for new employees and less-skilled workers, is detrimental to job creation especially in regions outside Warsaw. In their strategy for employment creation and human resource development presented to Parliament in January 2000, the Polish authorities proposed indexing the minimum wage to inflation rather than to average wages, and introducing a separate, lower minimum wage (below the current uniform minimum wage) for labour market entrants. The trade unions resisted changes in the rules setting the minimum wage on the grounds that approximately one-quarter of workers earning the minimum wage are below 25 years of age. Some 20 per cent are in the 25 to 34 years age bracket, and another 25 per cent in the 35 to 44 years age bracket. An agreement was reached during 2001 between trade unions, the Government and employers that the cost of labour should no longer be an issue in negotiations.

### **3.2. Regional minimum wage**

According to some experts of the international financial institutions, greater emphasis should be placed on introducing some regional minimum wage differentiation, rather than reducing the minimum wage for new entrants.<sup>27</sup> Since the minimum wage is set at a uniform national level of around 40 per cent of the average wage, this compresses the earnings distribution in less developed regions, which in turn hinders job creation for less-skilled workers and new entrants. Setting regional standards for the minimum wage could mitigate this problem but in order to do this, the Constitution must be changed, something that would require a broad consensus among all the social partners. The regional differentiation of minimum wages is no longer a negotiating issue between the tripartite constituents.

### **3.3. Reform of wage settlement procedures**

Nowadays, employers are increasingly convinced that reform of the minimum wage could also trigger a broader reform of wage settlement procedures since the minimum wage has been used to set a floor for industry-wide wage bargaining, although the latter is still only practised in Poland to a modest degree. Employers believe that wage settlements need either to be de-linked from the minimum wage, or be determined within each enterprise rather than through industry-wide agreements. In the past, trade unions were able to reach industry-wide agreements because state-owned enterprises could follow uniform employment and wage rules, even if sometimes this meant that a few enterprises within the industry had to receive financial support from the State.<sup>28</sup> Today, the importance of private sector employers seems to preclude this option, although private enterprises are today able to belong to genuine and well-structured confederations of employers with a view to participating in negotiations at industry level.

<sup>27</sup> This is not to say that youth unemployment is not a problem.

<sup>28</sup> Usually in the form of arrears on tax obligations and social contributions.

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The newly established Polish Private Employers' Confederation (PKPP) has favoured a policy of reducing taxes on employment income, suggesting in particular that every effort should be made to reduce the single most important non-wage labour cost in Poland, taxes on employment income. These include personal income tax and payroll taxes. It is generally agreed that the marginal tax on earnings may affect both the supply and demand for labour. According to the employers, the average tax rate in Poland for a single wage-earner (personal income tax plus payroll taxes) is 51 per cent, and the marginal rate can be very high in percentage terms for someone moving from unemployment to a job earning a minimum wage. Pre-retirement benefits are an option, and early retirement is widespread. Other social benefits are relatively generous, and the high tax levels apparently contribute towards a reduction in the labour supply by encouraging eligible workers to withdraw from the labour market. Also, this gap between labour costs and wages is likely to discourage demand for labour, which holds back any expansion of formal employment in the economy.

Since the end of the 1990s, Poland has taken steps to reduce abuse of early retirement, disability and sickness benefits. The greatest scope for reducing the payroll tax is, therefore, in identifying alternative sources of funding for active labour market programmes. Funding for active labour market programmes should be shifted to general taxation in order to reduce competition between active and passive labour market policies and to eliminate concerns that spending on active programmes plunges when unemployment rises. Passive labour market programmes could continue to be funded through payroll taxes, albeit at a slightly lower tax rate. In so doing, Poland would be following the example of other European countries in this domain.

### **3.4. Reform of the Labour Code**

Some major reforms to the Labour Code which was adopted in 1974 are also necessary. The employers and some representatives of the most liberal political parties consider that the Labour Code has become an obstacle to sustainable high employment growth. In particular, there is a growing perception that SMEs have a bigger role to play in job creation and that this can only be done if labour legislation is reformed. Private sector employers have put forward the following five main proposals for labour law reform.

#### **Temporary contracts**

One of the main issues in the debate about the current Labour Code is the limitation on the successive renewal of temporary contracts. At present, temporary contracts cannot be renewed more than twice before being automatically transformed into contracts of indefinite duration. This is to avoid the risk that firms would meet their personnel needs through successive temporary contracts, abusing their relationship with employees and draining social security of a potential source of income. The employers' proposal calls for the lifting of this restriction, claiming that it only encourages hiring without registration especially in the emerging services sector. In other words, the debate is about the need for a more flexible Labour Code without opening the door to abuse.

