Recovering from the crisis through social dialogue in the new EU Member States:

the case of Bulgaria, the Czech Republic, Poland and Slovenia

Edited by Igor Guardiancich

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Foreword

This edited volume is part of a research and capacity-building project on "Promoting a balanced and inclusive recovery from the crisis in Europe through sound industrial relations and social dialogue" funded by the European Commission. A component of this EC-funded project, carried out by the Industrial and Employment Relations Department (DIALOGUE) in collaboration with the Decent Work Technical Support Team and Country Office for Central and Eastern Europe (DWT/CO-Budapest), aims to document best practices of social dialogue and crisis recovery covering the period 2008–2012 in the new EU Member States of Central and Eastern Europe. This project component was coordinated by Youcef Ghellab assisted by Nancy Varela from DIALOGUE.

This publication provides an analysis on the role social dialogue and tripartite institutions played in response to the recent global economic crisis in four Central and Eastern European countries, namely Bulgaria, the Czech Republic, Slovenia and Poland. It examines the process of tripartite negotiations and collective bargaining, and describes the anti-crisis measures that were adopted with the aim to tackle the social and economic challenges posed by the financial and economic crisis. Furthermore, this publication discusses the impact of the adjustment policies and structural reforms carried out as of 2010 on industrial relations and social dialogue.

The recent financial and economic crisis is the biggest economic downturn experienced in Central and Eastern Europe since the immediate post-Communist era, and its impacts were deeply felt in the four countries under review. A reduction in domestic demand, an increase in unemployment, rising public debt, and lower living standards are among the results of the economic crisis. The authors explain that the measures aimed to mitigate its impacts and accelerate economic recovery can be grouped into three categories: 1) short-term anti-crisis measures negotiated at the national level; 2) executive measures negotiated at the sectoral and firm level; and 3) fiscal consolidation measures and structural reforms negotiated at the national level.

Social dialogue has played an important role in the post-Communist era in Central and Eastern Europe; first in the early years of transition, and later during the EU accession process. As the volume shows, social dialogue was used as a key mechanism in devising and implementing anti-crisis measures, particularly in the first part of the downturn. The short-term anti-crisis measures were developed with the support of the social partners and were by and large effective. Tripartite consultations and collective agreements negotiated at the sectoral and firm levels focused on the preservation of jobs and helping enterprises to adapt to the difficult economic environment. Conversely, in the second phase of the crisis, social dialogue was challenged and its role was relegated. Governments faced pressure to comply with the Maastricht criteria and with the conditions set by the international financial institutions; as a result, austerity measures were adopted, in most cases without the support of the social partners. In response, demonstrations have been organized by the social partners and other civil society organizations in order to express disapproval of the government-imposed austerity policies. However, as the studies show, social dialogue did not break down in the four countries under review, as was the case in some parts of Western and Eastern Europe, thus illustrating a certain maturity of industrial relations in the countries concerned.

DIALOGUE / DWT/CO-Budapest publications are intended to encourage an exchange of ideas and should not be taken to represent final or definitive policy positions of the ILO. The views expressed are those of the authors and do not necessarily represent those of the ILO. We are grateful to Igor Guardiancich (Post-Doctoral Fellow at Collegio Carlo Alberto in Turin) for undertaking the study and commend it to all readers interested in the issue of social dialogue in new EU Member States.

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The edited volume is a product of collaboration between the Industrial and Employment Relations Department (DIALOGUE) and the Decent Work Technical Support Team and Country Office for Central and Eastern Europe in Budapest. This collaboration would have not been possible without the financial support of the European Commission, for which we are grateful.

I would like to express my gratitude to the authors of the national studies on Bulgaria and the Czech Republic: Plamenka Markova, Associate Professor from the Bulgarian Academy of Sciences and Soňa Veverková from the Research Institute for Labour and Social Affairs, respectively. In addition, I would like to thank Marek Pliszkiewicz from the University of Economics in Katowice for co-authoring the national study on Poland.

Thanks are due to Youcef Ghellab from the Industrial and Employment Relations Department who coordinated this project, with the assistance of Nancy Varela, and for providing insightful comments and guidance throughout this project. I would like to thank the colleagues at the ILO/Budapest Office, Mark Levin and Cristina Mihes, for providing valuable comments, and Edit Horvath, Eszter Szabo, and Kenichi Hirose for providing support in the final preparation stage of this publication.

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Igor Guardiancich

1. Introduction

By: Igor Guardiancich

The global financial crisis that since 2008 spilled over from the United States of America and Western Europe to the new EU Member States[1] from Central and Eastern Europe (CEE) was the harshest since the post-1989 transformational recessions. The GDP and industrial production slumps, the rise in unemployment, and the impoverishment of the population were results of a severe credit crunch and falling international orders, and of years of postponed structural reforms that aggravated the region's vulnerabilities.

Such an emergency required not only decisive executive action, but also the concertation of short- and long-term anti-crisis measures between governments, organized labour, and employers' organizations.

The aim of this edited volume is to present and assess whether there are instances where the forums for social dialogue that post-socialist countries established during the 1990s – often with the support of the International Labour Organization (ILO) – have been able to function and forge adequate responses to the crisis through national social pacts and collective agreements at various levels. Or, alternatively, whether these forums have been prevalently overridden by governmental unilateralism, as happened in those Western and Eastern European countries most affected by the economic, debt and political crises (such as Ireland, Greece, Spain, Hungary and Romania). It is, therefore, a stocktaking exercise on the responses to the economic crisis and not a theoretical contribution beyond the vast literature on industrial relations.[2]

The volume presents the institutions, actors, practices and outcomes that characterized social dialogue in the years 2008–12 in four new EU Member States: Bulgaria, the Czech Republic, Poland, and Slovenia. The countries under review represent both institutionally and socio-economically a diverse and representative sample in the region. With respect to social dialogue, this ranges from mainly firm-level de-centralization in Poland, to neo-corporatism and national social pacts in Slovenia. With respect to the crisis, it exerted the worst impact on Slovenia, which entered a double-dip recession in 2012, but was almost entirely avoided by Poland. In both of these dimensions, the Czech Republic and Bulgaria are to be considered intermediate cases.

Each of the case studies are organized as follows: in Section 1, the chapters illustrate the industrial relations set up before the economic and financial crisis by presenting the actors involved, the institutional framework for tripartite consultations, and the main features of collective bargaining. Sections 2 to 4 show the achievements of social dialogue in the recovery from the crisis during 2008–9. Section 2 includes a thorough description of the economic and labour market performances during the recession. Section 3 analyses the role of tripartite concertation in devising both short-term measures that support firms to preserve employment and workers' income, and long-term measures that promote enterprise sustainability and workers employability. Section 4 (in the Slovenia chapter subsumed in Section 5) explores the role social dialogue played in mitigating the impact of the crisis. Finally, Section 5 focuses on fiscal consolidation and assesses the extent to which the negotiations held during 2010–12 led to the implementation of measures promoting austerity and fiscal sustainability.

The study is complemented by this Introduction that presents, in comparative terms, the framework of analysis and sets the stage for the four cases. The conclusions provide practical policy recommendations and describe possible developments in the post-recession period.

1 The new EU Member States refer to the countries that joined the European Union (EU) through the enlargement process. Following the collapse of socialism in 1989, many countries from Central and Eastern Europe accessed the EU in two waves: the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia (plus Cyprus and Malta) in 2004; Bulgaria and Romania in 2007.

2 Among the latest contributions, see Avdagić, Rhodes and Visser (2011) and Pochet, Keune and Natali (2010).

1. The impact of the global financial crisis

Central and Eastern European countries experienced since the early 2000s large capital inflows from the West, a credit boom, and rapid expansion in consumption and investment. The external indebtedness of the private sector crept, increasing the risk of currency mismatches: the real wealth of countries that borrow in foreign currency, but whose assets are denominated in the local one, and which depends on the exchange rate. The most exposed were the Baltic countries, Bulgaria, Croatia, Hungary, Romania, and slightly less so, Poland (Berglöf et al., 2009).

Hence, banking and currency crises occurred simultaneously in Central and Eastern Europe (CEE) in 2008–9 (Diemo, Knedlik and Lindner, 2011). Even though the epicentre was in the USA, due to the sub-prime mortgage collapse, and in Western Europe, because of excessive leverage and lax supervision of commercial and investment banks (Carmassi, Gros and Micossi, 2009), the crisis spread through multinational financial institutions that refused to refinance their operations in the area. Currency mismatches followed the banking crises, and markets lost confidence in these countries' ability to service foreign currency-denominated debt.[3]

Drahokoupil and Myant (2010) show that this was the first of four distinct stages of the crisis. Initially, international financial inflows dried up, leading to a severe credit crunch. Most countries with high shares of foreign currency loans faced sharp devaluations – Slovenia and Slovakia were immune due to Economic and Monetary Union (EMU) membership. Several governments experienced solvency problems and swiftly enrolled in IMF lending programmes (among the new EU Member States Hungary, Latvia, Poland, and Romania). Moreover, the European Commission played a prominent role in coordinating and providing funding.

The slump in domestic demand and the plunge in real estate prices came next. Those countries heavily relying on exports, for example Slovakia, suffered the most, while those having a developed internal market, such as Poland, were the least affected. As shown in Table 1.1, the collapse in industrial output and overall GDP took place both in countries caught in the credit crunch (Hungary and the Baltics) and in those that escaped it (the Czech Republic and Slovakia). Only in Poland do analysts talk of just a deceleration in growth.

TABLE 1.1
GDP GROWTH IN POST-SOCIALIST COUNTRIES 2004–11

	2004	2005	2006	2007	2008	2009	2010	2011
EU-27	2.5	2.1	3.3	3.2	0.3	-4.3	2.1	1.5
Bulgaria	6.7	6.4	6.5	6.4	6.2	-5.5	0.4	1.7
Czech Republic	4.7	6.8	7.0	5.7	3.1	-4.5	2.5	1.9
Estonia	6.3	8.9	10.1	7.5	-4.2	-14.1	3.3	8.3
Hungary	4.8	4.0	3.9	0.1	0.9	-6.8	1.3	1.6
Latvia	8.9	10.1	11.2	9.6	-3.3	-17.7	-0.9	5.5
Lithuania	7.4	7.8	7.8	9.8	2.9	-14.8	1.5	5.9
Poland	5.3	3.6	6.2	6.8	5.1	1.6	3.9	4.3
Romania	8.5	4.2	7.9	6.3	7.3	-6.6	-1.6	2.5
Slovakia	5.1	6.7	8.3	10.5	5.8	-4.9	4.4	3.2
Slovenia	4.4	4.0	5.8	7.0	3.4	-7.8	1.2	0.6

Source: Eurostat.

3 However, the impacts showed great variance; one of the reasons lying in the greater stability offered by multinational banks lending through a local network of subsidiaries, as opposed to direct cross-border lending.

Several sectors, some of which accounted for most of the gains in overall employment, were hit particularly hard. Regarding the cases in this volume, low-end manufacturing (clothing and textiles, furniture) and the construction sector imploded in Slovenia and in Bulgaria; the automotive industry shrunk in the Czech Republic; and the processing industry registered a significant contraction in Poland. As Western Europe enacted expansionary measures, such as the German car scrappage premium (the *Abwrackprämie*), manufacturing in CEE picked up. However, the redirection of international orders to cheaper suppliers outside of Europe implied that many low-end jobs were lost for good. Unemployment, especially among the young and the unskilled, shot up everywhere (see Table 1.2). Short-term anti-crisis measures became necessary to preserve jobs and to shield the most vulnerable from sudden drops in income.

TABLE 1.2
UNEMPLOYMENT RATE IN POST-SOCIALIST COUNTRIES 2004–11

	2004	2005	2006	2007	2008	2009	2010	2011
EU-27	9.3	9.0	8.3	7.2	7.1	9.0	9.7	9.7
Bulgaria	12.1	10.1	9.0	6.9	5.6	6.8	10.3	11.3
Czech Republic	8.3	7.9	7.1	5.3	4.4	6.7	7.3	6.7
Estonia	9.7	7.9	5.9	4.7	5.5	13.8	16.9	12.5
Hungary	6.1	7.2	7.5	7.4	7.8	10.0	11.2	10.9
Latvia	11.2	9.6	7.3	6.5	8.0	18.2	19.8	16.2
Lithuania	11.4	8.3	5.6	4.3	5.8	13.7	17.8	15.4
Poland	19.0	17.8	13.9	9.6	7.1	8.2	9.6	9.7
Romania	8.0	7.2	7.3	6.4	5.8	6.9	7.3	7.4
Slovakia	18.4	16.4	13.5	11.2	9.6	12.1	14.5	13.6
Slovenia	6.3	6.5	6.0	4.9	4.4	5.9	7.3	8.2

Source: Eurostat.

The adjustment to the new economic environment took its greatest toll in the Baltic countries. The impact in CEE was limited: even though domestic demand fell, external finance was reduced, and output, wages as well as employment in export-oriented activities decreased, this did not overwhelmingly affect banks and loans. The third stage resulted in lower living standards, lower tax revenues, rising budget deficits and public debts (Tables 1.3 and 1.4), but there was only limited further downturn, and only Latvia and Romania experienced a GDP slump during two consecutive years (2008–09), while Hungary and Slovenia entered a double-dip recession in 2012. Recovery was slow, perhaps L-shaped in Bulgaria, while particularly swift in Estonia and Slovakia. Notwithstanding, new foreign direct investments (FDIs) dried up and those countries relying on remittances fared particularly badly.

TABLE 1.3
BUDGET BALANCE IN POST-SOCIALIST COUNTRIES 2004–11 (% OF GDP)

	2004	2005	2006	2007	2008	2009	2010	2011
EU-27	-2.9	-2.5	-1.5	-0.9	-2.4	-6.9	-6.5	-4.4
Bulgaria	1.9	1.0	1.9	1.2	1.7	-4.3	-3.1	-2.0
Czech Republic	-2.8	-3.2	-2.4	-0.7	-2.2	-5.8	-4.8	-3.3
Estonia	1.6	1.6	2.5	2.4	-2.9	-2.0	0.2	1.1
Hungary	-6.5	-7.9	-9.4	-5.1	-3.7	-4.6	-4.4	4.3
Latvia	-1.0	-0.4	-0.5	-0.4	-4.2	-9.8	-8.1	-3.4
Lithuania	-1.5	-0.5	-0.4	-1.0	-3.3	-9.4	-7.2	-5.5
Poland	-5.4	-4.1	-3.6	-1.9	-3.7	-7.4	-7.9	-5.0
Romania	-1.2	-1.2	-2.2	-2.9	-5.7	-9.0	-6.8	-5.5
Slovakia	-2.4	-2.8	-3.2	-1.8	-2.1	-8.0	-7.7	-4.9
Slovenia	-2.3	-1.5	-1.4	0.0	-1.9	-6.0	-5.7	-6.4

Source: Eurostat.

TABLE 1.4
PUBLIC DEBT IN POST-SOCIALIST COUNTRIES 2004–11 (% OF GDP)

	2004	2005	2006	2007	2008	2009	2010	2011
EU-27	62.3	62.9	61.6	59.0	62.2	74.6	80.0	82.5
Bulgaria	37.0	27.5	21.6	17.2	13.7	14.6	16.2	16.3
Czech Republic	28.9	28.4	28.3	27.9	28.7	34.2	37.8	40.8
Estonia	5.0	4.6	4.4	3.7	4.5	7.2	6.7	6.1
Hungary	59.5	61.7	65.9	67.1	73.0	79.8	81.8	81.4
Latvia	15.0	12.5	10.7	9.0	19.8	36.7	44.5	42.2
Lithuania	19.3	18.3	17.9	16.8	15.5	29.3	37.9	38.5
Poland	45.7	47.1	47.7	45.0	47.1	50.9	54.8	56.4
Romania	18.7	15.8	12.4	12.8	13.4	23.6	30.5	33.4
Slovakia	41.5	34.2	30.5	29.6	27.9	35.6	41.0	43.3
Slovenia	27.3	26.7	26.4	23.1	22.0	35.0	38.6	46.9

Source: Eurostat.

Finally, the last phase involved a solvency crisis in a number of vulnerable countries. Most governments enacted harsh fiscal consolidation measures. Even though the region started with low public debt levels, tax revenues fell faster than GDP due to falls in imports, the declining asset base, weak compliance and, sometimes, lower taxes. Budget deficits that had been triggered by anti-crisis measures and increased public borrowing to recapitalize banks led to near-defaults of countries such as Latvia.

2. Social dialogue and tripartite consultations in the new Member States

Far from embodying the Western corporatist ideal, where strong labour negotiated with employers and the government a restrictive incomes policy in exchange of full employment guarantees, the role played by social dialogue under socialism was often equated with the unions functioning as 'transmission belts' for the Communist Party in socio-economic matters.

The situation changed radically after 1989: the pluralization of the labour movement, the establishment

of independent employers' organizations, and the institution of tripartite bodies for social dialogue generated hopes that neocorporatism would spring up across CEE.

However, almost twenty years later, observers are not unanimous when assessing the state of social dialogue in post-socialist countries. Mailand and Due (2004) argue that despite several weaknesses, social dialogue and tripartism in CEE has been far from futile. It assisted in creating mutual acknowledgement between the social partners, raised the level of information, and was instrumental in reducing social tensions in the region. Tangible results are collective agreements at various levels, and the progressive maturation of the social partners through participation to concertation. Similarly, Rychly (2009: 11) claims that tripartism played an indisputably positive role:

"[...] tripartite bodies in Central Europe contributed to easing the transition and mitigating its corollary economic difficulties by creating or strengthening labour institutions, adapting systems of social protection, and involving social partners in the management of various bodies in the field of labour and social affairs."

Moreover, later on, the social partners were positively involved in the EU accession process, through participation in negotiations, transposition and implementation of the *acquis communautaire*, and preparations for European social dialogue (Vaughan-Whitehead, 2000).

Other authors are more critical: Ost (2000) describes tripartite concertation and formal pacts in CEE as 'illusory corporatism', where political elites implement tripartism to comply with EU norms and to share responsibility with a marginalized labour movement.[4] Keune and Pochet (2010) negatively evaluate the state of industrial relations in the new Member States (for the main characteristics, see Table 1.5), with the exception of Slovenia, basing their judgment on the absence and low quality of social pacts. They attribute it to two interrelated reasons: the incapacity to reach pacts of the tripartite partners, due to their weaknesses; and the existence of alternative ways to achieve the goals of social pacts.

TABLE 1.5
INDUSTRIAL RELATIONS CHARACTERISTICS

Country	Main wage bargaining levels (since 2008)	Extension of collective agreements by law to non-organized firms[1]	Existence of tripartite 'social pact' since 2000 (year signed)	Institutionalized tripartite institution
Bulgaria	Sectoral + firm	Limited	2006	Yes
Czech Republic	Sectoral + firm	Limited	None	Yes
Estonia	Firm	Limited	2008	No
Hungary[2]	Sectoral + firm	Widespread	2002	Yes[2]
Lithuania	Firm	Limited	2005, 2009	Yes
Latvia	Firm	Limited	2004	Yes
Poland	Firm	Limited	None	Yes
Romania[2]	Industry / Sectoral + firm	Limited	2001, 2002, 2004, 2008	Yes
Slovakia	Sectoral + firm / Firm	Limited	2006	Yes
Slovenia	National + sectoral + firm / Industry	Widespread	2003, 2007	Yes

Source: Visser (2011).
Notes: 1 For a somewhat different assessment, see CEC (2011: 37). 2 The data presented by Visser do not reflect the important legislative changes that happened after the global economic crisis hit Central and Eastern Europe. Both the levels at which collective agreements are negotiated as well as the tripartite forums in Hungary and Romania have undergone substantial changes, which negatively affected bi- and tripartite social dialogue. See Box 1 for details.

4 See, however, the counterargument by Bohle and Greskovits (2010), who claim that even symbolic participation helped the unions to survive as organizations despite the difficulties.

Even though there is a grain of truth in Keune and Pochet's conclusions, these probably do not entirely reflect the complexity of social dialogue and tripartite consultations in post-socialist countries. In a thorough taxonomical exercise, the European Commission (2009: 50) gave a more nuanced picture:

"Absence of sectoral collective bargaining and low bargaining coverage rates tend to orient the CEE economies towards the liberal or uncoordinated model. But the state and collective labour law play a much stronger role and this makes them more like the state-centred models of southern Europe. However, in contrast to the latter, the interaction between unions and management, and between unions and the state, tends to be less confrontational and more determined by the weakness of the union actor."

Hence, it is important to analyse the relative strengths of the social partners, the level of negotiation and content of collective agreements, as well as the institutionalization and role played by tripartite forums in policy-making, in order to assess whether the social partners in CEE have the ability to craft social pacts and find collective solutions in critical moments.

2.1 The social partners

Social pacts are frequently forged between (possibly strong) social partners and governments facing a substantial socio-economic problem load. Undoubtedly, in CEE, the social partners were often weak or subject to legal and practical obstacles (including governmental interference, especially in the activities of the unions) to negotiate on equal terms. Table 1.6 shows that union and employer densities are declining, and that collective agreements coverage is shrinking over time (the only exceptions are Latvia and Lithuania, which start, however, from a very low level of coordination).

TABLE 1.6
UNION DENSITY, EMPLOYER DENSITY, COLLECTIVE AGREEMENT (CA) COVERAGE (1990–2009)

	1990–94	1995–99	2000–04	2005–09
Bulgaria				
Union density	73.8	37.5	27.9	20.7
Employer density	–	–	–	55.0
CA coverage	–	–	40.0	30.6
Czech Republic[1, 2]				
Union density	58.0	36.4	23.3	18.2
Employer density	–	–	35.0	35.0
CA coverage	63.3	55.3	43.6	44.0
Estonia				
Union density	51.3	26.0	12.6	7.6
Employer density	–	–	35.0	23.9
CA coverage	–	–	28.3	22.3
Hungary[1]				
Union density	83.1	35.8	18.8	17.0
Employer density	–	–	–	40.0
CA coverage	–	–	43.0	34.7
Lithuania				
Union density	–	32.7	18.1	9.3
Employer density	–	–	–	20.0
CA coverage	–	7.5	12.5	13.3

TABLE 1.6
UNION DENSITY, EMPLOYER DENSITY, COLLECTIVE AGREEMENT (CA) COVERAGE (1990–2009)

	1990–94	1995–99	2000–04	2005–09
Latvia				
Union density	–	28.3	20.2	16.9
Employer density	–	–	20.0	30.0
CA coverage	–	–	18.0	21.7
Poland				
Union density	31.6	29.0	22.8	16.3
Employer density	–	–	–	20.0
CA coverage	–	–	41.0	38.0
Romania[1]				
Union density	74.4	45.1	37.2	33.6
Employer density	–	–	–	60.0
CA coverage	–	–	–	70.0
Slovakia[1, 2]				
Union density	67.3	42.1	28.0	19.8
Employer density	–	–	33.0	29.2
CA coverage	–	–	48.0	41.3
Slovenia				
Union density	61.1	45.4	40.3	29.7
Employer density	–	60.0	–	55.0
CA coverage	100.0	100.0	100.0	94.8

Source: Visser (2011).
Notes: Due to the scarcity of available data, the figures are aggregated in 5-year averages. 1 As mentioned above, Visser does not present data after 2009, which may be negatively affected by subsequent reforms of the level and coverage of collective bargaining, as well as of social partners' representativeness criteria. The worst outcomes are expected in Hungary and Romania (see Box 1 for details). In the Czech Republic, the unions' influence has been reduced (see Veverková, this volume). Some reforms are underway in Slovakia. 2 For the Czech Republic and Slovakia the first column refers to the average in 1993–94.

Ost (2009: 17) is unforgiving, by arguing that during the post-socialist transition, the labour movement *'lost prestige, resources and voice'*. Apart from pluralization and voluntary membership, fundamental changes in the economy affected unionization in the region. Privatization, the emergence of small and medium-sized enterprises (SMEs), the spread of services, often dominated by multinational enterprises (MNEs), at the expense of manufacturing and agriculture, and of atypical employment contracts reduced union density everywhere – ranging, in 2009, from 6.7 per cent in Estonia to 32.8 per cent in Romania (Visser, 2011). The public sector (healthcare and education) is instead still a labour movement's stronghold, and representativeness is stronger in privatized former state-owned enterprises (SOEs) than in the emerging private sector.