#### **Temporary replacement employees**

At present, the labour legislation makes no provision for 'substitute' employees. This creates problems for employers who need to find temporary replacements for workers on long periods of leave, such as maternity leave. Indeed, there appears to be a reluctance on the part of employers to hire women of child-bearing age because of the absence of provisions for replacement employees in their companies. The employers are, therefore, asking for legal provisions that would allow them to issue

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fixed-term contracts to replacement workers for the period of an employees' authorized absence from work. These contracts would include competitive wages and the provision of social security benefits as required by legal rules, and they would be called “replacement employment” contracts.

### Employment contracts for enterprises with less than 50 employees

There is a growing perception that the costs of compliance with the Labour Code are higher for small and very small enterprises. One example is the provision in the Labour Code requiring an employer employing at least 5 employees not covered by a collective labour agreement, to provide the same remuneration in accordance with ministerial decrees fixing such remuneration for a specific sector or branch of economic activity. Since this practice, in the employers' view, is costly for small entrepreneurs, they have proposed raising the threshold number of employees to 50. While this reduces the compliance costs for many enterprises, it still leaves open the question of whether there should be clear norms applicable to all enterprises on minimum remuneration standards.

### Remuneration for overtime work

The question of remuneration for overtime work has been the subject of intense debate in Poland. Employers would like to reduce the additional payment required for overtime work from the current levels of 50 per cent in the first two hours and 100 per cent for any subsequent hours, night work, Sunday and other days of rest, to 25 per cent and 50 per cent respectively. Trade unions see this as a concealed attempt to avoid hiring more workers.

### Suspension of binding provisions

One of the most controversial of the employers' proposals for reforming the Labour Code concerns enterprises facing a situation of financial loss lasting for a period of at least 6 consecutive months, with the threat of bankruptcy or liquidation of the employer. The proposal would allow the employer, in consultation with the trade unions, to suspend some of the most restrictive provisions of the Labour Code for a period of up to 6 months. This suspension would not apply to provisions related to health and safety, protection of work of juveniles and women, the minimum wage, the number of work-free days, and the maximum daily and weekly length of working time.

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## Chapter 4

### Conclusions

Poland is a functioning market economy and has made substantial progress in restructuring the economy to cope with competitive pressures and market forces. This process has been accompanied by major improvements in the functioning of the labour market and its capacity to cope with structural change. However, a number of macro-economic imbalances have persisted in relation to inflation, external and fiscal balances and rising unemployment.

The imbalance in the labour market has been the main focus of consultation between the social partners and the Government. In particular, unemployment has been slow to respond to the recovery in economic growth that commenced in late 1999. Moreover, unemployment displays a number of clear structural features - relatively high unemployment rates among young people, women and the less educated, significant long-term unemployment, and wide variations in unemployment across regions. In addition to high unemployment, low employment ratios, particularly among men aged between 45 and retirement age, underline the difficulty of re-integrating workers from re-structured firms and sectors. A number of measures need to be reinforced to address structural problems in the labour market. Taken together with more general policies in support of enterprise development and employment creation, these measures can contribute to further economic and social development in Poland. The main priorities might include:

- ▶ expansion of continuing training within a coherent framework and with involvement of the social partners,
- ▶ maintaining appropriate wage growth in line with productivity, particularly by establishing a coherent wage-formation process for the public and publicly financed sectors,
- ▶ an active role for the social partners in employment policy particularly in relation to improved adaptability of enterprises and their workforces,
- ▶ addressing high regional unemployment through regional development measures,
- ▶ measures to address the gender gap, including the enactment and enforcement of comprehensive anti-discrimination legislation as well as promotion of family friendly working arrangements,
- ▶ adopting legislation regulating the Tripartite Commission on Social and Economic Affairs,
- ▶ expanding collective bargaining at sectoral level and providing means for promoting negotiation at enterprise and local level.

In terms of the future development of industrial relations in Poland, there are two major pressures. On the one hand, labour relations are becoming more decentralized and deregulated, especially in the private sector. On the other hand, there is a tendency to retain a certain degree of centralization, especially in establishing permanent rules and procedures for tripartite consultation. In terms of the public/private sector balance, the past 10 years have seen a large number of successful privatizations of state-owned corporations. This programme of privatization is set to continue, with the remaining state-owned companies tipped for privatization in the coming few years.

All in all, Poland remains one of the front-runners for EU accession and has certainly been one of the best-performing economies in Central Europe. Social tensions, which are likely to rise due to the difficult employment situation in the country, could be eased through the effective functioning of the newly established Tripartite Commission on Social and Economic Affairs. This would boost confidence

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among workers and employers who are the major actors in implementing reforms in the country and would regenerate confidence in the value of social dialogue.

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