Additionally, especially younger workers in CEE often consider the labour movement as a relic of the communist era, rather than an indispensable component of modern market economies (Ladó and Vaughan-Whitehead, 2003: 69; Mailand and Due, 2004: 181). Due to their linkages with the previous regimes, most successor unions were long entrenched in pro- versus anti-communist disputes with newer organizations that prevented cooperation. Even though the cleavage is slowly being surpassed, bipolarity or pluralism with antagonistic unions still exists, for example, in Estonia, Hungary, Lithuania and Poland. Excessive politicization was counterproductive: instead of promoting labour-friendly policies through institutionalized ties with political parties (Huber and Stephens, 2001), these have forced upon the unions 'inverse dependency relationships' (Avdagić, 2005: 38-40). The intention was to reduce the influence of organized labour on policy-making and, often, exchange neoliberal policies for favours towards 'elite welfare stakeholders', such

as the state bureaucracy; protected working categories, and also, sometimes, the unions' leaderships (Cook, 2007). As the Polish President and former union leader Lech Wałęsa famously stated, Solidarność had to be weak in order for capitalism to take root (Ost, 2001).

Employer fragmentation is, firstly, a legacy of the 1990s, when private capital was emerging, and today still represents an obstacle to collective agreements as is the case in Bulgaria. Employer density is lowest in Poland and Lithuania, roughly 20 per cent, and highest in Romania, at 60 per cent (Visser, 2011). The greatest gaps appear at the sectoral level; often the unions have no negotiating counterpart to conclude branch-level collective agreements. The reasons for low organizational capacity are similar to those of the labour movement: the rise of SMEs and of the service sector, dominated by MNEs in wholesale trade and finance, impairs the formation of employers' organizations (Ladó and Vaughan-Whitehead, 2003). Again, privatized former SOEs are well represented, but much less so public enterprises and firms operating in areas of general public interest, such as utilities (electricity, gas, water, postal services and telecommunications). New enterprises, instead, want to fully enjoy their freedom; they do not face organized labour to begin with and, hence, their willingness to engage in collective bargaining is low. Foreign employers often set up their own distinct economic organizations to deal with the unions. Multinational enterprises directly lobby the governments through Foreign Investors Councils, which do not register as employers' organizations, and there is competition for influence by foreign chambers of commerce. There are occasional signs of greater involvement in social dialogue; however, MNEs prefer individual negotiations to collective bargaining. This may stem from an unequal balance of power between capital and labour, where foreign capital is influential and perhaps employs firm-level negotiations to further weaken organized labour (Gardawski and Meardi, 2010). Finally, employers' organizations have representativeness problems. They often lack the authorization of their affiliates to undertake binding commitments, including collective agreements. Therefore, several employers' organizations rather act as chambers of commerce or lobby groups, undermining their traditional role as labour-market actors in industrial relations, except where legislation separates the two functions (e.g., in Poland and Latvia).

2.2 Collective agreements

As illustrated in Table 1.6, collective agreements in CEE do not cover more than one third of wage and salary earners in all countries, except for Slovenia (over 90 per cent), and only slightly more in the Czech Republic, Poland, and Slovakia (roughly 40 per cent). Moreover, the quality of collective agreements is sometimes poor, and their implementation does not live up to their expectations, as circumvention, disregard, and open breach are seldom sanctioned.

The reasons lie in the frequently decentralized and single-level bargaining structure; the institutional weaknesses and fragmentation of the social partners, especially at sectoral level; and the changing nature of employment practices under the slogan of flexibility and competitiveness (Ladó and Vaughan-Whitehead, 2003).

Table 1.5 shows that collective agreements are mainly concluded at firm level with a subsidiary role for sectoral ones, and with limited extension rules in place. National-level bargaining exists only in Slovenia; while sectoral bargaining – before the recent, sweeping reforms – was present in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia. Ladó and Vaughan-Whitehead (2003) attribute the lack of national (central) bilateral bargaining, which might lead to binding agreements, to the important role played by national (central) tripartism in all the new Member States. Ghellab and Vaughan-Whitehead (2004) argue that inadequate state support for workers and employers, and their respective organizations, in their bipartite interactions has contributed to the weakness of collective bargaining, in particular at the sectoral level.

2.3 Tripartite bodies and social pacts

Tripartite cooperation at national level in CEE was introduced in the first half of the 1990s (in Hungary already in 1988, in Estonia, formally, in 1999), implying that these forums are rather well institutionalized and functioning in most new Member States (see Table 5; CEC, 2009). Tripartite bodies during the early years of transition were created, with mixed results, for three reasons: as a countermeasure to the strike waves during the transformational recession; to share responsibility between the Government and the social partners for privatization and social reforms; and as an alternative mechanism to regulate the labour market because of the weakness of collective agreements (Mailand and Due, 2004). They mainly performed an advisory function, representing a wide range of social interests.

Keune and Pochet (2010) distinguish between the role of tripartism to coordinate wages, and to build consensus on broader socio-economic reforms (mainly regarding the welfare state and the labour market). As national wage coordination takes place only in Slovenia, and few tripartite forums host the consultations on national minimum wages, social pacts in CEE are needed for broader socioeconomic issues.[5] Indeed, there is demand for tripartite solution to the big welfare problems of the region. However, Avdagić (2011) convincingly argues that there is no functional emergence of pacts: demand is not enough if the right institutions and actors are absent.

As has been noted above, the social partners in post-socialist countries are weaker than their Western counterparts. Notwithstanding, the tripartite bodies have proven institutionally robust in several instances (they meet regularly and have been instrumental in easing the transformational recessions and facilitating the accession of CEE countries to the EU), but they are seldom adequately included in the decision-making process. In fact, the 'established and validated expectation' of effective and routine participation in tripartite policy arrangements is not fully established, in particular for trade unions (CEC, 2009: 24–5).

As is also reflected in the case studies, the tripartite bodies and their functions are not always established by law. They are regulated by parliamentary legislation, governmental decision, or by agreement between the tripartite partners. Since evidence shows that despite legal uncertainty tripartite forums may effectively function, the problems lie elsewhere. Understaffing and lack of skills are frequent; the legitimacy of tripartite bodies has been often questioned due to interrelated causes: competences are ill-defined, creating tensions with the governments; and representativeness rules are seldom clear, generating friction among the social partners. Moreover, on multiple occasions, the governments obstructed the work of tripartite bodies, setting excessively short deadlines, which lead to rubberstamped decisions, or even the bypassing of consultations entirely while preparing social legislation and economic policies that directly affect the interests of the social partners.

Hence, it comes as welcome news that, despite the bad auspices, the tripartite forums in the four cases analysed in this volume proved to be more resilient than several of their Western counterparts, or of countries such as Hungary and Romania. Tri- and bipartite negotiations on how to overcome the worst effects of the crisis in the new Member States were vibrant and often led to admirable, if fragile agreements.

3. Common trends and good practices

Comparing the four countries, some clear trends emerge, not all of them favourable to the effective functioning of social dialogue. The common characteristics shared by the cases regard the political-institutional structures where the social partners operate as well as the attitudes of the parties involved (the Government, the unions and employers' organizations) towards the policies needed to weather the crisis. By

5 However, see again Bohle and Greskovits (2010), who argue that the huge and unionized public sectors in CEE contrast sharply with the atomized private sector. In the former, social pacts and/or national-level collective agreements would be extremely useful as *quid-pro-quos* for wage moderation.

combining the two it is possible to single out the factors that either hinder or encourage the development of sound tripartism and social dialogue in the region.

3.1 Political-institutional characteristics

Bulgaria, the Czech Republic, Poland and Slovenia share at least four common political-institutional characteristics. First, despite the evident differences in the competences and legal standing, the tripartite forums in the region held regular (bi- or tripartite) meetings. Their proposals were seriously considered by the respective governments and fed into most anti-crisis packages. No formal social pacts or collective agreements have originated from the discussions within the Bulgarian National Council for Tripartite Cooperation (NCTC), the Czech Council of Economic and Social Agreement (RHSD), the Polish Tripartite Commission for Socio-Economic Affairs (KT), or the Slovenian Economic and Social Council (ESS).[6] This notwithstanding, the forums proved to be crucial in brokering the anti-crisis deals between the unions, employers and the governments, which was more or less in line with the adoption of early relief packages in those Western countries that have longer traditions in tripartism (see Freyssinet, 2010).

Second, under severe economic stress, the social partners mobilized with the common aim to maintain existing jobs and the overall employment level. This happened not only through national tripartite negotiations, but was also reflected in the bilateral collective agreements at sectoral/branch and firm levels. Despite the inevitable frictions, the unions accepted lower compensation for employees, in exchange for subsidized inactivity, retraining, shorter working time and similar measures. In Bulgaria, flexible employment options were agreed upon in metallurgy, construction, forestry, mining and mineral resources, agriculture, food processing and tourism. In the Czech Republic, the Czech-Moravian Confederation of Trade Unions (ČMKOS) updated its methodological aids on how to conduct company-level collective bargaining during times of crisis. This included the organization of workshops on how to negotiate with the employers on tough measures such as mass dismissals, shorter working time and so on. Sometimes conflict was avoided in distinctive ways: either the workers themselves agreed to temporary harsher conditions of employment to maintain their job; or external conciliation and mediation systems helped resolving disputes peacefully (for example, in the construction sector), unblocking social dialogue. In Poland, sectoral and firm-level agreements closely followed the provisions contained in the Act of 1 July 2009 on the Relief of the Effects of Economic Crisis for Employers and Workers, which had been shaped by the Government upon recommendation of the social partners. In Slovenia, bargaining at the national level overshadowed branch- or firm-level solutions. The unions and the Government forged a milestone collective agreement for the public sector in May 2012, which cut salaries and benefits in exchange for the maintenance of employment levels.

Finally, the relationship between the social partners and the government was uneven at best. This stemmed from two interrelated reasons: the political instability exacerbated by the crisis and the external pressures on governments to implement austerity measures.

Thus, the third characteristic shared by the countries under review, bar Poland, is that the crisis heightened the instability of domestic politics through increased polarization (the ideological distance between the Government and opposition, often leading to sharp alternation), which, in turn, does not guarantee the smooth operation of tripartite consultations. In Bulgaria, the personality-driven centre-right party of Boyko Borisov (Citizens for European Development of Bulgaria) won the elections at the height of the crisis in July 2009, replacing Sergei Stanishev's (Bulgarian Socialist Party) centre-left coalition. The Czech Republic changed three governments in two years. Between two conservative Premiers (Mirek Topolánek and Petr Nečas, both from the Civic Democratic Party), Jan Fisher's caretaker government took office after a no confidence vote forced Topolánek to resign in early 2009. In Slovenia, political developments were similarly

6 The Slovenian ESS has been negotiating the Social Contract 2012–16 since March 2012.

unpredictable: Premier Borut Pahor (Social Democrats) quit after a vote of no confidence in September 2011. The elections did not produce a clear majority until February 2012, when the centre-right coalition of Janez Janša (Slovenian Democratic Party) was sworn in. Clearly, under high political instability and polarization, leading to sharp ideological shifts through alternation, concertation works irregularly and is definitely not at its best. In comparison, the Polish case stands out as uncharacteristic. Here, Premier Donald Tusk (Civic Platform) confirmed its centrist government by winning the elections in October 2011. He became the first Prime Minister to be reelected in Poland after the fall of the Berlin wall. The absence of an economic downturn and Tusk's reconfirmation emboldened the Government to the extent that it started disregarding the social partners when drafting structural reforms and austerity measures to balance the future budgets.

Finally, as the crisis unfolded, most new Member States experienced severe external pressures to restructure their public finances (the Council of the European Union issued several Excessive Deficit Procedures). These austerity plans were mostly prepared by the Ministries of Finance, which held during the crisis a more powerful portfolio than the Ministries of Labour (responsible for the initial short-term anti-crisis packages). Finance Ministers often overrode the demands of organized labour. Hence, CEE countries did not experience only political instability, but also abrupt changes in the personnel and orientation of the politicians combating the economic emergency. In fact, the deterioration of social partnership that followed coincided with the fiscal consolidation measures in the region. However, and despite the evident stalemates, the tripartite bodies were still used as debate forums by all of the countries under examination.

With the exception of the atypical cases of Romania and Hungary (see Box 1.1), the region does not seem to have witnessed a breakdown of social dialogue similar to some West European states, which led to the unilateral adoption of austerity packages in Greece, Italy and, to a varying degree, Ireland, Portugal, and Spain (Ghellab and Papadakis, 2011: 88).

BOX 1.1

THE UNDOING OF SOCIAL DIALOGUE IN HUNGARY AND ROMANIA

Hungary

In mid-2009, under the (essentially caretaker) centre-left Government of Gordon Bajnai, Hungary experienced the first deregulatory labour law reforms, which enhanced the freedom of employers in setting the working time arrangements for their employees. Concomitantly, the Hungarian Parliament adopted Act LXXIII on the National Interest Reconciliation Council (*Országos Érdekegyeztető Tanács*, OÉT); and Act LXXIV on sectoral social dialogue committees (*Ágazati Párbeszéd Bizottságok*, ÁPB). The Acts entered into force in October 2009, reducing the roles of these institutions and resetting the representation criteria for the workers' and employers' organizations involved. In particular, sectoral social dialogue committees have to determine whether the signatory organizations are representative enough to be permitted to ask the competent Minister for an extension of the agreement they negotiated (Clauwaert and Schömann, 2012).

Under the Premiership of Viktor Orbán, whose increasingly nationalist and populist party, the Alliance of Young Democrats (*Fiatal Demokraták Szövetsége*, Fidesz), won a landslide during the 2010 parliamentary elections, Hungarian social dialogue has been basically demolished. The Government thoroughly revised the Labour Code in 2011–12 and dismantled the tripartite National Interest Reconciliation Council, against the strong opposition of the nation trade unions, who asked the ILO for technical assistance, and, partly, against the protests of employers' organizations.

The Minister for the Economy György Matolcsy carried out the replacement of an 'obsolete and inefficient' tripartite forum with an all-inclusive consultation body, the National Economic and Social Council (*Nemzeti Gazdasági és Társadalmi Tanács*, NGTT) as of January 2012. The NGTT regroups the unions, representatives of business chambers, social and scientific civil organizations and Hungary's historical churches. It does not include state representatives, who are just observers to the Council's plenary sessions. The NGTT can only draft proposals to the Government, which can unilaterally decide on wages and labour regulations (Komiljovics, 2011).

As for the Labour Code, this provides that work councils both have the exclusive right to be consulted on certain issues (including transfer of undertakings and collective redundancies) and may conclude 'work agreements' which have the effect of collective agreements, where trade union membership is below a certain threshold. Finally, collective agreements may now deviate from parts of the Labour Code, also to the disadvantage of workers (Clauwaert and Schömann, 2012).

Premier Orbán, whose autocratic tendencies are increasingly worrying the international community, had been inimical to tripartism already during his previous term in office (1998–2002), when the first Fidesz-led coalition Government already dismantled the country's social dialogue system. Hence, recent developments are hardly surprising and should be treated as an unwelcome exception in Central and East European industrial relations.

Romania

During the global financial crisis, extreme political instability (four Premiers and five Governments in less than five years, during 2008–12) and a severe economic contraction characterized Romania (GDP fell in both 2009 and 2010, cumulatively more than 8 per cent). The uncertainty for fiscal policy and concerns about the magnitude of the account deficit led the international rating agencies to cut Romanian creditworthiness more severely than other emerging economies. This prompted Romania to seek emergency assistance from the IMF, the EU, and other international lenders. The IMF not only asked for rash austerity measures but also criticized Romania for its excessively rigid labour market regulations.

The conservative-liberal Governments by Emil Boc of the Democratic Liberal Party (*Partidul Democrat-Liberal*, PD-L or PDL), supported by different party coalitions, committed to introduce by the end of 2010 a labour market reform, mainly to increase the flexibility of working time, and to reduce hiring and firing costs through more flexible contracts. Consequently, the new Social Dialogue Code (Law 62/2011) provides for flexible collective agreements, with bargaining firmly anchored at the enterprise level. Negotiated wages are entirely based on productivity at firm, rather than at sector level.

More worryingly, the Government enacted measures that partly dismantled the country's social dialogue system. It overhauled the way social dialogue is regulated, changed the structure and functioning of trade unions and employers' organizations, as well as the information and consultation of employees, collective bargaining and labour disputes. Furthermore, the composition of the national Economic and Social Council (*Consiliul Economic şi Social*, CES) changed. It is no longer a *'tripartite public institution of national interest established for the social dialogue at national level between trade unions, employers' organizations and the government'*. Instead, it became a *'public institution of national interest charged with the creation of the conditions for civic dialogue between employers' associations, trade unions and structured entities of the civil society'*, and the mandate of which is still unclear (Ciutacu, 2011).

3.2 Attitudes towards policies and policy-making

As evinced from the political-institutionalist characteristics above, the attitude of the social partners towards different policies created (un)expected cleavages that, first, reinforced and then muted tripartism and social dialogue across the region. At the beginning of the crisis, the social partners, and in particular, the unions, learned that sticking to their traditional mandate of exchanging wage moderation for the maintenance of jobs is the essence of mutually agreed short-term anti-crisis packages, and most of these deals have been brokered by Ministers of Labour. The employers, as compensation, received much-needed financial

support. As the crisis continued, and most countries heavily overshot their budgets three years in a row (Table 1.3), harsh austerity measures as well as structural reforms became each government's top priority, and the Ministries of Finance were often in charge. With rare exceptions, such as the Bulgarian 2010 pension reform, the unions opposed the austerity measures and the policy-making process, which often relegated tripartite consultations to a marginal role. Interruptions to negotiations, demonstrations and protest actions followed, indicating that tripartism is still fragile and in need of constant nurture. The two phases are treated separately.

Short-term anti-crisis measures

In Bulgaria, three distinct anti-crisis packages saw the light. The centre-left Government led by Sergei Stanishev proposed the first package in December 2008. It contained subsidies for training and retraining, as well as job-saving measures (recognition of unpaid leave, encouragement of part-time employment). The social partners sitting in the NCTC reacted positively. The second and third packages, adopted in July 2009 and March 2010 by the conservative Government of Premier Boyko Borisov originated from proposals by the Confederation of Independent Trade Unions (CITUB), also in collaboration with the Bulgarian Industrial Association (BIA). As explained by Markova (in this volume), both packages were discussed and agreed in the NCTC. In particular, significant additional funds were channeled to SMEs through the Bulgarian Development Bank, flexible working time and specific terms of leave were guaranteed to employees in firms experiencing economic distress, and additional funds for subsidized employment were earmarked under the National Employment Plan. Finally, the Government and the social partners in Bulgaria agreed to utilize the Global Jobs Pact (GJP) (ILO, 2009) as a framework for devising and implementing coherent policy responses in socio-economic matters, protect employment and stimulate tripartite dialogue.[7] Several missions of ILO experts presented the GJP, prepared a country scan (ILO, 2011), organized international conferences, and supported anti-crisis measures, such as higher minimum wages and unemployment benefits, as well as active employment policies.

The Czech road for drafting the anti-crisis measures was not as smooth as in Bulgaria, owing partly to the unstable political environment. Under the Premiership of Mirek Topolánek, both the unions and employers were critical of the National Anti-Crisis Plan on procedural grounds: the Plan was proposed at an extraordinary meeting of the RHSD in February 2009 and sent to Parliament two days later, leaving no time for the social partners to comment on it. The Plan contained various stimuli, but the reduction in contributions and other tax-related interventions attracted the criticism of the unions. On the contrary, employers were satisfied with the support to firms, channeled through measures such as amortization acceleration and lower tax prepayments. Succeeding Topolánek, the caretaker Government under Fischer committed to continuous negotiation with the social partners. After several failed attempts, the social partners involved in the RHSD agreed on a list of 21 measures to reduce the 2010 deficit. Most were incorporated in the document: Ways Out of the Crisis – 38 Common Measures of the Government, Trade Unions and Employers (see Veverková, this volume), representing the pinnacle of Czech tripartism in 2008–10 and including provisions to fight corruption and cut red tape for business.

Similarly, in Poland, no formal tripartite agreement underpinned the anti-crisis measures drafted by the centrist Government of Donald Tusk. Nonetheless, the Act of 1 July 2009 on the Relief of the Effects of Economic Crisis for Employers and Workers directly referred to the 13 points to exit the crisis drafted by the social partners negotiating in the Tripartite Commission (see Guardiancich and Pliszkiewicz, this volume). The Act introduced benefits for employers in distress that either reduced the working time of their employees, stipends for retraining, and similar anti-crisis stimuli. The anti-crisis package was considered a relative success, as it helped more than 1,000 undertakings employing over 100,000 workers. In addition to employment-related measures, several other anti-crisis acts were promulgated, such as the Stability and Development

7 Bulgaria became the only European country that actively participated in the GJP.

Plan of late 2008. In particular, subsidies for employers were given in the form of accelerated amortization of fixed assets, financial support for firms that have suffered substantial and prolonged losses, an enhanced system of warranties for SMEs and similar measures.

Finally, in Slovenia, the centre-left Government of Premier Borut Pahor (Social Democrats) rather smoothly implemented the first anti-crisis measures (see Guardiancich, this volume). Among these, the Partial Subsidy of Full-Time Work Act and the Partial Reimbursement of Payment Compensation Act stand out for having directly saved some 25,000 existing jobs. The two Acts were duly discussed and approved by the ESS, where the main Slovenian trade unions and employers' organizations acted in common synergy. In addition to several interventions strengthening social assistance and the labour market, the anti-crisis package devised by the Ministry for the Economy contained stimuli for enterprises worth almost 700 million Euros, including funds for investment in R&D, for improving the business environment of SMEs and for upgrading the technological intensity of production (Government RSS, 2010: 9–16).

Fiscal consolidation and austerity

As the crisis unfolded and the region emerged from the recession (see Table 1.1), the first cracks in social concertation appeared; only Bulgaria was an exception to the general trend, and only in part. In late 2009, a Consultative Council on Pension Reform, headed, crucially, by the Minister of Labour and Social Policy, drafted a comprehensive reform package that was discussed with the social partners and approved in 2010 by the NCTC. However, after this significant accomplishment, tensions started to mount: not only was the reform of the retirement system imperfectly implemented, but a clear division between the Labour and Finance Ministries also emerged, where the latter systematically disregarded the opinions of the social partners. Under the pressure exerted by the IMF and the European Commission, the Borisov's Government drew ambitious reform plans for the public administration and, again, for the public pension system. Being overruled and having their proposals ignored, Bulgarian unions walked out of the NCTC and organized mass anti-government demonstrations in November 2011.

In the Czech Republic, tripartite consultations deteriorated after the centre-right Government headed by Petr Nečas took office in mid-2010. The Government refused to fully implement the document "Ways Out of the Crisis", which had been agreed together with the social partners less than a year earlier. By 2012, the situation degenerated: the unions abandoned the RHSD extraordinary meetings and organized a vociferous 'Stop the government' campaign, mainly because their proposals were entirely overridden by the Finance Ministry, which foresaw harsh austerity measures.

In Poland, the activity of tripartite forums decreased after it became clear that there would be no recession. This notwithstanding, the Ministry of Finance in Donald Tusk's centre-right Government prepared a wide range of austerity measures to rein in the budget deficits. These included an unpopular pension reform, which raised and equalized at 67 the statutory retirement age for both men and women. This extremely unpopular measure elicited mass protests in Warsaw in mid-2012, and mobilized the trade union confederations, with Solidarność taking the lead role in organizing nationwide protests and awareness campaigns.

In Slovenia, structural measures, such as the reform of pensions and of the labour market brought tripartite concertation to a standstill. The unions organized mass demonstrations and protest actions. Pahor's beleaguered centre-left Government was forced to resign after it lost as many as four crucial referendums during 2011. Slovenia then skipped two years of fiscal consolidation when Janez Janša took office in 2012, but with the crisis running so deep, it sobered the social partners; as a result, a centre-right Government succeeded where a centre-left one failed. The Finance Minister Janez Šušteršič introduced a vast savings package, the Public Finance Balance Act, and the Government convinced the public sector unions to give in on salaries, indexation, and benefits. However, the Act did not contain long-term structural measures, which represent a far more challenging test for tripartism in the country.

3.3 Factors hindering the institutional, political and legal framework of social dialogue

There is enough evidence indicating that, despite its undeniable successes, tripartism and social dialogue are fragile in Central and Eastern Europe. Among the long-term causes, the insufficient incorporation of tripartism into the decision-making processes, the feebleness and factiousness of the unions and employers' organizations are to blame. Among more immediate concerns, the crisis hitting the region had a double effect: on the one hand, it encouraged the social partners to find common solutions to preserve jobs; while on the other hand, it weakened social dialogue to the point that when proposals for the consolidation of public finances were tabled, tripartism was a bit shaken.

In a long-term perspective, CEE countries have overcome the phase of 'illusory corporatism', and tripartite institutionalization at the national level is solid. Meetings are held regularly, and this has generated important learning dynamics among the social partners; however, poor quality (or lack) of social pacts and collective agreements, and the insufficient regard of politicians for tripartism, are at times undeniable. In fact, apart from the Slovenian exception, where several social pacts were forged between 1994 and 2007 (Stanojević and Krašovec, 2011), in the Czech Republic there are no social pacts, and most attempts in Poland failed (Gardawski and Meardi, 2010). While in Bulgaria the social partners signed a three-year Pact for Social and Economic Development for the first time in 2006 (see CEC, 2009: 52).

Additionally, the weak position of social partners in policy-making also stems from the somewhat inadequate legal and institutional framework for tripartite social dialogue. Not adequately defined representation criteria and domains of competence, as well as the inadequacy of monitoring, are factors that hinder the emergence of high-quality social pacts.

As for the social partners participating in bipartite and tripartite negotiations, the unions and employers' organizations suffer from interrelated weaknesses, and which have been exacerbated by the current crisis. Drawing from the present case studies, the social partners and the governments in Central and Eastern Europe have come under extraordinary stress, rendering the negotiations ever more difficult.

Neither the unions nor employers responded adequately. The long-term trend in union density decline, coupled with negative labour market conditions (and some isolated legitimacy problems) probably contributed to the radicalization of the social partners' attitudes, and their entrenchment in positions that allowed little compromise. The employers became plagued by firm insolvency and low competitiveness, experienced representativeness problems, and in several instances were concerned only with their own narrow issues (e.g., the reduction of social benefits at the expense of workers).

Of course, the downturn did not spare the governments: political instability and polarization went hand-in-hand with the economic crisis; additionally, most governments came under extreme pressure by international organizations, especially the OECD, the European Commission, and in some cases the IMF, to consolidate public finances. Finance Ministries, notoriously disinclined to long negotiations with the unions, were suddenly in charge, and excessive haste during decision-making of different structural reforms forced the governments to act unilaterally.

Consequently, by 2010, the room for compromise between a beleaguered government and the social partners, who wanted to be able to show some results to their members, shrunk dramatically. On the positive side, tripartism did not collapse: the forums are still used and the social partners are in most cases consulted by the respective governments; while on the negative side, social dialogue did not lead to acceptable solutions for fiscal consolidation, provoking the mobilization of labour.

3.4 Factors facilitating social dialogue and crisis recovery

Against the backdrop of several factors undermining social concertation in Central and Eastern Europe, the sheer existence of tripartite negotiations to devise anti-crisis measures should be considered an evident success. With some exceptions, such as the repeatedly mentioned cases of Hungary and Romania, a

breakdown of social partnership similar to what occurred in parts of Western Europe did not happen due to functional and institutional reasons.

The work of the ILO and the European Commission that assign a determinant role to various forms of social dialogue to resolve socio-economic problems has borne its fruits: the majority of the new Member States have an institutionalized tripartite negotiating forum. These played crucial roles in maintaining social peace during the turbulent days of early transition, and lent important support (in a mutually-reinforcing relationship) during the accession to the EU. Despite experiencing some setbacks in the 1990s, the institutions were reformed and the social partners entered an age of maturity (Gardawski and Meardi, 2010).

In this respect, the economic crisis can be seen not only as a challenge, but also as an opportunity to strengthen social dialogue and to build consensus on crucial policies. During the economic downturn, social dialogue gained momentum among the social partners. They were eager to voice their concerns and interests in hopes of reaching an agreement with the governments on how to best address the economic challenges facing their country. As a consequence of the worst impacts of the crisis, the social partners realized it was time to act and they proved to be instrumental towards negotiating socio-economic reforms that required national rather than lower-level solutions.

This worked well for short-term anti-crisis measures protecting jobs, but broke down during tougher negotiations on fiscal consolidation and structural measures. Avdagić (2011) provides a convincing explanation: the demand for social pacts is insufficient if the tripartite partners are (or perceive themselves as) too feeble, reducing the room for compromise between governments, labour, and employers, and this was definitely the case with the crisis in the new Member States dragging on for four years.

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2. The case of Bulgaria

By: Plamenka Markova

List of acronyms

BCCI: Bulgarian Chamber of Commerce and Industry
BIA: Bulgarian Industrial Association
BICA: Bulgarian Industrial Capital Association
CBA: Collective Branch Agreement
CITUB: Confederation of Independent Trade Unions in Bulgaria
CL Podkrepa: Confederation of Labour
EDP: EU Excessive Deficit Procedure
ESC: Economic and Social Council
ILO-CEACR: The Committee of Experts on Application of Conventions and Recommendations of the ILO
NCTC: National Council for Tripartite Cooperation
NICA: National Institute for Conciliation and Arbitration
NMS: New member states of the EU

Introduction

The last twenty years have been intense in terms of change for Bulgaria. After the collapse of the socialist State, the country has waded through several crises of which the most destructive for the economy and the social structures was the crisis in 1996–09. A political crisis in late 1996 led to the resignation of the Government, and the heightened political uncertainty culminated in hyperinflation in February 1997. To resolve the emergency, early elections were called and a caretaker Government adopted a comprehensive economic programme centred on the introduction of a currency board arrangement. The programme accelerated and deepened structural reforms, emphasizing the rapid privatization of enterprises and banks, as well as the liberalization of trade and prices, especially in the agricultural sector. This strengthened the influence of the International Monetary Found and the World Bank on policy-making. Furthermore, during the process of EU accession, this influence continued to shape national policies aimed at consolidating a market economy.

The EU accession process comprised a "hard" pillar, and several inclusive "soft" pillars. The hard pillar included the formal legal, institutional, and policy requirements, such as the Copenhagen criteria, aimed at facilitating the process of institutionalization and adaptation for accession. During the pre-accession period, in 1999, the European Commission in its *Composite Paper on Progress Toward Accession* recommended that candidate countries continue targeted reform of the existing regulatory environment, including enhanced social dialogue, and this was duly strengthened. Although EU provisions on social dialogue mainly concern bipartite labour-business cooperation, it was nonetheless viewed by the social partners as important for defending tripartism against potential attempts to abolish it by neoliberal governments.

The additional "soft" pillars of accession and Europeanization include not only the informal diffusion of the EU's organizational norms and rules, but also, and more importantly, their deliberate streamlining to help the accession process. The soft pillars comprise the trans-governmental institutional structures of association and accession (the various committees foreseen in the Europe Agreements), as well as institutional twinning; transnational party and interest group linkages to find more flexible solutions; involvement of global lending partners such as the World Bank and the IMF, and, finally, access to foreign investors, which foster domestic restructuring and strengthen international competitiveness.

A special mention goes to the ILO for supporting, during the last twenty years, social change through bilateral and tripartite cooperation. The ILO has been instrumental in supporting social dialogue through various projects and its own moral authority. After the accession to the EU in 2007, the cooperation continued; indeed, Bulgaria is the only European country that participated in the Global Jobs Pact and through this participation strengthened social dialogue during the on-going crisis.

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

The year 1989 marked the collapse of socialism in Bulgaria. The workers, yearning for a more prominent role at firm and higher levels, organized protests against the party-State. Paradoxically, these aspirations strengthened the corporatist links between a reforming State and the working society that began to develop after 1989. State socialism also left a highly communitarian culture that fostered corporatism. However, decades of authoritarian and hypocritical corporatism under State socialism had left the labour movement reluctant to collaborate with the reforming State.

The early formation of corporatist links were also influenced by the prospects that suddenly opened up for the country. In the first years of the transition, several models of capitalism (Anglo-American, Continental European, East-Asian) offered alternative solutions to the problems associated with post-communist restructuring. As a consequence of the transition and transformation, as well as due to the need to preserve social peace and guarantee the legitimacy of the emerging new actors and reforming old ones, this led to a the mushrooming of corporatist-like tripartite institutions, with the aim to dispel uncertainty and facilitate the process of political and economic transformation. This represents a major difference with classic Western corporatism that deals with the coordination of wages and income.

During the initial years of transition, most stakeholders had an access to the tripartite forums, as no specific criteria for representation were adopted. A premature selection of the social partners would have hindered their organizational restructuring, development and consolidation. Moreover, sharing the burden of political and economic transition with the social partners increased the chances that social peace would be preserved. Later on, when the criteria for representativeness in tripartite bodies were jointly agreed by the social partners, these were based on satisfactory minima in the organizational articulation of represented interests.

Tripartite agreements played an important educational role during the democratization process. Tripartism fostered compromise, tolerance, trust, moderation, and accommodation that facilitated the peaceful, democratic resolution of conflict. As the successful transformation to a market economy should not only minimize social costs but also generate public support, tripartism has helped implementing this strategy and served as basis for democratic stability (Pollert, 1999).

Yet in terms of policy outcomes, tripartism has undoubtedly undergone some setbacks. During the transformational recessions and difficult economic restructuring, the social partners frequently failed to negotiate real wage and income increases, rather than settling for mutually acceptable drops in living standards. In general, the success of tripartism depended on both the threats to social peace and the nature of the issue to be resolved. In addition to social and employment policy, minimum wages, and income regulation, tripartite arrangements dealt with the elaboration of new labour legislation and the consolidation of collective bargaining. Tripartism in Bulgaria was also involved in the elaboration of economic reforms, such as restructuring, and fiscal and privatization policies.

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

Trade unions

The route from State-controlled to independent unionism was marked by deep discontinuity. During the process, trade unions in Bulgaria were unable to rely on past experiences and traditions to orientate themselves

in an emerging liberal market economy. Faced with the complexity and uncertainty of globalization and accelerated change induced by EU accession, Bulgarian trade unions continuously need to develop coherent policy responses that involve periodical redefinitions of workers' interests (Dimitrova and Vilrokx, 2005).

The two main trade union confederations in Bulgaria are the *Confederation of Independent Trade Unions in Bulgaria (CITUB/ KNSB)*[1] and the *Confederation of Labour (Podkrepa CL)*. The CITUB was founded in 1990 and is the largest labour organization in the country. The Confederation is comprised of 35 federations, trade unions and associations and a number of associate members.[2] At the company level, CITUB has some 6,217 established trade union organizations and covers approximately 60 per cent of employees (EIROnline, 2009). *Podkrepa CL* was founded in 1989 and is the second largest Bulgarian union. The Confederation is comprised of 27 sectoral/branch federations, to which 2,138 trade union sections on company levels are affiliated (Dimitrov, 2009). Both the *CITUB* and *Podkrepa CL* are members of the *European Trade Union Confederation (ETUC)* and the *International Trade Union Confederation (ITUC)*. Only *CITUB* and *CL Podkrepa* have representative status at the national level. In 2012, the procedure for establishing representative status in the Labour Code was amended by introducing new and stricter criteria for representation at the tripartite consultative council (Mihaylova, 2012).

Employers' organizations

Bulgaria's employer organizations lack clear membership rules, meaning that employers can be affiliated with more than one association at any one time. Hence, reliable quantitative data on the membership and density of employers' organizations are difficult to come by, and the multiple affiliations obfuscate the real composition of peak organizations (Daskalova, 2012). Notwithstanding, members of employer organizations are increasing in Bulgaria, especially in the Confederation of Employers and Industrialists in Bulgaria (CEIBG), the Union for Private Economic Enterprise (UPEE), and the Bulgarian Industrial Capital Association (BICA) (EIROnline, 2009).

There are currently six employer organizations that are representative at national level: the Bulgarian Industrial Association (BIA); the Bulgarian Chamber of Commerce and Industry (BCCI); the Union for Private Economic Enterprise (UPEE); the Union of Private Bulgarian Entrepreneurs 'Vazrazhdane' (UPBE); the Bulgarian Industrial Capital Association (BICA); and the Confederation of Employers and Industrialists in Bulgaria (CEIBG).

Article 35 of the Labour Code defines the criteria for representativeness. In December 2011, these were amended, so that organizations engaged in activities assigned by law or decree cannot be nationally representative. This restriction affects the BCCI, and potentially other employer organizations, denying them affiliation to the National Council for Tripartite Cooperation (NCTC).[3]

1.2 Institutional framework for tripartite social dialogue prior to the crisis

National Council for Tripartite Cooperation (NCTC)

The main body for social dialogue in Bulgaria is the National Council for Tripartite Cooperation, established in 1993. The NCTC comprises two representatives each from the Council of Ministers, the representative organizations of the employees and of the employers, and it is headed by Finance Minister and Deputy Prime Minister Simeon Djankov. It fosters cooperation and consultation over issues concerning labour, social security and living standards. There are standing expert commissions on employment, income and living standards, collective labour disputes, social security, safety and health, international labour law, cooperation with the ILO, and so on. Working rules of the National System of Tripartite Partnership have been adopted.

1 KNSB/ КНСБ is the abbreviation of the Bulgarian name. It is also used in trade union documents published by ETUC, ITUC or ILO.

2 Confederation of Independent Trade Unions in Bulgaria (CITUB) website: http://www.knsb-bg.org/index.php?option=com_content&view=article&id=1&Itemid=117&lang=en

3 A list of all tripartite bodies is provided in Annex I.

Tripartite cooperation at the national level has been expanding in recent years. New mechanisms have been introduced, such as participation of the social partners in an advisory council under the Parliamentary Commission for Labour and Social Policy, and the establishment of special working groups to draft new labour and social legislation. Despite these improvements, the NCTC still does not publish minutes, decisions, or the agenda of the meetings and has no active website. The meetings are not open to the public or the press. Any information on its activities is provided by the social partners or by the Secretariat.

The social partners also participate in a number of tripartite national councils in the fields of employment, vocational education, lifelong learning, health and safety as well as gender equality. In addition, they have taken part in management/supervisory boards of institutions set up in the areas of employment, arbitration and conciliation, social and health insurance, vocational education and training, and health and safety. In September 2006, the first three-year National Economic and Social Pact, which sets the framework for Bulgaria's economic and social development, was agreed between the trade unions, employers and the Government.

Despite the relatively good institutionalization of social partnership, it should be noted that the social partners' involvement in some of these structures is nothing more than a formality. Furthermore, the possibilities given to social partners to influence decision-making are very limited, due to the high level of power and resources centralization within the Government.

The Economic and Social Council (ESC)

The Economic and Social Council (ESC) is a tripartite consultative body composed of employers, workers, and organized civil society dealing with the economic and social development. The Council was established as an active body on 10 December 2003, and is regulated by the 2001 Economic and Social Council Act. Since then, ESC has become a standing forum for consultations, dialogue and information to the civil society. The Council expresses and protects civil society interests by communicating agreed statements and proposals to the executive and legislative authorities. The ESC adopts opinions and resolutions; it analyses and organizes public consultations on key economic, social, education, demographic, health or other issues. The ESC publishes annual reports on its activities and provides regular information on its webpage.

Creating this kind of civil society institution was one of the commitments Bulgaria took prior to its accession to the European Union. It marks a new phase and represents a broader form of social dialogue for the country.

1.3 Main features of collective bargaining

Most important levels of collective bargaining

Article 49 of the 1991 Constitution establishes freedom of association, from which the right to collective bargaining can be implicitly derived. According to Bulgaria's Labour Code,[4] collective bargaining is a trade union right and an employer's obligation. Collective bargaining is organized on three levels: branch/sector level; municipal level; and company level.

As a result of decentralization, the company level is the most important. However, the role of sector/branch collective bargaining is growing. The amendments in the Bulgarian Labour Code in March 2001 created the conditions for the establishment of the EU standards in social dialogue at the sectoral, branch and regional levels. The indefinite duration of collective agreements was abolished. Only the representative organizations of employees and employers were defined as parties in the collective agreement for a sector or a branch, thus excluding state participation. At the regional level, these two parties also conclude collective

4 In Chapter Four, Articles 50–60 of the Labour Code regulate collective agreements. Only one collective agreement may be concluded at the level of enterprise, branch and industry.

agreements for activities financed by municipal budgets. The bipartite sectoral, branch and regional councils for social partnership have to discuss and issue opinions on the various aspects of industrial relations, social security, and living standards. Overall, the collective agreements concluded in Bulgaria after 2001 seem to be of a new type, in compliance with the EU requirements as stipulated in the Bulgarian Labour Code. This direction for change in the social dialogue institution proved to be a very difficult one, first, because the institutional weakness of the social partners is especially acute at the sectoral level. Some sectoral agreements, when analysed in detail, would not even qualify as such under the common understanding of the term. This is either because they are simply company agreements with a national scope (such as most agreements in the railways, postal service, telecommunications, energy supply, oil supply, etc.), or because they are just multi-employer agreements, signed by a group of individual enterprises and the relevant trade union federation. Since 2003, it has been extended to include annual negotiations on minimum social security standards. Since 2007, the social partners at the national level started to negotiate annual agreements on a recommended salary increase index in the private sector.

As shown in Table 2.1, during 2011, ten sector/branch collective agreements were in force. Additionally, 90 municipal-level and 1,438 company-level collective agreements and annexes were registered. The chemicals industry is the only major economic sector without an agreement. Collective agreements usually last two years and their main theme is pay, especially minimum wages. Agreed wage increases were relatively high, notably in sectors facing skill shortages.

Scope ratione personae

A collective agreement is applicable to the employees who are members of the trade union signatory to the agreement. The employees who are not members may accede to a collective agreement concluded by their employer by application in writing submitted to him or to the leadership of the trade union that concluded the agreement. The parties to the agreement determine the terms and provisions for such extension.

Where the collective agreement on industry or branch level has been concluded between all representative employers and workers' organizations in the industry or the branch, the Minister of Labour and Social Policy may, upon their joint request, extend the application of the agreement (or of individual clauses) to all enterprises of that industry or branch. Collective agreements cover an estimated 30 per cent of all employees.

Other issues in collective bargaining

Other significant issues that are the object of collective bargaining are employment and job security; compensation for night work; hazardous working conditions; paid annual leave that is longer than the statutory provision; and supplementary pension and health insurance. Some collective agreements also include provisions for lifelong learning, including obligations for the training of workers who have been dismissed. The collective agreement in the healthcare sector contains measures against violence in the workplace.

Conclusion and Registration

The individual employer, the group of employers, and their organizations are obliged to negotiate with the trade unions to conclude a collective agreement and to provide the necessary information to the trade unions.[5]

5 ILO CEACR, 2011: " [...] The Committee had previously noted the comments of the Bulgarian Industrial Association (BIA) on the application of the Convention No. 98. The BIA indicated that section 51(a), (b) and (c) of the Labour Code grants workers' organizations the right to submit draft collective agreements but that the same right is not extended to employers' organizations. The Committee requested the Government to respond to the BIA's comments. The Committee notes that the Government confirms that according to the legislation in force, the draft collective agreement is prepared and presented by trade unions. At the time of negotiations, however, each of the parties is free to propose amendments to the draft. Employers' organizations are free to make their own proposal and are not obliged to accept the draft as proposed by the union. Only a collective agreement that satisfies the interests of both parties is signed."

Collective agreements are concluded in writing, a requisite for validity, and signed by the representatives of the social partners. The agreement is then registered within the labour inspectorate, located in the area where the employer operates, within one month from reception of the application. Collective agreements of sectoral or national relevance must be registered with the Executive Agency: 'General Labour Inspectorate'.

According to the 2008 amendments to the Labour Code, copies of collective agreements are now sent to the National Institute for Conciliation and Arbitration (NICA). This tripartite body is composed of representatives of the Government, employers, and trade unions, and is responsible for mediation and arbitration in collective disputes. In addition, NICA is responsible for the maintenance of an information system on collective agreements.

TABLE 2.1
NUMBER OF REGISTERED CA BY NICA PER LEVEL OF BARGAINING, 2010–11

Level	Sector/branch	Municipal	Enterprise	Total
2011				
Collective agreements	8	76	1,156	1,240
Annexes	2	14	282	298
Total	10	90	1,438	1,538
2010				
Collective agreements	11	50	1,061	1,122
Annexes	0	13	255	268
Total	11	63	1,316	1,390

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

After years of high economic growth and job creation during the accession process, the global financial crisis hit Bulgaria in 2009. GDP plunged, and the recession was accompanied by massive job losses that to a large extent erased the gains experienced during the boom.

This resulted in a sharp rise in the unemployment rate, especially among the young and the unskilled. After four years, economic growth, incomes and jobs creation have yet to show any convincing signs of recovery (Table 2.2). The key challenge facing Bulgaria is to restart growth and the convergence process to bridge the sizeable job and income gap with the EU. While the global recession contributed to a slowdown in growth in Bulgaria, the gap in income levels with the EU widened in 2011, and this shock brought to the fore long-standing structural problems in the Bulgarian labour market (Mitra and Pouvelle, 2012). Owing to low levels of productivity, wage levels in Bulgaria are among the lowest in Europe. Moreover, during times of employment growth, jobs were skewed towards low-skilled, low value-added service sectors; while at the same time, sectors with strong growth potential had difficulty finding qualified skilled workers. Boosting labour productivity is, hence, a priority for Bulgaria, in order to continue the convergence process to the EU and meet the country's demographic challenges.

TABLE 2.2
MACROECONOMIC INDICATORS

	2007	2008	2009	2010	2011
Gross value added (million BGN)	50,575	57,733	58,695	60,716	64,831
Gross value added (annual real growth rate, %)	6.4	6.3	-3.3	0.5	1.8
Gross domestic product (million BGN)	60,185	69,295	68,322	70,511	75,265
Gross domestic product (annual real growth rate, %)	6.4	6.2	-5.5	0.4	1.7
Gross domestic product per capita (BGN)	7,857	9,090	9,007	9,359	10,149
Average monthly wages and salaries (BGN)	431	545	609	648	707
Gross External Debt (% of GDP)	94.3	105.1	108.3	102.8	91.9
Public Sector	13.3	11.1	12.0	12.0	11.0
Government Finance Statistics Deficit (-)/Surplus(+) (% of GDP)	1.2	1.7	-4.3	-3.1	-2.1
Consumer price index average annual change, %	8.4	8.4	2.8	2.4	4.2

Source: Bulgarian National Bank, Statistics Directorate.

TABLE 2.3
MAIN LABOUR MARKET INDICATORS, 2008–11

	2008	2009	2010	2011
Activity rate for persons aged 15–64: %	67.8	67.2	66.5	66.0
Employed persons aged 15 and over: thousands	3,360.7	3,253.6	3,053.8	2,949.6
Employed persons (15–64): thousands	3,306.2	3,204.8	3,010.4	2,908.3
Employed persons (15–24): thousands	262.6	240.0	207.4	179.1
Employed persons (20–64): thousands	-	3,178.6	2,993.9	2,896.9
Employed persons (55–64): thousands	453.1	452.0	421.2	420.6
Employment rate for persons aged 15 and over: %	50.8	49.4	46.7	45.6
Employment rate (15–64): %	64.0	62.6	59.7	58.5
Employment rate (15–24): %	26.3	24.8	22.2	20.1
Employment rate (20–64): %	-	68.8	65.4	63.9
Employment rate (55–64): %	46.0	46.1	43.5	43.9
Unemployed persons (total): thousands	199.7	238.0	348.0	372.3
Unemployed persons (15–64): thousands	198.5	236.7	345.9	370.8
Unemployed persons (15–24): thousands	38.3	46.2	62.5	64.9
Unemployment rate (total): %	5.6	6.8	10.2	11.2
Unemployment rate (15–64): %	5.7	6.9	10.3	11.3
Unemployment rate (15–24): %	12.7	16.2	23.2	26.6
Long-term unemployment rate: %	2.9	3.0	4.8	6.3
Discouraged persons (total): thousands	151.9	186.9	224.6	237.0
Discouraged persons (15–64): thousands	149.9	184.2	222.3	235.2

Source: Labour Force Survey, National Statistics Institute.

The gains in employment made during the boom were largely undone during the downturn (Table 2.3). Since the start of the crisis, until the end of 2011, the number of employed persons in Bulgaria has fallen by 12 per cent. Around 133,000 jobs per year were lost in the crisis, compared to 100,000 jobs per year created during the boom. Yet, Bulgaria compares favourably to the rest of the new Member States (NMS) in terms of job intensity of economic growth during 2003–7. With a job creation elasticity to GDP growth of 47 per cent (a one-point increase in GDP growth brings about a 0.5 point increase in employment growth), Bulgaria

ranked highest among the NMS, doubling the regional average. Notwithstanding, unemployment fell more in Poland and Slovakia during the same period.

As the recovery in Bulgaria has been weak by regional standards, progress in reducing unemployment is slow. Assuming that GDP growth reaches 2 per cent per year, it will take more than 10 years to bring the unemployment rate back to its pre-crisis low of 5.6 per cent. Lower growth rates will not allow the unemployment rate to decline.

The high degree of labour shedding during the downturn may reflect the nature of job creation in the boom. Most jobs created during the boom were in sectors highly sensitive to demand shocks, such as in construction, services, and low-value-added manufacturing. When the crisis hit, massive layoffs were concentrated in these same sectors.

Three types of factors can explain this. First, the manufacturing sector experienced such extensive losses during the downturn, thus nullifying the previous job creation. This was linked to the composition of Bulgarian exports, consisting of a large share of products that were cut back by European consumers during 2008–09. Second, a cross-analysis of wage growth data suggests a lack of wage adjustment to economic conditions in the service sector. This caused a significant employment adjustment. While the concentration of job destruction in these sectors happened in other NMS as well, in Bulgaria there were few jobs created in high value-added sectors, due to low labour productivity and extensive skill mismatches. Finally, the sharp rise in unemployment in Bulgaria during the downturn reflects the more cyclical nature of the economy and the greater ease in laying off staff compared to other European countries, as shown by various studies.[6]

The persistence of long-term unemployment highlights structural problems in the Bulgarian labour market. As shown in Table 2.3, since 2008, registered unemployment has risen by 5.5 percentage points and now stands at 11.2 per cent, with long-term unemployment reaching 6.3 per cent. This may signal again the cyclicality of the Bulgarian economy, as both the overall unemployment rate and the long-term unemployment rate fell more during the boom and rose more during the downturn than in the other NMS. The share of long-term unemployed exceeded the NMS average during the whole period under consideration.

For the young, the risk of long-term unemployment is high. Youth unemployment, traditionally high, rose to 26 per cent in 2011 (double the 2008 figure). While developments in youth unemployment closely mirror those in overall unemployment (sharper drop during the boom and larger rise during the downturn), youth unemployment in Bulgaria remained consistently higher than the regional average. This suggests that labour market entrants may be lacking the skills demanded by the market, or possibly even suggesting a dual labour market (formal/informal sectors). The difficulties in finding jobs combined with low wage levels have been major drivers of emigration for Bulgarian youth. The brain drain to the rest of Europe contributed to the 6.7 per cent decline in the total labour force since 2008, with 16 per cent of the population having reportedly emigrated by 2010 and an additional 20 per cent willing to do so.

3. Policy measures and social concertation

In December 2008, the Government of Bulgaria presented an anti-crisis package, aimed primarily at the stimulation of employment, at a meeting held with representatives of the social partners, public organizations, and the media. The social partners, primarily the CITUB and the Confederation of Employers and Industrialists in Bulgaria (CEIBG), expressed similar positions with regards to labour market measures. In particular, they agreed on the importance of concentrating resources on the prevention of unemployment and on the preservation of existing jobs, rather than on compensatory measures.

6 With an OECD Employment Protection Legislation (EPL) Index of 1.9, Bulgaria granted lower protection in 2007 than the 2004 NMS (average of 2.2), and lower than the old Member States (average of 2.4).

The Government's proposals focused on three courses of action:

1. Training and retraining of 150,000 persons, of whom some 64,000 would be hired and over 10,000 would start their own business, using the resources provided by the programme 'Human Resources Development'. Additionally, line of action would encourage employers to create jobs, allocate funds under the National Employment Plan for 2009, especially through the programme 'New Employment Opportunities', aimed at helping 5,000 persons find a job.

2. Measures for the protection of existing employment, such as the recognition of up to 160 days of unpaid leave a year as part of seniority and length of service in insurance.

3. The encouragement and guarantee of part-time employment for periods longer than three months.

At the end of 2008, the trade unions formally presented a package of anti-crisis measures, aimed at promoting economic development through the reduction of the informal economy, halting the rapid increase of gas prices, and shortening the time for VAT recovery.

After some negotiations, the coalition Government agreed to: establish an Anti-crisis Council under the Prime Minister; reduce the minimum required reserves of commercial banks held by the Bulgarian National Bank from 12 to 10 per cent in order to release additional loans to businesses and households; fully guarantee deposits of citizens up to 50,000 Euros. The last two measures were implemented.

Notwithstanding, tensions kept increasing in the first half of 2009, as the anti-crisis programme for the protection of employment did not meet the expectations, and the Government decided to resort to austerity measures, such as a wage freeze in public services, to be introduced in July 2009.

In protest, the union CITUB organized a mass demonstration on 16 June 2009. The labour organization demanded the withdrawal of the wage freeze, an increase in unemployment benefits and minimum wages, and assistance for the payment of mortgages of families hit by the economic crisis.

The parliamentary elections held in July 2009, halted the activity of the Anti-crisis Council, which held one single meeting, and the elaboration of a national stabilization programme. Immediately after the elections, CITUB again tabled these proposals in conjunction with the suggestions of the other social partners. The measures were discussed in the NCTC, and as many as 32 were incorporated as part of a nine-month governmental anti-crisis programme, running from August 2009 to April 2010. The most important interventions were:

1. Establishing an anti-crisis committee within the NCTC to develop national anti-crisis measures.

2. Organizing branch meetings to develop response measures at sector level.

3. Implementing comprehensive measures to reduce the informal economy, including reduction of tax evasion and strengthening border control against smuggling and dumping.

4. Expansion of food vouchers for public sector workers.

5. Setting up a national information system for supply and demand of labour under the Employment Agency.

6. Large-scale introduction of training vouchers.

7. The extension of sectoral collective contracts by the Minister of Labour and Social Policy.

Meanwhile, the new Government tried to minimize budget deficits, which led to serious problems arising from arrears owed to companies that worked under procurement or implemented projects financed by EU funds; non-refunded VAT dangerously increased, and it became obvious that it was urgent to develop and adopt a new national anti-crisis programme agreed with the social partners.

CITUB and BIA were again the main driving force for developing the most comprehensive and widely discussed package of anti-crisis measures (59 in total), accepted by all social partners within the NCTC on 31 March 2010, and was set out in the next national government programme. Many of the measures were economic in nature and aimed at increasing budget revenues, stimulating business and strengthening financial discipline. They were grouped as follows: fiscal support; limited public spending; financial discipline; additional financial resources for enterprises; support for household income; labour market and social insurance system (see Annex II for the whole list).

Moreover, the trade unions were the main driving force in raising awareness on the ILO activities vis-

à-vis the global crisis, from the inception of the Global Jobs Pact (GJP) process and contributed to include Bulgaria as one of the pilot countries in which the anti-crisis measures were tailored through its philosophy.

The Bulgarian Government, in coordination and cooperation with the social partners, requested support from the ILO for a comprehensive review of the agreed anti-crisis measures, within the framework laid out by the GJP for employment and promotion of tripartite dialogue, in order to achieve coherent policy responses in the economic and social fields. Several missions of ILO experts have been conducted in order to present the ideas of the GJP, in order to draft several versions of a Country Scan and to offer follow-up support to the ILO constituents.

Due to the active participation of CITUB and CL Podkrepa, the unions' priorities and proposals to the Government and employers were discussed in relation to the application of the reform package agreed in March 2010: 'Anti-crisis measures in support of financial stability, business, employment and households'. Additionally, in the context of the budget for 2011, macroeconomic parameters for the development of Bulgaria have been estimated, underscoring the challenges they pose to economic growth and social protection systems. The analysis responded to the desire of CL Podkrepa and CITUB to jointly propose a coherent policy aimed to restore sustainable economic growth through productive employment, without prejudice to the rights of Bulgarian workers.

They cooperated both with the ILO Bureau for Workers' Activities (ACTRAV) and the international trade union organizations, ITUC and ETUC, in developing various initiatives aimed to put jobs at the centre of economic growth. These include the international conference on transition in Central and Eastern Europe and the role of trade unions, held in Sofia in May 2011 with the participation of high level politicians and trade union leaders from the region; the subregional seminar in Sofia from 29 June to 1 July 2011 on: '*Decent employment, decent work, decent working conditions and wages in the Balkans*' and the International Conference on *'Restoring growth and employment – the battles and the best practices of Bulgarian trade unions'* in November 2011. The unions have participated also in meetings with the IMF missions in the country and have voiced their concerns about the austerity policies followed by the Bulgarian Government.

The trade unions acknowledged that the GJP country scan produced some positive results, such as the increase of minimum wages and unemployment benefits, as well as some employment policies.

The representatives of the employers' organizations also were active in the social dialogue and in the activities stemming from the GJP process. They have participated in the International Training Center-ILO (ITC-ILO) seminar, worked actively with the ILO Bureau for Employers' Activities (ACT/EMP) in conducting research on the current problems and necessary reforms of the Bulgarian pension system, and presented during the 100th session of International Labour Conference (ILC). BIA has also implemented the project '*Catching-up Strategies of Bulgaria'*, dealing with research and publications on economic growth and employment. Two roundtables were organized in December 2011 to present the results to experts and policy-makers. The employers consider that, in spite of all the rhetoric, employment issues have not become the primary focus of the policies. Some measures were tailored and adopted as a result of the unions' strong lobbying and did not produce good results (for example, the elimination of the unemployment benefit ceilings that demotivate the unemployed; the continued usage of the temporary general sickness benefit to be paid by the employers instead of from the respective fund of the National Social Security Institute (NSSI).

The proposal of the CITUB to use part-time contracts during a period of economic difficulties was implemented in Ministerial Decree No. 44 of February 2009, and continued to apply in 2010. The Decree revised the rules regulating part-time work: it allowed companies to double the time they can employ part-time workers in the case of reduced work volume and apply for governmental subsidies for partial employment (ILO, 2011). Over 19,000 workers switched to part-time contracts through this measure. At the request of CITUB, the enterprises applying Decree No. 44 were monitored during February–May 2010. Based on the results, the trade unions prepared a summary report on the offenses committed, which was then submitted to the Minister of Labour and Social Policy (MLSP).

3.1 Pensions

The Bulgarian pension system is a multi-pillar system. The first pillar is a public social security scheme, the second pillar consists of mandatory defined contribution (DC) schemes, and the third pillar includes voluntary (occupational and individual) DC schemes. The first pillar provides a basic earnings-related pension; mandatory contributions prior to the 2012 reform amounted to 17 per cent of wages (60 per cent by employers and 40 per cent by employees).

The Bulgarian pension system is facing an imminent financial challenge and long-term sustainability problems in the face of a rapidly ageing population. A large part of the current deficit of the State Pension Fund is caused by a combination of the gradual decrease in the contribution rates and several discretionary increases of benefits in recent years. The economic crisis further aggravated the problem. Although the pension policy needs to take into account the current economic circumstances, it should be based on a long-term perspective in view of the characteristics of the pension system.

Under these circumstances, the Government established a Consultative Council on Pension Reform made up of a small number of experts to discuss changes to the pension system to be implemented in 2012 or later. The Consultative Council formulated alternative measures to restore the financial balance of the State Pension Fund.

Following the discussions at the National Council for Tripartite Cooperation, the key tripartite stakeholders agreed on the following reform measures:

1. On 1 January 2011 the contribution rate was increased by 1.8 per cent, from 16 to 17.8 per cent (the 12 per cent State contribution continues to be paid).

2. From 1 January 2011, higher penalties are applied to non-compliant employers and workers to improve the collection of contributions.

3. Early retirement pensions for workers in the first and second labour categories will continue to be paid from the State Pension Fund until the end of 2014. The individual account balances of these early-retired workers will be transferred from the Professional Fund to the State Pension Fund. Starting on 1 January 2015, early retirement pensions for these workers will be paid from the Professional Fund.

4. Starting on 1 January 2012, the insurance period required for a pension (currently 37 years for men and 34 years for women) will be extended by four months every year until reaching 40 years for men and 37 years for women by 2020. The insured may purchase periods of up to five years.

5. Starting on 1 January 2021, the pensionable age (currently 63 years for men and 60 years for women) will be increased by six months per year until reaching 65 years for men and 63 years for women. The difference in the pensionable age between men and women will thus be narrowed to two years.

6. Employer contributions for guaranteed receivables of workers and employers (0.1 per cent) are suspended from 2011 to 2013.

7. From 1 January 2017, the accrual rate applied in the pension formula will be increased from 1.1 to 1.2 per cent per insurance year.

8. On 1 January 2017, the contribution rate for the Universal Pension Fund will be increased from 5 to 7 per cent.

9. Starting on 1 January 2014, there shall be no maximum amount for newly granted state pensions. By late 2013, the current maximum pension of 700 Bulgarian Lev (BGN) will be indexed in line with the increase in the maximum insurable wage.

10. From 1 January 2012 onwards, employers will only pay the first day of sickness benefits. The benefits shall be 100 per cent of the employee’s salary.

11. The indexation of pensions will be frozen until 2012.

12. As of 1 September 2011, the amount of supplements paid to pensions of surviving spouses was increased from 20 to 26.5 per cent of the deceased spouse’s pension.

These measures aim to eliminate the pension system deficit, ensure its medium-term financial stability, and improve the adequacy of benefits in light of the demographic ageing. The National Social Security Institute

estimates that if the aforementioned measures are implemented and the State continues to contribute 12 per cent, the State Pension Fund will improve its financial balance by 2035 (Hirose, 2011).

4. Bipartite responses to the crisis

4.1 Collective agreements at branch and enterprise level

New sectors have been covered by collective agreements, among which include information technologies, the National Revenue Agency and others in the public sector. Despite the efforts of the trade unions and several branch federations, some of the expiring collective agreements were not renewed, namely the Electrical and Electronics agreement and the agreements covering cultural institutions (for example, theatres, libraries, community centres).

TABLE 2.4
BRANCH AND SECTOR COLLECTIVE AGREEMENTS

Year	Total	Sector Collective Agreements	Branch Collective Agreements
2007	68	10	58
2008	67	10	57
2009	73	10	63
2010	71	8	63
2011	69	8	61

Source: Report of the Coordination Council of CITUB presented at the 7th Congress of CITUB, 2–3 May 2012; in Bulgarian; available at www.knsb-bg.org

As shown in Table 2.5, collective bargaining at enterprise level has been fluctuating. The data should be analysed more carefully given the two-year period of validity of some of the agreements.

TABLE 2.5
COLLECTIVE AGREEMENTS AT ENTERPRISE LEVEL

Year	Total	Collective agreement	Annexes
2007	1734	1331	403
2008	1828	1493	335
2009	1499	1261	238
2010	1596	1321	278
2011	1616	1332	284

Source: Report of the Coordination Council of CITUB presented at the 7 Congress of CITUB, 2-3 May 2012; in Bulgarian; available at www.knsb-bg.org

Some public enterprises posed serious problems related to collective bargaining. A strike by Bulgarian State Railway workers officially ended on 20 December 2011, when a new collective agreement was signed following eight hours of negotiations. Employees went on strike on November 24th over government plans for restructuring and job cuts. The strike was sparked by the management's violation of the collective agreement signed the previous autumn.

Among the most serious issues contested by the strikers were: the dismissal of workers without consultation with trade unions; the abolition of canteen vouchers and no payment of arrears; the elimination of supplementary pension insurance under professional schemes for workers in different work categories; the decision to no longer provide working clothes.

The cost-cutting measures breached a Memorandum of Understanding, signed after a one-day warning strike early in 2011. According to the new agreement, workers' income will remain unchanged until 1 June 2012. After that date, a bonus system will be introduced similar to the one applied in the Bulgarian public administration. The new collective agreement reduces annual leave from 22 to 20 working days. Under the previous agreement, workers were entitled to a lump sum equivalent to nine monthly wages at retirement. This was now reduced to eight months.

4.2 Collective bargaining in municipalities

Collective bargaining in areas funded by municipal budgets mainly concerns education (over 90 per cent of secondary schools), health care (6–7 per cent) and few other social services and cultural institutions. Municipal collective bargaining is in decline after the introduction of the system of delegated budgets. In 2007 the number of collective agreements in municipalities was 205; in 2011 they were 160.

The aspiration of many participants in the negotiations was to improve the quality of the new agreements. On the one hand, they tried to ensure higher levels of protection for jobs, salaries and other benefits; on the other hand, they tried to enrich the contents of the collective agreements by including new issues, such as information and consultation rights, protection from discrimination, reconciling work and private life; stress and violence at the work place.

4.3 Main results

Logically, in the previous years considerable attention was devoted to anti-crisis agreements, introducing more flexible options to save jobs and social packages for redundant workers in industries, such as metallurgy, construction, forestry, mining and mineral resources processing in many joint stock companies (for example, Agropolychim – Devnya, Steel – Pernik, Stamboliyski Mondi, Stamboliyski Assarel Medet among others).

In agriculture, food processing, tourism, and so forth, the object of the agreements are temporary, seasonal, and short-term types of employment, requiring fixed-term labour contracts. Reduced working time due to lesser volume of work is a measure applied to maintain existing employment levels in sectors (such as DSK Bank, water supply and sewerage, apparel) and is combined with greater flexibility and mobility of the workforce. In the metallurgy industry, collective branch agreements (CBAs) have been agreed to, aiming at the sustainable development of the sector and the competitiveness of enterprises. In the transport industry, the CBAs' additional provisions have been added to the clauses protecting the rights of the workers outside of Bulgaria's territory.

However, there were several problems related to the representativeness of the employers' organizations and their deliberate disruption of negotiations. Analysts witnessed a gradual splitting of the employer structures; for example, in the CBA for the transport sector, the only party in negotiation had been the National Transport Chamber. The CBA signed in March 2010, has instead been negotiated by five new employers´ organizations, including the associations of airlines, of the owners of private wagons, and of the associations of automotive transport.

The other problem is the lack of developed branch employer structures. For instance, agricultural cooperatives do not have a nationally representative employers' organization, which makes it impossible to sign a CBA.

Partnership in some significant economic sectors remains unsatisfactory. There has been no sectoral or branch agreement in the chemical industry since 2002. After the branch CBA in electrical engineering and

electronics expired in July 2008, the employers refused to participate in further collective bargaining; similarly, the branch CBA has not been renewed in the clothing and leather industry. The process of reforms and the financial deficit in the area of culture are among the reasons why the employers have kept postponing the renewal of four CBAs (there has been only one sectoral CBA since December 2007).

The trade unions actively promoted the legal extension of collective agreements, which is regulated in the Labour Code, but had not been used before 2010. Following a joint request of CITUB and CL Podkrepa, the Minister of Labour extended the CBAs to all enterprises dealing with water supply and sanitation (valid until 26 January 2012), brewery and malt production (valid until 2011), pulp and paper, wood processing and furniture. Later on, in 2011, the Ministry has also extended the first sector collective agreement in mining and quarrying.

Extension of collective agreements is part of the agreed anti-crisis measures through social dialogue. The aim is to tackle the growing informal economy, and to prevent unfair competition and social dumping.

The unions have developed together with the BIA some recommendations for developing and improving social dialogue and collective bargaining at the branch level in the framework of a CITUB project: 'Security through the law – flexibility through collective bargaining'. The recommendations were included in the unions' proposals for legislative amendments sent to the Government.

5. Austerity measures and the role of social dialogue

5.1 Public sector buffers

Before the downturn, foreign exchange reserves were high, there was a large fiscal surplus, and there were sizeable reserves in the fiscal reserve account. These buffers in the public sector were important, because Bulgaria entered this recession with considerable private sector vulnerabilities. After years of rapid credit growth and large capital inflows, the external debt of the private sector had increased to around 100 per cent of GDP by the end of 2008 (IMF, 2009).

Before the downturn, Bulgaria combined fiscal surpluses with high expenditure growth, as revenue grew very rapidly, the result of the domestic demand boom financed via capital inflows. This revenue boom is now over: if expenditure were to continue expanding at the rates of the boom years, the fiscal surplus could soon turn into a large deficit.

As external circumstances rapidly deteriorated over the last years, the authorities had no illusions that unabated spending without incurring in heavy deficits was possible any longer. Hence, Sergei Stanishev's centre-left executive (2005–2009) restricted spending to 90 per cent of the budgeted amount, an effective and already experienced practice. The authorities reaffirmed their commitment to strict macroeconomic policy, acknowledging the importance of a prudent fiscal conduct in the context of the currency board arrangement.

Fiscal policy in 2010–12 aimed at facilitating a rapid exit from the EU Excessive Deficit Procedure (EDP) and maintaining a low public debt. The 2011 budget planned a reduction in the deficit to 2.5 per cent of GDP (European Systems Accounts 95 terms), which would help preserve the fiscal reserves, provide a margin with respect to the Maastricht deficit ceiling, as well as counter inflationary pressures. Although budget execution was carried out correctly, there were shortfalls in profit taxes and social security contributions. Hence, the Government committed itself against the evasion of taxes and social security contributions, and against giving in to the pressures for generalized wage and pension hikes.

Given the constraints, targeted increases in minimum social benefit payments would more effectively protect vulnerable groups from inflation, and could be financed through the budget contingency. Should expenditure cuts prove necessary during the year, every effort should be made to protect growth-enhancing capital outlays, while limiting new commitments. In the event revenue over-performs, the additional funds should be saved to boost the fiscal reserve.

5.2 Fiscal consolidation as a medium-term objective

The Convergence Programme anticipates reducing the fiscal deficit by 2014, entailing a total adjustment of about 2 per cent of GDP in 2012–14 (2.5 per cent under more conservative assumptions regarding state revenues). The pace of adjustment would safeguard the fiscal reserve, without placing an undue drag on the recovery. Depending on the recovery after 2014, fiscal policy should pursue a more ambitious objective of arriving at a small surplus in order to provide a greater cyclical cushion relative to the Maastricht deficit ceiling.

The authorities maintain strict control over spending and are confident that reforms will improve the quality of it. They underscore the importance of a timely EDP exit to consolidate Bulgaria's reputation of a country following conservative fiscal policies. The authorities stood firm against spending pressures and may reconsider targeted increases if revenues grow substantially. To enhance fiscal policy credibility, the authorities plan to adopt a constitutional deficit ceiling of two per cent (which is tighter than under the Stability and Growth Pact), as part of a Financial Stability Pact. This would also limit expenditures to 40 per cent of GDP, and subject changes in direct taxes to a constitutional two-thirds majority vote. The Pact is a strong sign of Bulgaria's commitment to the Euro Pact Plus; however, the limitations to change direct taxes risks limiting the flexibility on the revenue side to indirect taxes only.

The Government believes that a well-designed fiscal rule would reinforce the Pact and provide greater guidance to fiscal policy over the economic cycle. The recent crisis underscored the importance of restraining expenditure during upswings. As the constitutional cap on the spending-to-GDP ratio is unlikely to sufficiently guide policy, the Pact should be complemented by a fiscal rule. To this end, a transparent rule linking fiscal policy to a prudent estimate of potential growth, incorporating mechanisms to correct deviations, and creating savings in upswings should be included in the organic budget law. The effectiveness of the Pact and of the new rule would be enhanced by an independent institution that reviews the budget and evaluates reforms.

The Government was confident that the Pact would receive broad-based support. The constitutional bar for changes in direct tax rates was seen as providing assurance about the stability of the tax regime. Sufficient flexibility would be retained by not subjecting indirect taxes to a super-majority requirement. The authorities plan to formulate a proposal for a fiscal rule by the fall of 2012. However, with limited domestic institutional capacity and already strong oversight under the EU semester, the authorities saw little scope for a fiscal council. While acknowledging the need for safeguarding the long-term financial viability of the pension system, they wanted to first evaluate the effects of the recent reforms.

5.3 Treaty on Stability, Coordination and Governance in Economic and Monetary Union

Bulgaria is one of the 25 EU Member States that have signed the Treaty on Stability, Coordination and Governance in Economic and Monetary Union at the European Council in Brussels in March 2012. The treaty allows intervention from the European Commission in the autonomous planning of national budgets of the Member States in cases when they exceed a budget deficit of 3 per cent, or in case their public debt is anywhere above 60 per cent of GDP. Tax policy remains within the competences individual Member States. For Bulgaria the treaty will take effect after its ratification by the National Assembly and once the country has joined the Eurozone.

Bulgaria has included into the Law on the State Budget the requirements laid out in the Fiscal Stability Pact long before fiscal discipline came on top of the EU agenda under pressure from the crisis.

Against the backdrop of stable tax revenues, the Convergence Programme envisages a continued real contraction of spending to the lower levels of the post-boom revenue. The contraction is largely achieved through the imposition of tight spending ceilings, including the extension of the wage and pension bill freezes up until end-2012. In this context, the new ceilings on government liabilities will be crucial to ensure control of spending commitments.

5.4 Spending efficiency efforts

Measures to further increase spending efficiency would improve the quality and durability of the consolidation effort. The IMF recommended that strong spending control should be accompanied by reforms that create space within the tighter budget; in order to improve spending effectiveness, enhance service quality, and free resources for education and capital outlays. The priorities include (IMF, 2011):

Health care: Recent reforms in drug procurement should contribute to improved cost control, enhanced access, and reasonable pricing of pharmaceuticals. Responsibilities between the Ministry of Health and the National Health Insurance Fund are being streamlined. These reforms should be further complemented by steps to rationalize the hospital sector (reducing overcapacity) and improve information systems so that reforms translate into better healthcare access and outcomes.

Public administration: To reduce its overly large public sector, the central Government shed 12 per cent of its workforce by closing obsolete agencies and reforming customs and security forces beginning in mid-2009. With more cuts expected in 2011, space has been created for the introduction of performance-based remuneration to attract more skilled staff without increasing the overall payroll envelope. The achievements at the central government level need to be expanded to autonomous spending units, particularly municipalities.

Pensions: The 2010 pension reform yielded 0.6 per cent of GDP in savings per year, but an annual deficit of about 4 per cent of GDP remains and the contribution-benefit gap will widen further as the population ages and a higher pension accrual rate kicks in after 2016. Therefore, further efforts are needed to make a dent in the sizeable deficit projected post-2016, including further increases in the retirement age and service.

5.5 National Action Plans: Allocated spending for employment growth

Bulgaria's National Action Plans for Employment (NAEP) 2011 and 2012 (Ministry of Labour, 2011) focused on overcoming or limiting the negative consequences of the labour market crisis. Their main goals are to reduce unemployment, foster a high-quality workforce and effectively integrate disadvantaged groups into the labour market.

The Government has allocated about BGN 73 million (about €37.3 million) for the programmes, which will provide work to 34,600 people in 2011 and 27,185 in 2012. An additional BGN 300 million (€153 million) have been earmarked for labour market schemes under the Operational Programme for Human Resources Development in 2011. For the first time, the plans include subsidies for the creation of environmentally-friendly 'green' jobs.

The plans strongly support regional programmes, which will help 153 municipalities (out of 264) to create twice as many jobs as in 2010. The main social categories targeted in the 2011 and 2012 programmes are: unemployed people aged under 29 years; those who have been unemployed for longer than six months; unemployed persons with few or no qualifications; unemployed persons whose skills are not in demand in the labour market; jobless people lacking key skills such as computer and language proficiency; disabled persons; those who are willing to work, but are inactive for different reasons, such as discouraged jobseekers.

The plans have several key priorities. They aim to: i) achieve higher employment through quick and efficient job placement of unemployed people, as well as through activation policies aimed at inactive and discouraged individuals; ii) train both employed and unemployed people in order to ensure higher productivity and to increase the competitiveness of the Bulgarian economy; and iii) develop social dialogue.

In order to achieve these priorities, NAEP 2011 and 2012 bring together governmental institutions, the social partners, and civil society actors in the following areas: training; subsidised employment for workers who are made redundant and those from disadvantaged groups; job mobility; dedicated counselling to unemployed and inactive persons; so-called 'green jobs' for people unemployed for longer than six

months; cooperation with private labour agencies to exchange information and ensure better protection of jobseekers; collaboration with social partners to manage mass redundancies and increase flexibility and security of the labour market; and improving social security and social inclusion.

TABLE 2.6
RESULTS EXPECTED FROM NAEP 2011 AND 2012

	2011	2012
Employment rate for age group 20–64	66%	64.5%
Employment rate for age group 15–24	23%	22%
Employment rate for age group 55–64	44%	44%
Unemployment rate	9.4%	11.5%

Source: Arsov (2011).

5.6 Proposals of the Social Partners and Government

In March 2011, the Bulgarian trade unions submitted for discussion at the National Council for Tripartite Cooperation a package of seven interrelated measures aimed towards increasing salaries, pensions and benefits. However, after three months of negotiations, and prolonged public debate in the media, employers, unions and government representatives failed to agree on most of the points.

At its meeting on 23 June 2011, the NCTC reached consensus on only two points out of the seven initially proposed by the unions: i) to raise the monthly minimum wage from BGN 240 to BGN 270 (€123 to €138); ii) to increase the pension paid to widows from 20 to 26.5 per cent of the pension that was paid to the deceased spouse (the Government has reconfirmed the 2010 agreed measure to increase supplements of widows' pensions and rejected other proposals made by the trade unions).

Both measures are in force since September 2011, but the situation remains unsatisfactory for the trade unions. The unions want salary, pension and benefit hikes across the board, and specifically they demand:

– negotiations with employer organizations to determine a benchmark index for wage growth in the private sector in 2011;

– increased wages in the public sector by an average of 5.3 per cent for 2009 and 2010, and an increase in the minimum wage from BGN 240 to BGN 290 (€123 to €148);

– an increase in the minimum retirement pension for length of service and old age from BGN 136.08 to BGN 159.50 (€70 to €82);

– an increase in the so-called social pension, paid to those who are not entitled to an old-age pension due to an excessively short insurance period, from BGN 100.86 to BGN 105.50 (€52 to €54);

– an increase in the minimum household guaranteed income, used as a basis for calculating social benefits, from BGN 65 to 84 (€33 to €43);

– increased child benefits payable to parents of children under 18, rising from BGN 35 to BGN 45 (€18 to €23) per month.

Four employer organizations (the BIA, the BCCI, the CEIBG and the BICA) have categorically rejected the proposal of a benchmark index for wage increases in the private sector. According to them, the situation is radically different compared to three years earlier, when such an index was first negotiated. With the exception of CEIBG, the employers also opposed to the idea of increasing the minimum wage, arguing that this would lead to a chain of claims for higher wages in companies, thereby causing further cuts in employment due to the inability of employers to fund the wage bill at a time of crisis (Tomev, 2011).

On 15 November 2011, at a meeting of the NCTC, the Finance Minister presented a package of proposed reforms relating to the State administration. The reform measures included:

– a regulation changing how salaries are determined for those working in public administration;
– a regulation on employee appraisals; and
– a regulation on how posts are classified in the public administration.

According to the Finance Minister, the new regulations for performance-related pay 'create clear rules for setting and increasing wages as well as for linking remuneration to results achieved' (Daskalova, 2012). This would work as incentive to keep highly qualified employees, he added. Despite the lack of consensus among the social partners, the Government adopted the new regulations. The reforms include the following main points:

– The pay of public sector employees consists of a fixed basic wage and variable components. The basic wage will make up 70 per cent of the gross salary and the flexible component will be 30 per cent.
– The basic wage is fixed for levels and grades depending on how the post is classified, on the employee's professional experience and on the individual performance appraisal. Each basic salary level includes six grades, including a minimum and a maximum rate.
– The bonus paid for long service is abolished and the personal seniority supplement will be incorporated within the basic monthly salary to preserve current remuneration levels. The aim is to replace the traditional civil service system of automatic salary increases based on length of service, with performance-related pay.
– A special bonus for retaining or appointing key experts is introduced, which can reach 100 per cent of the basic wage.
– The variable pay component is linked to strict criteria for measuring competences and individual employee performance.
– Career advancement will now be linked to performance appraisal and not to length of service.

The new payment system covers employees recruited with a contract under the law for civil servants. It will also include administrations previously working under special laws, for example the National Social Security Institute, the National Health Insurance Fund and the Economic and Social Council of Bulgaria, with the exception of the police and military.

The Government's reform proposals have received substantial support from all employers´ organizations, which especially welcomed the abolition of the seniority supplement. Both BIA and BICA consider that the long service bonus should also be removed in the private sector. However, the employers think that criteria for appraising employee competences and results must be more comprehensive.

The trade unions have complained about not being involved in the negotiations on the new payment system, making it impossible for them to express their views and pursue the interests of their members. CITUB and CL Podkrepa have criticised the proposed reforms for not being clear and for not providing a safeguard mechanism against arbitrary and subjective appraisals by managers. In particular, they argue against the abolition of the seniority supplement and the lack of inclusion of trade unions in the appraisals process (Daskalova, 2012).

The implementation of the reform programme is unlikely to be a straightforward process due to the lack of consensus. As with all of its most recent decisions, the Government avoided consulting the social partners, despite having previously established procedures for consultation and social dialogue. In fact, relations between the Government and trade unions have been deteriorating rapidly in the past months due to the Government's unilateral approach and the breach of signed agreements.

Against this backdrop, both trade union confederations walked out of the NCTC meeting. CITUB and CL Podkrepa mobilized as many as 35,000 members during a protest demonstration on 30 November 2011, against the unexpected and unilateral decision of the Government to increase the retirement age by one year from 1 January 2012, instead of 2021 as agreed with the trade unions the previous year. This measure would have increased the retirement age for women to 63 years, and to 65 for men, and would have reduced the National Social Security Institute's substantial deficit. The unions demanded a consistent and clear pension policy and claim that consecutive governments have decreased employers' contribution rates to pensions by 15 per cent. However, employers say the main reasons for the deficit are early retirement opportunities, as well as the growing number and abuse of disability pensions. Both statements contain an element of truth,

however, such painful reforms should only be undertaken after extensive discussion and after reaching social consensus.

After the protest, urgent negotiations between the trade unions, Members of Parliament, and government officials did not lead to a mutually acceptable solution. After meeting the leaders of CITUB and CL Podkrepa on 9 December, the Bulgarian President imposed a veto on the Public Social Insurance Budget Act for 2012. However, the majority of the Parliament voted against the veto and the amendments imposed by the Government entered into force (Tomev, 2012).

6. Conclusions

The Government elected in mid-2009 initially demonstrated political will for cooperation with the nationally representative organizations of employers and trade unions; indeed, the social dialogue at the national level within the National Council for Tripartite Cooperation has been particularly active, although there have been interruptions and protests by the trade unions, and the two main institutions, the NCTC and the ESC have played their respective roles in the dialogue. The ESC opinions usually avoid contentious issues where conflicts of interests exist between employers and labour unions, so that the ESC members would be able to take decisions with a qualified majority vote, and these contentious issues are resolved by other means and through other channels. There is an understanding in Bulgaria that the NCTC should not cease to exist because the problems of capital and labour need constant and separate negotiations with the State.

Despite the well-established and already approved system of social dialogue, a general impression persists that this system is fragmented and there are no effective links between the different levels. The trade unions and some of the employers' organizations have been the driving force in bringing on board the Government. There is a clear division line between some ministers who support (Minister of Labour and Social Policy) or disapprove of (Minister of Finance) the institutionalised social dialogue. The social partners fully understand that active social dialogue is the main instrument legitimizing their representative status and make efforts to further develop their capacity for conducting a meaningful bilateral dialogue, or in tripartite structures. The participation in the Global Jobs Pact, a project of the ILO (contributions to the Country Scan and to international events related to it), has been assessed both by the trade unions and the employers' organizations as a very positive experience which strengthened their capacities and improved their understanding of the real dimensions of the crisis and the means to counteract it. The reaction of the Government was more restrained: the main argument is that it has to follow EU requirements on financial stability and to comply with the Treaty on Stability, Coordination and Governance in Economic and Monetary Union. There are signs that the Finance Minister might be changing the rhetoric but not the essence of the policies pursued.

The anti-crisis measures agreed by the social partners have not been fully implemented. Their diverse character involved the commitment of various State bodies some of which have no experience or trust in social dialogue. The social partners did not manage to agree on a monitoring mechanism for the anti-crisis measures which resulted in differing assessments and is a clear sign of stagnation of the tripartite cooperation at national level. Even in September 2012 they still attempted to bring this issue back to discussion at the NCTC without success. In spite of the efforts of the trade unions there is no agreement on the austerity measures applied by the Government in the last two years, and the government policies are mainly shaped under the advice of the WB and the IMF.

The formal attitude to social dialogue is a danger that could result in it being discredited in society. There are personal factors that generate risks for evading and blocking the social dialogue structures on key issues (e.g., the pension reforms). The social partners have to work actively to increase effectiveness of tripartite cooperation in the context of the crisis, as well as for improving bipartite dialogue.

The status of collective bargaining in Bulgaria is stable. It became part of the toolkit for the development of anti-crisis programmes and strategies for control and risk management. The social partners make further

efforts to develop and improve autonomous sectoral and branch social dialogue, and push for some institutional support from the Government for bipartite dialogue. Another positive step is initiating joint analyses of the situation in the respective sector/branch. The trade unions created the National Network of Experts on Collective Bargaining, Information and Consultation. They now have to continue strengthening their networks especially at sectoral/branch level. This stability is due to several factors: a) the changes in the Labour Code in 2008 that brought the creation of the National Information System on collective agreements in force within the framework of NICA, as well as the elimination of the need to reach consensus at the national level on the framework for branch and sectoral levels; b) EU membership has brought to the fore good examples in collective bargaining; and c) skills and knowledge already gained by the social partners through the transition period and the previous crisis in 1996–1997 in Bulgaria. These factors have contributed to the timely renewal of expiring collective agreements and to expanding their scope.

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Annex I: The Institutional Design of Bulgarian Tripartism

Tripartite Forums	Year of Establishment
A. Domestic Innovation	
1. National Commission for Coordination of Interests	1990–91
2. National Standing Tripartite Commission for Coordination of Interests	1991–92
3. National Council for Social Partnership	1992
4. National Council for Tripartite Cooperation	1993
5. Supervisory Board of the Vocational Training and Unemployment Fund	1991–08
6. Supervisory Board of the National Employment Office	1998
7. National Council on Unemployment Protection and Employment Promotion	1998
8. National Council on Vocational Training	
9. National Council on Work Conditions	1998
10. Managing Board of the Work Conditions Fund Council on Social Assistance	1998
11. Managing Board of the-Social Assistance Fund	1998
12. Supervisory Board of the National Social Security Institute	1998
13. National Council on Rehabilitation and Social Integration	1998
14. Managing Board of the Rehabilitation and Social Integration Fund	1998
15. Meeting of Representatives of the National Health Insurance Fund	1998
16. Consultative Council for Legislative Initiatives at the Bulgarian Parliament	1977
17. National Council on Labour Migration	2008
18. Governing body of the National Vocational Education and Training Agency	2003
19. Governing body of the Social Investment Fund	2003–10
20. Governing body of the Microcredit Guarantee Fund	2001
21. Supervisory Board of the National Institute for Conciliation and Arbitration	2001
B. Institutional Transfer: Impact of EU Accession	
22. Council for the Ratification of the European Social Charter (Temporary)	1998
23. Joint EU–Bulgaria Consultative Committee (Temporary)	1999
24. Economic and Social Council	2006

Annex II: List of 59 agreed measures between the social partners and the Government of Bulgaria, 30 March 2010.

1. Securing additional internal and external financial resources in order to stabilize the fiscal reserve;
2. Fast sale of assigned emission reduction units – up to 50 million – by the national system for green investment (500 million BGN);
3. Privatization of minority residual shareholding in companies through the Bulgarian Stock Exchange; the proceeds go to the public purse (250 million BGN);
4. Liberalization of the investment regulations for the Demographic Reserves Fund and private pension insurance funds for investment in low-risk Bulgarian financial instruments;
5. Temporary revocation of preferences granted to State-financed organizations for VAT- and duty-exempt imports;
6. Building public registers for:
   – Rented out State-owned and municipal property;
   – farm land of the State-owned and municipal land stock and effective land lease contracts;
7. Adopting legislative revisions to increase the term of land lease agreements. Putting up 90,000 ha of land for long-term lease with pre-paid rent and sale of 10,000 ha at public auctions (164 million BGN);
8. Introducing a final tax on merchandize awards and cash prizes from games of chance. Delegating the Finance Ministry, upon a detailed analysis and an opinion by the Commission on Gambling and the Association of Gambling Operators, to propose a decision to the Government (80 million BGN);
9. Changing the method of taxing the insurance premiums in keeping with Article 157 of Directive 2009/138/EC after consultations with the Finance Ministry, the Financial Supervision Commission and the Association of Bulgarian Insurers;
10. Restoring to 1.1 (from 1) the coefficient used in calculating the tax pre-payment under the Corporate Income Tax Act for 2010 (50 million BGN);
11. Increasing the dividend payable to the Government from State-owned commercial corporations to 80 per cent from 50 per cent by revisions in the Ordinance on Utilization of the National Budget for 2010 (26 million BGN);
12. Reducing 50 per cent of the receipts from rents of companies with predominant State-owned or municipal participation, and crediting it to the government or municipal budget, respectively by a procedure applicable prior to 2006 (25 million BGN);
13. Doubling the tax for housing units with tax-assessed value of over 300,000 BGN and vehicles with insured value of over 70,000 BGN; tripling the tax due for personal yachts and aircraft (35 million BGN);
14. Reducing to 30 days from the effective 75 days the period for which a cash benefit is due for a temporary disability occurring within two months from the termination of the contract of employment (15 million BGN);

Limiting public spending

15. Adopting a timeframe for stepped-up establishment of an electronic government-delivered services with a full scope of services to optimize the administration, improve the business climate, curtail corruption, improve transparency and the efficiency of public spending, and reducing all charges for electronic services;
16. Contracting private entities to perform public services;
17. Offering concessions for subsurface resources and road infrastructure by the end of 2010 (15 million BGN);
18. Moving for legislation of a 15 per cent cut of the State subsidy for political parties (7.5 million BGN);
19. Reducing by 10 per cent the current costs of spending units, except for state-delegated activities in the

area of education and social care. For departments which have fulfilled an earlier requirement for staff optimization, the new 10 per cent cut shall not affect the wage bill and other remuneration. The Finance Ministry has a month to put forward the required legislative changes (450 million BGN);

20. Cutting down any allocations for clothing that are available to State-owned and municipal organizations for 2010;
21. Providing an additional subsidy for the MLSP for social assistance activities;

Financial Discipline

22. Drawing up a schedule for full payment by the end of the first half of 2010 on behalf of the State and State-owned enterprises of sums due on implemented public procurement contracts according to the contract conditions, statutory instruments and EU directives;
23. Recovering VAT and excise duty due to companies within the legal time-limit;
24. Accelerated payment of sums from European funds due to beneficiaries, accelerating the acting and launch of new schemes under the operational programmes and national plans with the objective of maximum absorption of European funds. Increase of advance payments up to 40 per cent;
25. Public registers for the sums due on public procurement, VAT, excise duty and European projects;
26. Obligating companies by the signing of annexes to their contracts with the respective contracting authority, following payment on the part of the State, to immediately pay the delayed wages and insurance contributions in compliance with the requirements of the Labour Code and the Collective Agreements, as well as the sums due to subcontractors and suppliers;
27. Immediate legislative revisions to guarantee that the period of repayment on the part of the State to the companies will be declared a period without calculation of interest on due taxes and insurance contributions, as well as with the right to access to European projects and public procurement;
28. Simplified procedures and shorter time-limits of procedures on declaration of bankruptcy;
29. The Finance Ministry shall publish:
    - every month detailed data about the revenue and expenditure sections of the budget, with an attached analysis, including the balance on VAT;
    - every month detailed information about the developments on the country's foreign debt with attached economic analysis;
    - every month detailed information about the condition of the fiscal reserve, broken down into foreign currencies and current profitability;
    - every quarter the Finance Ministry shall collect and publish information about the financial results of all majority state-owned companies.
30. The staff of the Public Financial Inspection Agency shall be increased by ten and shall begin inspections in Bulgargaz, the National Palace of Culture, the National Electric Company, and Bulgarian State Railways BDZ.

Additional Financial Resources for Enterprises

31. Increasing the funds handled by the Bulgarian Development Bank, with no less than 60 per cent of the financial resources channelled towards SMEs. Analysis of the opportunity for the bank to use part of the network of Bulgarian posts.
32. Endorsement and launch of the system of company trade with carbon dioxide quotas. Regulation of financial reporting and tax treatment of deals with emission quotas in European trade.
33. Adoption of amendments and supplements to the Regulations on the Application of the Investment Promotion Act which will reduce considerably the current existing limits of awarding certificates class A

and class B for high-tech activities defined by Eurostat, as well as for investments in municipalities with unemployment equal to or higher than the national average;

introduction of lower threshold for investments in research, education, health care, IT and artistic creative activity in the field of culture;

regulation of concrete conditions for the issuance of certificates and promotion with a package of measures of priority investment projects in all sectors of the economy in compliance with the requirements of the new General Block Exemption Regulation No. 800/2008.

34. To consolidate the financial independence of municipalities and introduce the quantity of generated waste as the single base for calculation of the household waste fee by amendments to the Local Taxes and Fees Act within the procedure on budget 2011.
35. Easier visa regimes for the citizens of Russia and Ukraine in compliance with the most liberal European practices.

Support of Household Income

36. Establishment of a mechanism for raising the minimum salary as of July 1, 2010 which will include both economic and social parameters.
37. Eradication of the limit of unemployment benefits as of July 1, 2010 and setting the level of benefits at 60 per cent of the contributory income before the loss of job. Introduction of the obligation for the unemployed to register at the relevant labour exchanges within seven days.
38. Streamlining the distribution of food vouchers between operators through the elimination of the quota principle. Analysis within 45 days of the effects of increasing the nominal amount and expanding the scope of food vouchers, as a mechanism for supporting the real income of workers and employees. The analysis should also show the effect of introducing a system whereby employers will receive a voucher for every new job.
39. Efforts for temporary limitation of the increase of State-regulated prices of goods and services of public interest.
40. A mechanism for guaranteeing the funds of insured persons with the additional pension insurance funds held in deposits at Bulgarian commercial banks following coordination with the Bulgarian National Bank and the Financial Supervision Commission.

Labour Market

41. Approval of additional budget funds from the budget of the Ministry of Labour and Social Policy for funding the opened soup kitchens under the procedure of the Social Assistance Act for the period from April 1 to April 30, 2010.
42. A set of measures applicable until the end of 2010 and funded under the OP Human Resources Development and the executive budget for preserving employment at enterprises experiencing difficulties in the production and sale of their products by:
    - the introduction of flexible working hours;
    - specific leave for economic reasons;
    - guaranteeing the rights of the dismissed workers after applying the measures of flexible and adapted working hours to receive the compensations due pursuant to the Labour Code, calculated on the basis of the gross salary for the month preceding the one in which the flexibility measures were applied.
43. Provision of additional funds for subsidized employment under the National Employment Plan.
44. Increasing workforce mobility through the development of a system for monitoring and distribution of qualified workers and employees at sectoral and territorial level.

45. In cases where an employer temporarily commissions other work in the same or another enterprise, the period of 45 days is increased to 90 days within one calendar year until the end of 2011. The agreement of the worker is required after the 45th day.
46. Limiting access to the labour market of workers from third countries, with the exception of highly qualified ones.
47. Mechanisms under the Operational Programme Human Resources Development for finding first jobs for young graduates.
48. Introduction of legislative regulation guaranteeing fair competition and not allowing market distortion by monopoly pressure on suppliers of goods and services following the example of EU Member States.
49. Detailed review of enterprises threatened by closure because of incompatibility with EU environmental requirements and development of measures for permissible state support.
50. Collection by the National Revenue Agency of information about unpaid salaries and provision of summarized quarterly data by economic activity, region and at national level.
51. Exercise of the right of the Minister of Labour to extend the application of the collective agreement to all enterprises of the respective industry or branch. Criteria for representation capacity of branches and sectoral employers´ organizations should be developed in parallel.

Social Insurance Systems

52. Temporary suspension, until the end of 2011, of the reduction of insurance contributions.
53. Formation of general principles for the further development of the pension reform to achieve financial stability and autonomy of the system with involvement of insurance benefits with contributory payments, with a long-term objective of 75 per cent replacement rate. A concept for pension reform shall be prepared and tabled for discussion by the NCTC.
54. Step-by-step establishment of the principle that the established minimum salary level guarantees the right to minimum pension for contributory experience and age.
55. Increasing the sums paid under the procedure of the Act on Factory and Office Workers' Claims Guaranteed in the Event of Their Employer's Bankruptcy for 2010 from 720 to 1,000 BGN.
56. Waiver of increasing health insurance contribution. The introduction of electronic patient health card by the end of 2010. Drastic measures for control and increasing collectability of funds in the budget of the National Health Insurance Fund (NHIF).
57. Persons without health insurance on other grounds shall pay insurance contributions calculated on the income from capital and property.
58. Introduction of tripartite management of NHIF. Joint definition of the concrete steps and stages of health reform to guarantee access to quality health care. A concept of the healthcare reform shall be tabled for discussion by the National Council for Tripartite Cooperation by 31 May 2010.
59. Putting off the rise in supplementary payments to the pensions of elderly aged above 75 and of surviving spouses through amendments to the 2010 State Budget Act and the Social Insurance Code.
60. The first three days of temporary disability to work shall no longer be paid by public social insurance with a view to avoiding malpractice with the insurance system.*

*the Government unilaterally introduced a 60th measure on which no compromise could be reached during negotiations.

Annex III: List of interviewees

Trade unions:

Ms Assya Goneva – *Executive Secretary*, Head of Social Protection and OSH Department, Confederation of Independent Trade Unions in Bulgaria (CITUB)

Mr Liuben Tomev – *Director*, Institute for Social and Trade Union Research, Confederation of Independent Trade Unions in Bulgaria (CITUB)

Ms Mika Zaikova – *Economic Adviser of the President*, Confederation of Labour (CL Podkrepa)

Mr Vladimir Boyadjiev – *Director*, National Institute of Conciliation and Arbitration (NICA); formerly, *Economic Advisor*, Confederation of Labour (CL Podkrepa)

Employers' organizations:

Mr Dimitar Brankov – *Vice President*, Bulgarian Industrial Association (BIA)

Mr Vassil Todorov – *Executive Secretary*, Bulgarian Chamber of Commerce and Industry (BCCI)

Mr Yavor Djidjev – *President*, Union for Private Economic Enterprise (UPEE)

Ms Vanya Todorova – *President*, Bulgarian Union of Private Entrepreneurs "Vuzrazdane" (UPBE)

Ministry of Labour and Social Policy:

Ms Elka Dimitrova – *Director*, Labour Market Policies Directorate

Mr Emil Miroslavov – *Director*, Labour Law, Social Insurance and Working Conditions Directorate

Mr Vesselin Injev – *Director*, Incomes, Social Protection and Demographic Development

3. The case of the Czech Republic

By: Soňa Veverková

List of acronyms

ASO ČR: Association of Independent Unions of the Czech Republic
CLCAs: Company-level collective agreements
ČMKOS: Czech-Moravian Confederation of Trade Unions
ČMZRB: Czech-Moravian Guarantee and Development Bank
ČEB: Czech Export Bank
HLCAs: Higher-level collective agreements
KZPS ČR: Confederation of Employer and Entrepreneur Associations of the Czech Republic
NERV: National Economic Council
RHSD: Council of Economic and Social Agreement
SP ČR: Confederation of Industry of the Czech Republic

Introduction

In the Czech Republic, social dialogue and its legislative and institutional framework did not change much during 2008–2011. However, relations between the social partners and the Government have changed, depending on the Government's political orientation and its level of willingness to accept the social partners' proposals. It may be argued that the most important tripartite response to the crisis was the document titled, "Ways out of the crisis – 38 common measures of the Government, trade unions and employers", where the Government and social partners agreed on 38 measures which can help the Czech economy mitigate the effect of the crisis. However, this document was not accepted by the new right-wing Government which took office after its election in 2010. This rejection significantly affected the cooperation between the Government and the social partners, namely it has led to the deterioration of their relationship. At the time of writing, relations between the social partners and the Government continued to be tense, as the 'Stop the Government' campaign has gained momentum and public demonstrations are to be anticipated.

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

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

In many of the national competitive business sectors, trade union and employers' federations were established shortly after November 1989. They have nationwide competency and rarely act autonomously. Most are members of one of the national confederations, where they generally occupy a significant position.

Trade unions
Trade unions play by far the most significant role in employee representation by virtue of regulation in terms of competency, but also in practice from the perspective of occurrence, function in social dialogue, and particularly collective bargaining. Only trade unions can represent employees in labour relations, in collective bargaining while concluding collective agreements, and in tripartite negotiations in the Council

of Economic and Social Agreement (*Rada hospodářské a sociální dohody*, RHSD). Regulation of the role and prerogatives of trade unions is codified by law.[1]

The two largest trade union confederations in the Czech Republic are (see, Hála, 2009):

- Czech-Moravian Confederation of Trade Unions (*Českomoravská konfederace odborových svazů*, ČMKOS), with 30 affiliated trade unions[2] and 520,000 members (in 2008);
- Association of Independent Unions of the Czech Republic (*Asociace samostatných odborů České republiky*, ASO ČR) with 13 affiliated trade unions[3] and about 210,000 members (in 2008).

Both of these trade union confederations are members of the national tripartite RHSD. The third largest trade union organization in terms of members and importance is the Art and Culture Confederation (*Konfederace umění a kultury*, KUK). KUK has 12 affiliated trade unions and in 2008 had 42,000 members. The remaining two trade union confederations are the Trade Union Association of Bohemia, Moravia and Silesia (*Odborové sdružení Čech, Moravy a Slezska*, OS ČMS), which has about 10,000 members, and the Christian Trade Union Coalition (*Křest'anská odborová koalice*, KOK), with 5,000 members. These do not match the characteristics of some of the large trade union confederations in terms of either size or importance. None of these organizations are members of RHSD.

Employers´ organizations

With regard to employers´ organization density, the situation is relatively stable and no fundamental changes have occurred since the new employers founded a number of associations to represent their interests after the end of the communist regime in 1989. There have been no major changes to the membership of these organizations in more recent years. The two most significant employers´ organizations in the Czech Republic are:

- Confederation of Industry of the Czech Republic (*Svaz průmyslu a dopravy České republiky*, SP ČR). It encompasses individual (112 members) and collective members (31 members), associated on the basis of sectoral, branch and regional affiliation. SP ČR has 1,600 members with almost 800,000 employees;[4]
- Confederation of Employer and Entrepreneur Associations of the Czech Republic (*Konfederace zaměstnavatelských a podnikatelských svazů* ČR, KZPS ČR) with 7 collective members and 23,000 members with 678,000 employees.[5]

Both employer confederations are represented in RHSD bodies. Smaller private entrepreneurs are organized in the Association of Entrepreneurs of the Czech Republic (*Sdružení podnikatelů a živnostníků* ČR, SPŽ ČR).

1.2 Institutional framework for tripartite social dialogue prior to the crisis

In the Czech Republic, the RHSD acts as the tripartite forum at national level; it is the country's main social dialogue institution. It was created at the federal and national level in 1990 at the initiative of the federal Government, which anticipated that such a forum would help to preserve social peace during the economic transformation. The RHSD has a strictly consultative function. The aim of the tripartite forum is to build consensus between the tripartite partners on economic and social policies and to maintain social peace

1 Employees may be represented by a works council, which, however, does not have legal subjectivity and only acts as a mediator between the employers and their employees, in order to ease the flow of information and consultation within a company. Works councils are very rare in the Czech Republic.

2 http://www.cmkos.cz/svazy.

3 http://www.asocr.cz/cz/portal/clenove/.

4 http://www.spcr.cz/o-nas/struktura-sp.
Data on the number of workers employed by companies affiliated to employer organizations are unreliable.

5 http://www.kzps.cz.
Data on the number of workers employed by companies affiliated to employer organizations are unreliable.

as a prerequisite for positive development of the economy as well as citizens' standard of living. Among other things, tripartite negotiations enable the Government to keep a continuous track of opinions of trade unions and employers´ organizations, and, on the other hand, social partners are sure that they can present their perspectives and acquire information from their partners at the tripartite level. Proof of success of the tripartite organization's activities is an internationally acclaimed fact of the long-term maintenance of social consensus, which has been, and is highly important, for economic stability and development in the Czech Republic (Vácha, 2012). In the European context, the structure and organization of the Czech tripartite social dialogue is standard (Vácha, 2012).

The top negotiating body of the tripartite organization is the Plenary Meeting, where the government delegation is represented by eight members, employer organizations by seven representatives – namely from the SP ČR and KZPS ČR – and union confederations by seven members – namely from the ČMKOS and ASO ČR. Criteria for participation are set out in the RHSD Statute. The conclusions of the tripartite meeting are approved by all participants of the discussions, but if a consensus fails to be reached and common conclusions fail to be accepted, the different opinions of delegations on the issues at hand are published.

The areas on which the RHSD comments are defined by its status include: economic policy, labour relations, collective bargaining and employment, social issues, public service wages and salaries, public administration, safety at work, development of human resources and education, and the Czech Republic's position within the EU. In particular, the first and the last areas are very broad and may encompass a range of policies. From a European perspective, the Czech Republic is one of the countries in which tripartite concertation covers a wide array of activities.

1.3 Main features of collective bargaining

Collective bargaining is regulated by law, in terms of both the process and the content. Obligations arising from collective agreements are binding on the contractual parties and the fulfillment of such obligations is legally enforceable.

Czech law distinguishes between company-level collective agreements (CLCAs), concluded between the relevant trade union body and an employer, and higher-level collective agreements (HLCAs), concluded for a greater number of employees by the relevant higher-level trade union body, and an organization, or organizations, of employers. For collective bargaining at company level, the legally binding minimum is – if an HLCA applies to the relevant employer – the range of obligations (e.g., minimum wage, social benefits) negotiated in the higher-level agreement. Collective bargaining in the Czech Republic takes prevalently place at the company level; however, there is no central register of CLCAs. With regards to HLCAs, according to data from ČMKOS (2011), a total of 18 agreements at higher level were concluded in 2011, covering about 3,404 employers and 347,963 employees .

Collective agreements, particularly at the company level, address a wide range of issues relating to working conditions and terms of employment, such as the reduction of working time without reducing wages and leave entitlements. The agreements also cover employment conditions, for example the type of contract (fixed-term work, part-time work and temporary agency work). Furthermore, the agreements encompass social policy, such as employee recreation and transport, as well as continuous vocational training (CVT), health and safety, as well as other matters. Collective agreements can also set principles for the cooperation of contractual partners. The content structure of collective agreements has remained unchanged for years and is seldom subject to modification. Topics such as stress at work, harassment in the workplace and gender equality are rarely addressed in collective agreements. On the contrary, arrangements relating to work-life balance tend to be relatively frequent.

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

The Czech economy experienced a phase of economic expansion during the years 2003 to 2007; GDP growth increased from 3.8 to 5.7 per cent per year. However, this favourable development came to a halt in 2008, due to the global economic crisis. The first stage of the crisis that affected the financial sector worldwide did not leave any substantial traces in the Czech Republic, as Czech banks remained cautious when granting loans during this period.

In 2008, however, due to dampened foreign demands upon which an open, small economy depends considerably, the economic growth slowed down, and the dynamics of all the expenditure items in the GDP structure decelerated; indeed, on a yearly basis, household spending on final consumption grew by only 2.3 per cent. This significant slowdown in the expenditure growth can also be attributed to a rapid increase in consumer prices, which grew by 6.4 per cent, on average. Reduced investment activities, were evident in the decline in the gross capital generation by minus 3.2 per cent. In that year the only growing expenditures were those of the Government's final consumption, namely by 0.6 percentage points compared with the previous year. A marked slowdown occurred in the growth of export of goods and services. In 2008, the industrial production growth recorded a negative figure (–1.8 per cent). A slump in foreign demand severely affected the automotive industry that had been the most prominent contributor to the economic boom in previous years, while growth in construction activity was zero. Labour productivity growth also went down (1.2 per cent).

TABLE 3.1
KEY MACROECONOMIC INDICATORS 2007–11

Indicator	2007	2008	2009	2010	2011
Real GDP growth (%)	5.7	3.1	−4.7	2.7	1.7
Growth in construction output (%, real terms)	7.1	0.0	−0.9	−7.1	−3.5
Growth in industry sales at current prices (%)	14.1	−0.3	−15.9	9.8	7.2
Growth in services (%, real terms)	8.7	0.2	−9.9	−0.8	−1.5
Growth in agricultural sales (%, real terms)	−6.6	−3.8	7.1	6.4	11.8
Growth in the export of goods and services (%, real terms)	11.3	3.9	−10.0	16.6	11.0
CPI (%)	2.8	6.3	1.0	1.5	1.9
Registered rate of unemployment (%)	6.62	5.44	7.98	9.01	8.57
ILO general unemployment rate (%)	5.3	4.4	6.7	7.3	N/A
Long-term unemployment rate (%)	2.8	2.2	2.0	3.0	N/A
Growth in aggregate labour productivity (%)	3.7	0.6	−2.4	3.1	1.4
Growth in average gross nominal wages (%)	7.2	7.8	3.3	1.9	2.2

Source: Czech Statistical Office (*Český statistický úřad*, ČSÚ)

On the contrary, a relatively favourable development persisted in the labour market. The average rate of registered unemployment reached 6.62 per cent in 2007 and in 2008 it slightly decreased. However, by the end of 2009, the impact of the economic crisis was also evident in the labour market, average nominal wages continued to grow at the already rapid rate of 7.8 per cent in 2008, before starting to accelerate in 2009.

The economic crisis fully affected the Czech economy as late as 2009, when GDP contracted by 4.7 per cent; this decline was the greatest since the establishment of the Czech Republic in 1993. This negative growth rate was primarily due to declining exports, but the slump was also caused by other GDP components, not including expenditures in Government final consumption that grew by 2.6 per cent, in order to stabilize the Czech economy. The downward trend in economic performance continued throughout the year, but from

mid-2009 certain stabilizing effects became evident, for example the slight growth of foreign trade and industry. Export sectors profited mainly from the improvement in Germany's business climate; in particular, the introduction of the car scrappage premium (the *Abwrackprämie*) in Germany increased that country's demand for Czech cars.

In 2009, the imbalance in the labour market deepened and the registered unemployment rate increased dramatically to 7.98 per cent. The aforementioned development was accompanied by the worsening of other labour-market characteristics, in particular by the plummeting of job vacancies. With regard to salaries, the volume of paid wages was lower. As dismissals mostly affected low-qualified employees, i.e., the low-paid, the average wage kept growing, although significantly more slowly than in previous years.

In the fourth quarter of 2009 minor improvements began to appear, and were then followed by obvious signs of recovery in 2010. GDP growth returned to positive figures, as a consequence of the improvement in external conditions. Nevertheless, the Czech economy remains affected by structural dependencies that make it highly vulnerable to the development of the economic cycle abroad and have an impact on its overall international competitiveness.

Over time, the increase in the unemployment rate became evident (it reached 9.01 per cent in 2010 (see Table 3.1), mainly due to the decrease in labour demand, especially in the construction industry. In line with the overall economic development, the growth in nominal wages slowed down and the inflation rate remained low.

3. Policy measures and social concertation

The financial crisis was first discussed in the context of drawing up the state budget for 2009 at the 73rd Plenary Meeting of the RHSD, held on 16 September 2008. The draft State budget was based on the National Reform Programme of the Czech Republic for 2008–2010 *(Národní program reforem pro roky 2008–2010)*. Employers' representatives approved of the National Reform Programme; however, trade unions refused it, since it insufficiently addressed the financial crisis and did not mention flexicurity (Vácha, 2012).

Starting with the 75th regular session of the Plenary Meeting of the RHSD on 10 and 11 December 2008, the agenda was extended by inserting a compulsory, regular item called "Current information on the Czech economic situation". At the end of 2008, the Government did not foresee a catastrophic scenario; however, it admitted that a slump in production and export could be expected, which would have an impact on employment. Employers' representatives mentioned that it would be advantageous for the business circles to know the date of accession to the Eurozone as soon as possible. They also demanded a tax reduction for entrepreneurs, acceleration of drawing financial resources from the European Structural Funds, and export promotion; they highlighted the significant slump in consumption society-wide, and which needed a boost. Employers did not ask for subsidies, but for measures that could mitigate the impacts of the crisis, deeming the speed of adoption of said measures as crucial. Social partners agreed that it would be useful to exchange documents, comprising the attitudes of particular organizations and the preferred draft measures to cope with the crisis, as well as to agree on further steps in common tripartite meetings (Vácha, 2012).

3.1 Extraordinary tripartite meeting and presentation of the Government's and social partners' positions on the crisis

The extraordinary meeting of the tripartite organization aimed at dealing solely with the economic crisis was scheduled on 29 January 2009. Prime Minister Miroslav Topolánek (Civic Democratic Party – *Občanská demokratická strana* – ODS) opened the meeting, emphasizing that difficult choices lay ahead. He exhorted all of the participants to cooperate and ease tensions, highlighting that the crisis had not yet fully affected the Czech Republic. Nevertheless, trading with State bonds subsided, and interbank transactions and loan

granting froze. In 2008, the Government had already begun implementing the first anti-crisis measures and had taken over the guarantee of the deposits in banks. Among other measures, it almost tripled investments in infrastructure, increased civil servants' salaries, and decreased the rate of social insurance (Vácha, 2012).

At the extraordinary meeting, the Government also presented measures for further discussion by the National Economic Council (*Národní ekonomická rada vlády*, NERV), the measures were as follows:

- Short-term measures, which included the determination of the day of adoption of the Euro, coordination of the policies of the Government and of the Czech National Bank (*Česká národní banka*, ČNB), with the aim to grant credit, promote exports, and implement the Insolvency Act; maximize the utilization of the EU Structural Funds; accelerate the existing State investment programmes; actively stimulate the demand via public tenders; strengthen the active employment policy, by focusing on re-training and on the mobility of the workforce; promote tourism; and so on.
- Mid-term measures, which included amendments to the Labour Code allowing for more flexibility on the labour market, the reduction of entrepreneurs' administrative burden, and the promotion of research and development.
- Long-term measures, including the reform of the state administration to improve its functioning and reduce operational costs, a reform of the school system in order to change methods and principles of education, as well as the reform of healthcare, pensions, social policy, etc.

At the extraordinary tripartite meeting, proposals for resolving the crisis were also presented by the social partners. The ČMKOS (2009d) submitted numerous proposals on how to solve the crisis.[6] These included, but were not limited to, tax reductions, increases in public investment, and a hike in unemployment benefits. Some of the measures proposed by the SP ČR (2009a) dealt with corporate financing, reduction of wage costs for companies, and the strengthening of exports.[7] The KZPS also expressed their opinions and proposed a series of short-, medium- and long-term measures aimed to mitigate the effects of the crisis (RHSD, 2009a).[8] Lastly, ASO ČR proposed economic measures, which included a reduction in VAT, tax cuts, and other measures (RHSD, 2009b).

At the end of the meeting, the social partners asked the Government to document what has already been done to alleviate the crisis. They requested that the demands of the social partners be discussed with experts, and to state which of these were acceptable to the Government.

3.2 Extraordinary meeting of the tripartite organization and the National Anti-Crisis Plan

At another extraordinary tripartite meeting on 16 February 2009, Prime Minister Miroslav Topolánek presented an alternative anti-crisis plan to the RHSD, called the National Anti-Crisis Government Plan *(Národní protikrizový plán)*, consisting of the recommendations by NERV (see above). The Plan contained, inter alia, these measures:

- Amendment to the Insolvency Act.
- Discounts to employers for social security insurance and contributions to the state employment policy.
- Elimination of the obligation to pay tax prepayments for entities employing not more than 5 employees.
- Acceleration of amortization.
- Extended application of the VAT deduction for cars.
- Faster VAT rebates.
- Guarantees and promotion for loans to Small and Medium Enterprises (SMEs).

6 See Annex 1 for a complete list of proposals made by ČMKOS.

7 See Annex 1 for complete list of proposals made by SP ČR.

8 See Annex 1 for complete list of proposals made by KZPS.

– Energy savings and renewable energy resources for heating in residential and public buildings.
– Raising expenditures to secure transport services.
– Promotion of employees' education and training.
– Cuts in administrative costs.

Trade unions and employers were dissatisfied with the National Anti-Crisis Plan. The ČMKOS mainly criticized the fact that they were not allocated sufficient time to read or comment on it, as it was approved by Government on the same day and presented to the Chamber of Deputies as early as on 18 February 2009. Moreover, the unions opposed the reduction of social security insurance and tax-related measures, since these measures (Fassmann and Ungerman, 2009:3) "will cut revenues of public funds, unbalance social solidarity, crucially under the motto that everybody must be responsible for himself/herself only, they will drain funds from the State's social funds, curbing (de-capitalising) thus the social state, and as a result they will privatise public services and social transfers". Nonetheless, the ČKMOS also found some measures in the National Anti-Crisis Plan that they agreed with – these particularly relate to education and training for employees, securing transport services, etc. However, they highlighted unclear (Fassmann and Ungerman, 2009:3) "economic provision for these measures – the ability to ensure realistic funding from public budgets not only today, but also [in the future] ..."

The measures proposed by the National Anti-Crisis Plan were criticized by employers' organizations. Their opinions were similar to those of the trade unions, condemning the fact that the Plan had been submitted late, so that the social partners were unable to comment upon it (RHSD, 2009b). They positively viewed the acceleration of amortization for entrepreneurs and no tax prepayments, underlining, however, that these temporary measures must be followed by further systematic steps (RHSD, 2009b).

3.3 Jan Fischer's caretaker Government and cooperation with the social partners to deal with the crisis

On 24 March 2009, the Government led by Prime Minister Miroslav Topolánek lost a vote of no confidence in the Chamber of Deputies, and was replaced in early April. Jan Fischer became the new Prime Minister. Originally, the caretaker Government planned to be in power until early elections to be held in the autumn of 2009. As these did not take place, Fischer continued in his mandate until the regular election in May 2010.

At the 78th Plenary Meeting on 25 June 2009, the new Premier gave a speech, emphasizing his wish to communicate with the social partners regularly and efficiently, in order to reach agreement whenever possible. Communication would be maintained not only within the tripartite bodies, but also at the operating level among the Ministries in charge; these talks were held in a friendly atmosphere (RHSD, 2009c), and the social partners asked the Government at that meeting:

– To work out, in cooperation with the social partners, a disinterested, non-political and topical report on the condition of Czech society by September 2009.
– To initiate a discussion about economic policy-making in the Czech Republic.
– To discuss the reduction of the administrative burden.
– To establish the Council of the Government for Human Resource Development (with the participation of the social partners).
– To avoid the misuse of unemployment benefits.

However, Jan Fischer stated that not all of these demands could be implemented swiftly, and that neither the unions nor the employers handed in any suggestions on how to achieve the measures listed above. Jaroslav Hanák, Vice-President of the SP ČR, recommended a discussion on these issues at an extraordinary plenary meeting of the RHSD, which was then held on 21 September 2009 (see below).

On 17 September 2009, a draft 2010 state budget and the Report on the Present Conditions of the Czech Economy were presented and discussed with the social partners at the 79th Plenary Meeting of the RHSD. The draft budget, which foresaw a deficit of 162.7 billion Czech Koruna (CZK), roughly 5.3 per cent of GDP,

instead of the planned 5.2 per cent, comprised some austerity measures, such as the reduction of wages for civil servants and the reduction of some social benefits. Several critics noted that it did not provide sufficient support for infrastructure and education.

The social partners were disappointed and, hence, published a joint press release, '*Opinion of employers and trade unions on the proposed set of measures to reduce the 2010 deficit*' (RHSD, 2009e), in which they supported the rapid adoption of the State budget, instead of an interim one. Their additional opinions were as follows (RHSD, 2009e):

1. We promote the cancelation of the insurance discount proposed in the 'Crisis Package', which is to be applied in 2010–11 and estimated to save approximately CZK 18k million.
2. We promote an increase in the maximum assessment base for insurance contributions for 2010 from 48 to 72 times the average wage with savings worth CZK 4 billion in 2010–11.
3. As for sickness insurance, we demand the extension of the legal regulation in force in 2009 to 2010, in order to keep the sickness insurance contributions at 2.3 per cent of gross wages and to keep the refunding at 50 per cent of the wage compensation.[9] The employer should continue to pay compensation during the first 14 calendar days.
4. We disagree with the reduction of the maximum bonus promoting employment of people with disabilities.
5. Expenditure-related measures should not affect research and development, education, transport infrastructure, and co-financing of the Structural Funds.
6. We propose to cancel the increase in the flat deductions from the tax base of the self-employed and whose scope of activities is administrative (consulting companies, solicitors' offices, etc.).
7. We are prepared to negotiate alternative solutions to replace the rejected measures.

Employers expressed their willingness to accept the draft budget as a whole, with the 2010 deficit not exceeding 5 per cent of the GDP.

At another extraordinary Plenary Meeting on 21 September 2009 the tripartite partners discussed a set of measures aiming to stabilize the state budget. Even though some of their measures had already been taken into account, the unions had reservations on the content of several policies (VAT increase, reduction in unemployment benefits, reduction of civil servants' salaries) and their short-termism. Milan Štěch, the then chairman of the ČMKOS, stated that "the progress of preparations is positive and the draft reasonably balanced, even though some proposals are hard to accept by trade unions" (RHSD, 2009:1).

In late November 2009, the 80th Plenary Meeting of the RHSD discussed the package *Ways out of the crisis in the short-and mid-term* as well as a governmental document dealing with potential solutions for the economic crisis, which was criticized by the unions and employers. The social partners offered cooperation and demanded a new outline of the strategies and priorities for the future, containing very clear measures to be implemented immediately.

Under the aegis of the RHSD team for economic policy, the representatives of the social partners worked out a common proposal of short-term measures to exit of the crisis. The 21 measures contained in the proposal were discussed by the Board of the RHSD in mid-December and became a starting point for drafting a comprehensive reform package.

3.4 Ways out of the crisis – 38 common measures of the Government, trade unions and employers

At the 81st Plenary meeting of RHSD (21 January 2010), the Government presented the document "Ways out of the crisis". This encompassed several short- and mid-term policies that should have been based on the aforementioned 21 measures. According to Fasmann (2010), however, it did not have anything in common

9 According to Czech law, employers must pay 50 per cent of the employee's wages while on sick leave for the first two weeks.

with the original proposal and contained a number of contradictions. In the view of the social partners, the proposal did not contribute to an improvement in the business environment, it did not contain pro-growth measures, it focused only on fiscal policy and it did not clearly distinguish between immediate, mid-, and long-term measures. At the end of the meeting both the social partners and the Government agreed that the Government would get back to the social partners' original proposal.

In a relatively short period of time, the Government not only addressed the 21 measures proposed by the social partners, but also added 17 proposals of its own, rephrasing and modifying some of the recommendations. Nonetheless, the new package was understood and viewed as a compromise. On 2 February 2010, during the 82nd Plenary meeting of the RHSD, the government and social partners agreed on the document 'Ways out of the crisis – 38 common measures of the Government, trade unions and employers'. The new package dealt with a wide range of issues, ranging from tax cuts, reduction of administrative and financial burdens for employers, to the inception of training programmes for workers and policies aimed at fighting corruption (see Annex 2 for the complete list of the 38 measures).

The tripartite organization also reached agreement on the monitoring of these measures' implementation. At each subsequent Plenary Meeting of the RHSD in 2010, discussions continued on the gradual fulfillment of the set targets. At the close of 2010, 21 objectives were fully met, five were partially met, and 12 had not been met.

This document can be regarded as the greatest success of Czech tripartism in 2008–10, especially due to the wide consensus reached between the social partners and the Government, both on the anti-crisis policies and on the ways to monitor their implementation.

4. Bipartite responses to the crisis

The economic recession had an impact on collective bargaining as late as in 2009, as noted in the Report on higher-level and company-level collective bargaining in 2009 (ČMKOS, 2009c); by contrast, the 2008 Report does not mention the topic (ČMKOS, 2008). Not surprisingly, the impact on collective bargaining and conditions agreed in collective agreements as well as the timing of the crisis differed by sector. As shown in Table 3.2, such divergence can be noticed by looking at the company-level collective agreements concluded by the unions within the ČMKOS. In some sectors; for example, in those under the authority of the Trade Union of Workers in Commerce (*Odborový svaz pracovníků obchodu*, OSPO) the drop in the number of company-level collective agreements was radical, while in others it did not differ from the pre-crisis years. Less frequently, some sectors recorded a slight increase, e.g., the Czech Metalworkers' Federation KOVO (*Odborový svaz* KOVO, OS KOVO).

The crisis did not have an impact on the number of higher-level collective agreements: in 2008–11, 18 higher-level collective agreements were in force, for the unions again under the aegis of ČMKOS.

According to ČMKOS (2009c), the crisis had a significant impact on company-level-collective bargaining. The Report argues that: "the worst impact [on concluding/non-concluding company-level collective agreements] happened due to the emerging and deepening financial and economic crisis, which since the middle of last year has halted collective bargaining in almost one third of union organizations and mostly worsened its outcomes".

TABLE 3.2
NUMBER OF COMPANY-LEVEL COLLECTIVE AGREEMENTS CONCLUDED BY MEMBERS OF ČMKOS

Trade union/Czech abbreviation (if available)	Year							
	2004	2005	2006	2007	2008	2009	2010	2011
Trade Union of Workers in Mines, Geology and Oil Industry (OSPHGN)	83	67	53	68	68	65	60	60
Trade Union ECHO (OS ECHO)	141	145	148	151	151	149	150	150
Czech Metalworkers' Federation KOVO (OS KOVO)	804	848	818	760	797	774	767	855
Trade Union of Building Workers of the Czech Republic (OS STAVBA)	218	165	162	167	155	161	160	154
Trade Union of Workers in Woodworking Industry, Forestry and Management of Water (OS DLV)	149	91	64	87	91	82	78	80
Trade Union of Workers in Textile, Clothing and Leather Industry of Bohemia and Moravia (OSTOK)	38	55	50	42	68	63	63	75
Trade union UNIOS	330	318	320	310	300	290	298	293
Trade Union of Transport (OSD)	89	89	86	90	91	89	49	65
Trade Union of Employees in Aviation	2	3	3	6	6	6	8	9
Czech Moravian Trade Union of Catering, Hotels and Tourism (ČMOS PH ČR)	26	26	24	20	19	19	17	17
Independent Trade Union of Workers in the Food Industry and Allied Trades of Bohemia and Moravia (NOSPPP)	155	144	116	102	129	104	113	110
Trade Union of Workers in Postal, Telecommunication and Newspaper Services (OSZPTNS)	4	4	4	4	5	5	6	6
Trade Union of Banking and Insurance Workers (OSPPP)	16	16	16	19	24	24	16	21
Trade Union of Workers in Commerce (OSPO)	113	108	111	110	115	105	66	59
Trade Union of Workers in Production and Specialised Organisations of Culture (OS STAVBA ČR)	9	7	7	6	6	6	5	5
Nord-Bohemian Association of Trade Union in Mining	N/A	N/A	N/A	11	10	11	N/A	N/A
Czech-Moravian Trade Union of Workers in Education (ČMOS PŠ)	N/A	N/A	N/A	N/A	N/A	N/A	1955	1976
Universities Trade Union (VOS)	22	23	23	22	23	21	22	21
Trade Union of Health Service and Social Care in the Czech Republic	390	375	368	380	312	346	356	355
Trade Union of State Bodies and Organisations (OSSOO)	713	693	668	581	531	511	450	424
Trade Union of Workers in Science and Research (OS PVV)	23	23	23	11	17	23	28	29
Czech-Moravian Trade Union of Civilian Employees of the Army (ČMOSA)	180	142	142	130	102	100	83	78
Trade Union of Fire Fighters (OSH)	14	14	14	14	14	14	14	14
Trade Union of Employees in Libraries (OSPK)	N/A	N/A	39	38	38	35	N/A	N/A
Trade Union of Workers of Cultural Facilities	46	46	46	30	30	30	N/A	N/A
Trade Union of Workers of Culture and Nature Protection (OSPKOP)	78	N/A	64	54	52	48	48	48
Total	3,651	3,402	3,398	3,238	3,155	3,082	4,812	4,904

Source: ČMKOS (2011).

However, as already mentioned above, the economic crisis affected the economy unevenly. In the textile and footwear industries, the decline connected with the inability to compete with cheap products from third countries, China in particular, started well before 2009; hence, the crisis did not significantly worsen working conditions in these sectors. At the beginning, the crisis also spared the food industry, healthcare, and the social services; these last two sectors in particular were still coping with labour shortages.

Those ČMKOS member unions whose sectors were already affected by the crisis responded to the new economic conditions and worsening negotiation positions by updating the methodological aids for company-level collective bargaining for 2010. These methodological aids contained recommendations and practical examples on how the unions should proceed with respect to collective bargaining at a time of crisis. They included recommendations for reaching agreements on social plans for mass dismissals, how to negotiate

reductions in working time, and so on. In this context, a number of training courses and workshops took place; sometimes trade union employees also participated in company-level collective bargaining (ČMKOS, 2009c).

Due to the worsened economic conditions, company-level collective bargaining was often inconclusive, especially regarding salary increases. As illustrated in Table 3.3, several collective agreements were concluded without a provision on wages.

TABLE 3.3
HIGHER-LEVEL COLLECTIVE AGREEMENTS AND SALARY INCREASES IN 2008–11

Higher-level collective agreement concluded by:	Year-by-year increase in the average nominal wage agreed in HLCAs			
	2008	2009	2010	2011
OS ECHO – Association of Chemical Industry of the Czech Republic (SPCH ČR)	6%	N/A	N/A	N/A
OS ECHO – Czech Association of Energy Sector Employers (ČZSE)	6%	5%	Increase in wage scales and bonuses	Increase in wage scales and bonuses
OS KOVO – Czech and Moravian Electrical and Electronic Association	4%	3.5%	At the 2009 level	At least by 1.7%
OS KOVO – Association Of The Aviation Manufacturers of the Czech Republic (ALV)	6%	3.0%	1.0%	2%
OS STAVBA – The Association of Building Entrepreneurs of the Czech Republic (SPS)	5–6%	1.5–2%	At the 2009 level	Increase in wage scales and bonuses
OS hornictví – The Employers' Assotiation of Mining and Oil Industries (ZSDNP)	5–6%	At the inflation level	At the inflation level	At the inflation level

Source: ČMKOS (2011: 21).

In 2009 the construction's industry negotiations on an increase in wage scales (Trade Union of Construction Workers of the Czech Republic – *Odborový svaz STAVBA České republiky*, OS STAVBA) entered a stalemate. The dispute was resolved via a mediator, while at the company level most trade unions waited for the outcome of the dispute. Subsequently, they concluded company-level collective agreements following the increase in wage scales agreed in the higher-level collective agreement. Those trade unions that concluded a company-level collective agreement in late 2008, before the onset of the crisis, managed to extract a better deal and obtained salary increases between three and seven per cent (ČMKOS, 2009c).

Member organizations of the Czech Moravian Trade Union of Catering, Hotels and Tourism (*Českomoravský OS pohostinství, hotelů a cestovního ruchu* – ČMOS PH ČR), were advised to adapt their expectations and demands to the economic conditions of their employers, and accordingly conclude company-level collective agreements. Additionally, the ČMOS PH ČR recommended to continuously monitor the economic activity of the various employers and, if the economic situation improved, to then request an adequate wage increase (ČMKOS, 2009c).

Several companies in the construction and metalworking sectors faced insufficient demand for their goods and services, leading to the reduction in the working time of their employees. ČMKOS (2009c) reported that the employees in these sectors often accepted, without consulting the trade unions, their employers' proposals to shorten their working time coupled with a proportional cut in wages; in other words, these agreements were not hammered out within the framework of collective bargaining. Employee benefits (meal vouchers, additional supplementary pension contributions, transport reimbursements for commuters, etc.) were not significantly reduced in 2009 (ČMKOS, 2009c). As the economic situation improves (temporarily, according to some economists), trade unionists are afraid that these benefits will be subject to harsh disputes.

The impact of the economic crisis on wages was mixed: on the one hand, hundreds of companies decided to adjust their working time, most frequently the working week was reduced to four days. On the fifth day, usually Fridays, employees stayed at home, obtaining some wage compensation (frequently

60 per cent of the average wage), leading to a decrease in the overall average wage. On the other hand, mass dismissals often concerned less-qualified workers earning wages below the average[10] while highly qualified, specialized staff was dismissed as a last resort; in turn this of course led to a (fictitious) increase in the average wage. Nearly all sectors experienced such developments, at least marginally; however, in the process industry working time reductions and mass dismissals happened on a large scale (ČMKOS, 2010).

With regards to the use of work-agency employment contracts for both Czech citizens and foreign nationals, including their impact on collective bargaining, their numbers have dropped significantly during the crisis; however, they grew disproportionably in industrial sectors. For example, companies operating in those sectors covered by the unions of OS KOVO (electrics and electronics) have been employing agency workers significantly more than in 2010 (there was an estimated 25 per cent increase). Such labour market developments prove that the employers prefer precarious arrangements, such as agency work and fixed-term contacts, to standard employment relationships (ČMKOS, 2010), which may lead to an increase in the dualization of the Czech labour market.

5. Austerity measures and the role of social dialogue

The conservative Government of Petr Nečas, which took office in June 2010, prepared a Policy Statement[11], which foresees a wide-ranging set of reforms, including:

- The reform of public financing with the aim to slow down public debt growth and achieve a balanced budget by 2016.
- A pension system reform that ensures long-term financial sustainability and that copes with the demographic challenge of the Czech Republic.
- A set of reform measures, which modernize the healthcare system and increase its efficiency.
- The reform of tertiary education.
- Measures to substantially improve the transparency in public contracts and reduce corruption in the public sector, thereby rendering public financing more stable and efficient.

Several reforms (for example of tertiary education and of pensions) are still at the preparatory stage. Partial changes aiming at the consolidation and stabilization of public financing have been in force since 2012.

5.1 Labour Code amendments

The new amendment to the Czech Labour Code, which was submitted to the social partners for comments, entered into force on 1 January 2012. It aims to provide employees and employers with more contractual freedom and increase labour market flexibility. It represents the most substantial change to Czech labour laws since 2007; its most important points are the following:

- Lower severance pay rewarded to workers after their employment is terminated for 'organizational reasons' or due to long-term sickness. Until 2012, it consisted of three monthly salaries regardless of the length of service; it will now be calculated on the basis of the number of years worked for the employer.
- Greater contractual freedom, including a whole series of measures concerning the legal protection of the employee's status, satisfactory and safe working conditions, fair pay, the evaluation of the employee's performance at work in compliance with the rightful interest of the employer, equal treatment of employees, and the obligation for companies to discuss with their employees substantial changes in work organization, as well as the economic, financial, and strategic development of the firm.

10 The statistics on mass dismissals in the Czech Republic can be found at the European Monitoring Centre on Change.

11 http://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/Programove_prohlaseni_vlady.pdf, cited 14. 11. 2012.

– New reasons for dismissal: employers can now dismiss employees who grossly violate the rules during the initial 21 calendar days of their sick leave. Trade unions consider this measure to be unconstitutional.[12]
– Extra health insurance protection. Redundant employees can work up to 300 hours a year (as opposed to 150 hours in the past) on the basis of an 'out-of-employment contract'. Employers must pay social and health insurance, if the income from such work contracts exceeds CZK 10,000 a month (circa €396 as of 13 February 2012). The companies that employ seasonal workers appreciated the increase in the number of hours but they consider the new payment thresholds administratively demanding.
– Curbing of the influence of trade unions: the unions are now allowed to operate within a company, if at least three employees are members of the union. Previously, union members could include former employees who are currently unemployed as well as interns, which rendered reaching agreements between the employer and employees difficult.
– Limited duration and renewal of fixed-term contracts. They cannot exceed three years and can only be renewed twice. Previously there was no restriction on their duration or the number of renewals.

ČMKOS welcomed some measures, such as the payment of social and health insurance on short-term contracts. However, the union complained that the new laws reduce the overall protection and job security of employees. ČMKOS also highlighted the absence of flexicurity: while the new amendment allows for more flexible employment arrangements, it does not provide an adequate level of protection for employees.

According to SP ČR President Jaroslav Hanák, the new Labour Code contains a number of amendments that the employers have long demanded. They particularly cherish the greater flexibility in the labour market, which increases overall competitiveness.

5.2 Other amendments

Another significant change in 2012 was the VAT increase, to cover the costs associated with the pension reform. The lower VAT rate grew from 10 to 14 per cent, with the basic rate remaining at 20 per cent; starting from 2013 a single uniform VAT rate of 17.5 per cent will be adopted, without exceptions. Other taxes and contributions should be affected as well (an increase in the Personal Income Tax and in the contributions for health insurance). However, the tax reform is still at the preparatory stage and will probably not become effective before 2014, while the only innovation in direct taxes is a tax on gambling.

Beginning in January 2012 the eligibility rules to be entitled to unemployment benefits have been tightened, while neither the standard length of fruition, nor the amount of support are supposed to decrease. The eligibility restrictions, according to the Minister of Labour and Social Affairs Jaromír Drábek (TOP 09 party), shall result in greater activation of the unemployed, in the reduction of illicit work, and greater public appreciation of employment mediated by labour offices and unemployment benefits in general.

The reforms also affected social benefits: parental allowances will be lower, but with a simplification of the eligibility rules, for beginning in January 2012, employment offices will disburse all social benefits, whereas in the past the municipal authorities were also in charge.

As previously mentioned, the pension reform is still at a preparatory stage; starting in 2013, however, voluntary saving in private pension funds will be introduced, changing the existing system of supplementary (voluntary) pension contributions that enjoy state support.

The social partners, and the trade unions in particular, criticized the reforms; not only did the economic conditions worsen, but the social partners and the Government held very different opinions on what measures would restart economic growth. One of the consequences of these disagreements was that since 2011, the relationships between the employer organizations and the unions, as well as between the social partners and the Government significantly deteriorated.

12 The complaint to challenge the constitutionality was filed to the Constitutional Court of the Czech Republic *(Ústavní soud České republiky)* on 20 March 2012 by 54 Members of Parliament from the Czech Social Democratic Party (*Česká strana sociálně demokratická*, ČSSD) as a common initiative of ČSSD and ČMKOS.

During the 89th Plenary Session of the RHSD, held on 21 April 2011, the tensions intensified, as ČMKOS Chairman Jaroslav Zavadil delivered a speech where he claimed that the Government had become untrustworthy in the eyes of the unions. In his opinion, the reform package will negatively affect most citizens, while at the same time increase the budget deficit. The Government did not take into account the comments submitted by ČMKOS during the legislative process, and which were published in the media and on the ČMKOS website.[13] During the meeting, the Chairman of OS KOVO, Josef Středula, mentioned the 38 measures that were agreed by the social partners and the previous Government, and which the present coalition refused to respect. Employers also voiced their dissatisfaction, due to the slow progress in the preparation of the Government's documents to be debated during the Plenary Session. Whereas the employers deemed it necessary to continue the discussion, the unions left the meeting.

The following tripartite meetings further deepened the distrust between the social partners and the Government. On 23 March 2012, the trade unions left another extraordinary tripartite meeting, where the present conditions of the Czech economy were discussed. The unions gave three main justifications for leaving (Žitníková, 2012):

– The Government promised the trade unions that they would discuss, at an extraordinary tripartite meeting, their proposals to modify the budget for 2012. Instead, the draft document presented at the meeting represented the opinion of the Ministry of Finance only, not that of the whole Government, which was unacceptable.
– The document of the Ministry of Finance proposed mostly cuts and several measures that would increase the cost of living. Higher VAT rates will trigger renewed price increases, in the context of real salary reductions, frozen indexation of pensions, and the cancellation of several social benefits. This in turn would lower the economic potential of the country and drive people into poverty; moreover, the proposal foresaw the dismissal of almost 2,400 public sector employees. Austerity measures will affect schools, with a planned cancellation of 17,000 teaching positions. The Government with such measures threatens not only employees, but also the security of its citizens, as the cuts in public finances imply the cancellation of 3,500 police jobs. The Government did not devise any measures that would spur growth, or enhance the use and fruition of EU Structural Funds. All it did was to reduce funds for science, research, and education.
– The Government failed to convince the unions that it was willing to act seriously and review its unyielding attitude.

Even the SP ČR criticized that the tabled documents were the expression of the opinions of the Finance Minister only. The SP ČR President, Jaroslav Hanák, stated (SP ČR, 2012): "We want to discuss a proposal of the whole Government, not only of the Finance Minister. At the same time, our key interests are to balance the public finances and enhance the competitiveness of our country. To achieve these, the Government must come up with pro-growth measures, and not only slash the budget. In order to find an agreement, social consensus is needed, and therefore trade unionists should not just hit the streets" (SP ČR, 2012). He also added that he did not consider it wise how the unions decided to quit the tripartite talks.

As a result of these contradictions, ČMKOS, ASO ČR, Coalition of Transport Trade Union and 21 civic associations started a common initiative, called 'Stop the Government' *(STOP VLÁDĚ)*. The purpose of this campaign is "the interruption of this Government's reforms, the resignation of the Government and an early election. The campaign includes industrial and information actions that aim to inform citizens of the Czech Republic on the negative impact of the current reforms and to give the possibility to voice their disagreement."[14] On 21 April 2012, the participants to the initiative organized a huge demonstration in Prague, against the policies devised by Nečas's Government. The main aim of the demonstration was to trigger the reversal of those budgetary policies that harm the fragile Czech economy and reduce the standard of living of

13 For details of the Legislative process in the Czech Republic see the Government information centre.

14 http://www.stopvlade.cz/kontakty.

Czech workers. According to the Czech Police, about 80,000 to 90,000 protesters attended the demonstration, making it the biggest in the country (including when the country was still Czechoslovakia) since the fall of communism in 1989. It was followed by various industrial actions in front of the Ministries, and trade unions also expressed their readiness to go on strike if necessary. This notwithstanding, the Government vowed that it would press on with its policies.

Although the trade unions abandoned the plenary meetings of the RHSD, the Presidium and working groups of the RHSD still operate and closely collaborate together (Kadečka, 2012).

6. Conclusions

During the period 2008–12, the relations between the social partners and the Government alternated depending on the proposed and adopted anti-crisis measures. The Government of Miroslav Topolánek based its National Anti-Crisis Plan on the recommendations of the National Economic Council (NERV). The social partners did not accept such a course of action, and criticized the fact that they could not comment on the Plan, as it was handed in to the Chamber of Deputies just two days after being presented at the tripartite meeting.

The measures included in the National Anti-Crisis Plan were not fully implemented, since the coalition Government led by Topolánek was voted out of office in March 2009, and was followed by Jan Fischer's caretaker Government. During its stay in power, until the regular elections in May 2010, the relations with the social partners were at their best for the period considered in this volume. Already during the first tripartite meeting, Jan Fischer emphasized that he intended to negotiate with the social partners and possibly reach a mutually acceptable agreement. Such accommodative approach resulted in the formulation of the document "Ways out of the crisis – 38 common measures of the Government, trade unions and employers", where the Government and the social partners agreed on 38 measures to help the Czech economy exit the crisis. They also agreed that the progress in the implementation of these measures should be discussed and presented at each meeting of the tripartite forum.

After the elections in May 2010, the conservative Government of Petr Nečas took office and started preparing its own set of reforms. Nečas refused to fully implement the measures contained in "Ways out of the crisis", which in turn affected the relationship between the Government and the social partners, leading to their deterioration. This course of events continued after the Government presented its reform concepts, which focused entirely on the stabilization of public finances. The opposition parties, trade unions, and the representatives of the employers claimed that the proposed reforms relied only on austerity measures, without any support for economic growth, all in order to achieve a balanced budget. The workers' organizations condemned the fact that most reforms would negatively affect employees and low-income population groups, while the employers denounced the absence of policies promoting competitiveness and exports. This notwithstanding, the Government failed to take into account the comments of the social partners and as a result, the unions abandoned several tripartite meetings after March 2012 and took a hard line against the reforms. Together with various civic associations, they started the joint initiative 'Stop the Government', organized the largest demonstration in post-1989 Czech history on 21 April 2012, and are preparing a range of other industrial actions.

6.1 Bipartite dialogue

The relationship between the social partners was far more consolidated than the relationship between the social partners and the Government in 2008–12, and the main reason for this relatively close cooperation was the social partners' common objective of maintaining the existing employment levels. According to Samek (2012), one of the greatest lessons learned by the trade unions in relation to the crisis is that employees

prefer to retain their job to a wage increase. During collective bargaining, many employees were willing to accept a freeze or even a reduction in wages and part-time unemployment, if their job was to be retained. Both parties were aware of the seriousness of the situation and managed to cooperate in higher- and company-level collective bargaining. One of the main accomplishments was the agreement between the social partners on the document 'Proposal of short-term measures to address the consequences of the crisis and to accelerate recovery', which the Board of the RHSD discussed on 16 December 2009.

The ČMKOS (2009: 73) recommended their member unions to base their wage demands for 2010 "on the actual economic situation in the sector, or in the company", and on the level of inflation. At the same time, it also warned that freezing or cutting employee wages and basing the decision on the general notion that there is an economic crisis was unjustified. Furthermore, employers should not endorse the flat reduction of wages in the public services and administration, as this was a unilateral decision of the Government, which was unacceptable for the ČMKOS.

The union (ČMKOS, 2010: 80) gave similar recommendations for 2011: "Due to the ongoing economic crisis and given the considerable differences in the conditions under which particular trade unions negotiate and conclude higher-level collective agreements, the Council of the ČMKOS advises the unions for 2011 to focus primarily on those measures that lead to the conclusion of HLCAs and help maintain existing jobs, or create new ones." Moderate wage demands by the trade unions helped to stabilize particular sectors and prevent mass dismissals.

The social partners, however, expect future collective bargaining to be far more complicated. In 2010, the economic crisis in the Czech Republic subsided and its impact on collective bargaining became milder. However, according to the ČMKOS (2011: 84):

"the developments in recent months show that the mild improvement in the economic environment relates to [2011] only. The current Government's austerity in the form of legislative measures and cuts to the State budget will have a negative and severe impact on employees and will undoubtedly affect the progress and outcomes of collective bargaining for 2012. It can be, hence, assumed that collective bargaining in the near future will be far more complex. As a consequence of the announced changes to tax laws, it will be necessary to fight a battle for established benefits (meals in company canteens and so on). The increases in VAT and in energy prices will result in growing consumer prices, which will lead, in several industries, to extremely tough bargaining on adequate wages and on the retention of jobs."

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Annex I: Proposals of the social partners presented at the Extraordinary Tripartite Meeting on 29 January 2009

ČMKOS proposals

– Prevent the further deepening of the crisis: the continued reduction of taxes and insurance payments must be stopped, as these reductions drain funds necessary for education, social security and public investment.

– Coordinate economic and monetary policies: the ČMKOS considers the existing interest-cutting measures of the Central Bank as inefficient. Although the Central Bank reduced the basic interest rates, commercial banks did not, thereby reducing the credit limits for companies. Trade unions requested the Government to table measures, in coordination with the Central Bank, in order to renew credit granting to companies and reduce their interest burden.

– Expand economic diplomacy significantly: provide governmental support to Czech exporters, especially to sectors that are less affected by the crisis. For that purpose, it is essential to prepare funds for granting government credits for selected important export activities of Czech companies (the Czech Government should grant credit to foreign companies enabling the implementation of large projects involving Czech exporters).

– Speedily increase public investment in infrastructure (including municipal infrastructure) as well as green and smart investments.

– In the next two years, secure the accelerated development of the programme for the construction of at least 50,000 low-rent flats for young families and retired persons, who cannot find dignified, affordable housing.

– Establish a wage-compensation fund for employees who cannot work full-time as a result of the crisis (wages for part-time work should be topped up by the State).

– Increase unemployment benefits and extend the time of benefit fruition.

– Protect temporary agency workers and workers with fixed-term contracts: fund retraining programmes for these employees and provide them with social security benefits, including insurance against unemployment. Create the conditions for repatriation of foreign workers, if they wish to return to their homeland.

– Provide protection against financial speculators: adopt the necessary measures to clearly define usury and prevent financial speculators from offering loans with excessive interest that consequently lead to unmanageable indebtedness of households. Modify legal regulations regarding employees' rights when the employer is insolvent.

– This year, earmark at least two per cent of GDP to cope with consequences of the crisis and to promote economic growth (growth is the priority, and not the narrowly understood Maastricht criteria).

– The Government should discuss and agree on anti-crisis measures with the social partners, at the tripartite level in the RHSD: the unions hope that the Government is aware of the severity of the crisis and of its impact on the economic developments of Czech Republic.

SP ČR proposals

– Measures related to the crisis must be prioritized, at the level of both the Government and the Czech Parliament.

- All the decisions to be adopted and documents prepared by the Government and legislative bodies must be analysed in terms of their impact on business and on the competitiveness of the economy.
- All the controversial measures that may have a negative impact on business and the economy must be stopped.

– Deal with corporate financing.

- Renew the banks' credit policy. Via the Czech-Moravian Guarantee and Development Bank *(Českomoravská záruční a rozvojová banka* – ČMZRB*)* create an efficient system of state guarantees for operating loans, including extended guarantees for already existing ones.
- Simplify the absorption of the Structural Funds and reduce the time between the submission of the application and the granting of the subsidy.

– To reduce wage costs of companies under restructuring.
- Simplify the administrative procedure regarding the consent with provision of wage compensation at 60 per cent of the employee average wage.[15]
- Transfer the costs of severance to the State by establishing a fund supporting restructuring and employment in SMEs.
- Allow the deferral of social and health insurance payments, without claiming interest on late payment.

– Fight the shortage of orders via an active government policy in public contracts.
- Accelerate the State's preparation and implementation of investment programmes in transport infrastructure and for the modernization of the car fleet.
- Intensify activity in ecology-related public contracting.

– Render the state system of export promotion stronger and more efficient.
- Strengthen the capitalization of the Czech Export Bank (*Česká exportní banka* – ČEB) and thus increase the potential of export promotion by the State.
- Extend the guarantees by the Export Guarantee and Insurance Corporation (*Exportní garanční a pojišťovací společnost* – EGAP).

– In order to reduce the risks and losses resulting from the high volatility of the exchange rate of the Czech currency; it is necessary to define a date for the adoption of the Euro.

KZPS proposals

– Short-term measures:
- Introduce price caps on energy, reflecting the decline in global energy prices, with immediate effect (from March 2009 at the latest).
- Reinforce ČMZRB funds by at least CZK 10 billion by mid-March, in order to finance the guarantees for SMEs. Reinforce the funds of the ČEB and the EGAP to support and insure exporters.
- Promote the modernization of the car fleet of companies and households with a car scrap scheme.
- Summon a meeting of the tax and insurance working group of the RHSD until the end of February 2009 to discuss tax laws.
- Maintain the current scope of public contracts, and increase the funds for the recovery of state assets and state-controlled companies (weatherization of buildings, and so on).
- Subsidize the investments in construction (revitalization of prefab concrete buildings, and so on), leading to future energy savings.
- Stop working on Stage II of the ecological tax reform immediately.

– Medium-term measures:
- Until the end of February, prepare the amendment to the Labour Code based on the proposals of the expert group, discussed with the social partners in 2008. The aim is to have the amendment approved by the Chamber of Deputies and in force already in 2009.
- Until the end of February 2009, summon a meeting of the tax and insurance working group of the RHSD to discuss the amendment to the Act on social security insurance.

– Long-term measures:
- Within the first quarter of 2009, determine the date of Euro adoption (possibly in 2013).
- Condition the support for science and research to the demands of domestic companies.
- Transport infrastructure should remain a priority for the Government, both to achieve European standards in the internal network and to integrate it internationally.

15 The Act no. 262/2006 Coll., Labour Code, includes a provision of Article 209 on "partial unemployment". It concerns situations when the employers are unable to assign work to employees in the range of weekly working hours due to temporarily reduced sales of their products or reduced demand for services rendered by them. If there is an operating trade union at such workplaces, the partial unemployment must be regulated by an agreement between the trade union and the employer. If there is no trade union operating in the company, the employer is obliged to apply for a permission from the Labour Office (LO) that may approve partial unemployment for the period of up to one year. In both situations, the wage compensation must not be lower than 60% of the average wage.

- Until the end of 2009, introduce a school evaluation system and give priority to those branches of education that satisfy the needs of business (especially science and technology).
- Stop the creation of new jobs in public administration; prepare and implement a reform of the State administration with the aim to enhance its efficiency.
- Continue the reforms of pensions and healthcare.

ASO ČR proposals

- Radically cut the VAT from 19 to 15 per cent.
- Reduce employees' tax burden by 4 per cent.
- Reduce the corporate income tax liability to 17 per cent.
- Extend the accelerated amortization of fixed assets.
- Speed up the absorption of EU funds.

Annex II: "Ways out of the crisis" – 38 common measures of the Government, trade unions and employers.

1. In order to have greater equality in the business environment, create a system of integrated control.
2. Solve the problem of unemployment benefit misuse in combination with out-of-employment contracts. As these are exempted from health insurance and social security contributions, they generate vast tax evasion and excessive state compensation.
3. Prepare a "Tax Statistics" system, based on the processing and aggregation of income tax returns and reports on the paid insurance contributions.
4. Deal with the problem of the misuse of transfer prices and provision of services within a group of companies, and whose purpose is tax optimization.
5. Deal with the breaches of the Act on significant market power in the sale of agricultural and food products and its misuse.
6. Analyse and prepare the starting points for a gradual reduction of the differences in taxation of the self-employed and employees.
7. Review the efficiency and effectiveness of state budget expenditure schemes, and carry out an audit of state budget funds management.
8. The Finance Minister must reinforce the trust in the private banking sector operating in the Czech Republic and increase the availability and granting of commercial (or consumer) loans.
9. Submit proposals within the Pro-export strategy for 2010/2011–2016.
10. Increase the insurance funds and/or the registered capital of the EGAP by CZK 1 billion.
11. Increase the registered capital of the ČEB by CZK 919 million, plus CZK 100 million for interest difference in export credits.[16]
12. Modify the requirements for the fruition of investment incentives, as a consequence of the existing economic crisis.
13. Based on the analysis of rental housing needs, work out a strategy for the construction of rental flats, as well as the reconstruction and modernization of flats for senior citizens and low-income groups of the population (social housing).
14. Support the completion of the Temelín nuclear power plant (blocks III and IV) and the restructuring of the Prunéřov II power plant.
15. Improve the navigation conditions on the Elbe River, by building the waterway section of PřelouČand Děčín and by constructing weirs.
16. Cut the support for photovoltaic power plants.
17. Accelerate and simplify the absorption of the EU Structural Funds; shorten the administrative process and secure co-funding.
18. Work out a short-time working analysis.
19. Continue and secure funding for the programmes 'Training is a chance *(Školení je šance)*' and 'Extend your knowledge *(Vzdělávejte se!)*'.
20. Apply consistently the updated Government Strategy for the Fight against Corruption in 2006–2011 *(Strategie vlády v boji proti korupci na období let 2006–2011)*.
21. Reduce the administrative and financial burdens for entrepreneurs.
22. Assess a number of troublesome legal environmental regulations in the manufacturing and business spheres (EKOAUDIT).
23. Submit a bill amending those laws aimed towards reducing the administrative burden.

16 ČEB supports a fixed interest-rate for the life of the export credit from its own resources.

24. Amend the Waste Act and the regulation of the Czech Statistical Office (ČSÚ) on the 2011 Statistical Survey Programme in order to avoid entrepreneurs having to supply waste-related data twice.
25. Ensure that consumer loans granted by non-banking entities are consistently checked.
26. Use the funds from the European Globalisation Adjustment Fund to cope with the economic crisis.
27. Draw up a policy for funding transport and transport infrastructure starting from 2011.
28. Table for discussion a consolidated tourism-promotion plan.
29. Reduce the time of the proceedings on pension and sickness benefits.
30. Rules for rewarding and rules for exercising ownership rights on behalf of the state.
31. Table an analysis of the social service system, especially focusing on funding.
32. Enhance the capacity of the offices for employment and devise policies related to growing unemployment.
33. Rank agricultural subsidies among the priorities of European policy.
34. Use and develop the web portal 'Farmer' to simplify the administration of agricultural subsidies for both the grantor and the applicant.
35. Create the conditions for accelerated utilization of the Environment OP, especially to resolve the problems of wastewater treatment plants in large agglomerates.
36. Accelerate the absorption of funds from the Green Savings *(Zelená úsporám)* programme; evaluate and potentially modify the subsidy programme.
37. Pay attention to the needs of the Czech industry, while implementing large-scale investment projects.
38. The social partners endorse the draft Update of the State Energy Policy worked out by the Ministry of Industry and Trade (MIT) and recommend it for governmental approval.

Annex III: List of interviewees

Trade unions:

Vít Samek, Economic Expert, Czech-Moravian Confederation of Trade Unions.

Employers' associations:

Jan Wiesner, Chairman, Confederation of Employer and Entrepreneur Associations of the Czech Republic.

Experts/academia:

Jaroslav Hála, Senior Researcher, Social Dialogue and Labour Relations Department, Research Institute of Labour and Social Affairs.

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* (Locomotive 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

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

5. The case of Slovenia

By: Igor Guardiancich

List of acronyms

DeSUS – Democratic Party of Pensioners of Slovenia
DLGV – Civic List of Gregor Virant
EMU – Economic and Monetary Union
ESS – Economic and Social Council
EU – European Union
GZS – Chamber of Commerce and Industry of Slovenia
IER – Institute for Economic Research
IMF – International Monetary Fund
KNSS Neodvisnost – Confederation of New Trade Unions of Slovenia, Independence
Konfederacija '90 – Confederation of Trade Unions '90 of Slovenia
KSJS – Confederation of Trade Unions of the Slovenian Public Sector
KSS Pergam – Confederation of Trade Unions of Slovenia, Pergam
LDS – Liberal Democracy of Slovenia
OECD – Organisation for Economic Co-operation and Development
OZS – Chamber of Craft and Small Businesses of Slovenia
NSi – New Slovenia
PS – Positive Slovenia
SD – Social Democrats
SDOS – Union of State Organs of Slovenia
SDS – Slovenian Democratic Party
SLS – Slovenian People's Party
SNS – Slovenian National Party
SVIZ – Education, Training and Science Union
Zares – For Real – New Politics
ZDOPS – Association of Employers for Crafts and of Entrepreneurs of Slovenia
ZDS – Association of Employers of Slovenia
ZDUS – Union of Associations of Pensioners
ZLSD – United List of Social Democrats
ZPIZ – Institute for Pension and Disability Insurance
ZRSZ – Employment Service of Slovenia
ZSSS – Association of Free Trade Unions of Slovenia
ZZZS – Health Insurance Institute of Slovenia

Introduction[1]

Until the global financial crisis hit Slovenia in late 2008, the tiny republic was regarded as *the* post-socialist success story. After breaking away from Yugoslavia in 1990–91, Slovenia embarked on a gradual transition to a market economy and liberal democracy.

Under the guidance of Janez Drnovšek's Liberal Democracy (LDS), Slovenia prepared and fulfilled the conditions for membership of the European Union (it joined the Union in 2004), and of the Economic and Monetary Union (in 2007). Gradualism, bipartisan government, and constructive social dialogue at the national, sectoral and firm levels characterized the period 1992–2004. Nation-wide social pacts and encompassing sectoral collective agreements set firm developmental guidelines for the country's industrial relations.

This started to change in 2004: the Slovenian right-wing/conservative bloc, led by Janez Janša's SDS, tried to shake up the economy through neoliberal policies and by uprooting the ruling socio-economic elites through the widespread reappointment of cadres. Most of his domestic reform attempts failed due to the consensual nature of Slovenian policy-making, and his imperative style was severely punished at the 2008 elections. As a consequence of stagnation and the drift into economic populism, the next, centre-left coalition government inherited a very unfavourable position with which to successfully deal with the looming economic and financial crisis.

The financial crisis hit Slovenia with full force, despite 15 years of sustained growth, low unemployment, and moderate inflation. GDP fell by 8.0 per cent in 2009 and has not recovered since; unemployment almost doubled and most socio-economic indicators fell back to pre-accession levels. Four interrelated weaknesses are to be blamed.

First, gradualism and lack of structural reforms went hand in hand, leading to postponements of the necessary restructuring in finance, tertiary education, the judiciary, health care, pensions, family benefits, and the labour market. Second, a wave of insider privatization in the mid-2000s distracted owners from productive investment, as most loans were used for ownership consolidation. Third, the economy entered a low productivity and low-value-added 'trap', where Slovenian firms could not compete with either the more productive West or the less expensive East. Fourth, a construction investment boom abruptly ended, leading to the bankruptcy of all major Slovenian construction companies.

The crisis has been dealt with by two governments: a centre-left coalition led by Borut Pahor of the Social Democrats (SD), which ruled during 2008–11, and the centre-right coalition under the premiership of Janez Janša, which came to power in 2012. Both governments announced the intention to respect social dialogue and negotiate through the traditional tripartite forums.

The first Pahor Government was unprepared, and committed the fundamental mistake of underestimating the severity of the crisis, which meant it did too little and acted too late. On the positive side, the short-term anti-crisis measures successfully prevented unemployment from skyrocketing, while on the negative side, the thorough reform plan that Pahor announced, also as a response to the EU and OECD requests, miserably failed. The most important structural reforms (pensions and the labour market) were defeated through various referendums in 2011, leading to the Government's demise. The second Janša Government has so far adopted some sensible measures: its ministers drew up a fiscal consolidation plan that was approved with the consent of the social partners, allowing for a credible budget revision. Even though Janša seems to have learned from past mistakes, testified by the Government's commitment to social dialogue, the road ahead is bumpy. Controversial reforms, such as that of the labour market, lie ahead, and given the critical situation, failure is not an option.

The paper proceeds as follows: Part 2 describes the industrial relations that were set up before the economic and financial crisis, in particular, it delineates the actors involved, as well as the main features of

1 I would like to express my gratitude to journalist Mario Belovič, who greatly helped me with collecting the necessary material to write this contribution.

collective bargaining; Part 3 is dedicated to the description of the role played by social dialogue during the beginning of the attempted recovery; Section 3.1 analyses the impact of the crisis on the Slovenian economy and its labour market; Section 3.2 and 3.3 present the two sets of anti-crisis measures proposed by the Pahor I Government. Whereas short-term interventions successfully shielded the labour market from total collapse in 2008–09, important structural reforms led to the breakdown of social dialogue in 2010–11. Part 4 is dedicated to the operations of the Janša II government in 2012: the approval of the Public Finance Balance Act, and the negotiations for a new social pact for 2012–16. Part 5 offers some concluding remarks.

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

Among post-socialist countries, Slovenian social partners strengthened their socio-economic role during the transition. Trade unions represent both public and private employees, but their influence has been steadily declining, as union membership dropped from roughly two thirds in the early 1990s to some 29.7 per cent in 2010. Employer associations are prominent as well, and they retain high representativeness. Nevertheless, changes in their institutional structure may in the near future reduce their capacity to negotiate collective agreements. There are also various tripartite forums, of these, the Economic and Social Council (*Ekonomsko-socialni svet*, ESS) wields disproportionate power with respect to socio-economic legislation, producing yearly or biannual national social pacts. Sectoral and firm-level collective bargaining is thriving, but detailed records at the company level are missing. In other words, Slovenia has had a well-developed social dialogue, which somewhat deteriorated in the aftermath of the global financial crisis (Guardiancich, 2012).

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

The Pahor I and Janša II Governments
In the period when the global financial crisis hit Slovenia, two distinct government coalitions ruled the country. The Pahor I executive (21 November 2008 – 10 February 2012) was composed of three centre-left parties: the Social Democrats (*Socialni demokrati*, SD), the Liberal Democracy of Slovenia (*Liberalna demokracija Slovenije*, LDS), the Party For Real (*Zares - nova politika*, Zares), and the single-issue Democratic Party of Pensioners of Slovenia (*Demokratična stranka upokojencev Slovenije*, DeSUS); the Premier was Borut Pahor (SD). The following Janša II executive was instead composed of four centre-right parties: the Slovenian Democratic Party (*Slovenska demokratska stranka*, SDS), the New Slovenia (*Nova Slovenija*, NSi), the Civic List of Gregor Virant (*Državljanska lista Gregorja Viranta*, DLGV), the Slovenian People's Party (*Slovenska ljudska stranka*, SLS) and, again, the single-issue DeSUS; on this occasion the premier was Janez Janša (SDS).

Borut Pahor's Social Democrats won the 2008 elections after four years of the Janša I government. As this was the first centre-right coalition that ruled in the country after 12 years of LDS domination, Janša prepared an all-out attack against gradualism, social-democratic policies and leftist oligarchies. He hired the so-called young economists, headed by the Minister for Reforms Jože Damjan who drew an ambitious reform agenda, which envisaged neoliberal reforms, including a flat tax rate and the liberalization of the labour market. However, Janša's disrespect for social dialogue clashed against Slovenian traditional consensus-making practices. None of the structural reforms ended up being legislated, and the coalition overspent and reduced taxes in a period of buoyant growth.

The Pahor I Government did not arrive prepared for the crisis, and neither did Slovenia's finances. The coalition envisioned modernization measures and structural reforms (for details, see Guardiancich 2012a). Theoretically, Pahor wanted a strong role for social dialogue (SD, Zares, DeSUS, and LDS, 2008: 3), but the Government found itself between a rock – the unending crisis – and a hard place – the requirements of supranational institutions and only short-term anti-crisis measures survived. The Government lost four referendums in 2011 alone; two of which were on important structural measures. The tension between the

coalition partners intensified: DeSUS and Zares left the executive. As several ministers quit and public support plummeted, Pahor lost a no confidence vote on 20 September 2011.

The chaotic 2011 elections witnessed the appearance of new parties on the Slovenian political scene, such as Positive Slovenia (PS) led by Zoran Janković, which tried to regroup the collapsing social democrats, and DLGV (a subsidiary of the centre-right SDS). Janković managed to get a relative majority in December, but failed to secure enough votes in the National Assembly. Even though President Danilo Türk refused to recommend Janez Janša (SDS came second) as the Prime Minister, due to Janša's charges in a bribery case, a broad centre-right coalition voted him into office.

Their coalition agreement (SDS, DLGV, DeSUS, SLS and NSi, 2012) promised, apart from several solutions to the crisis (including vast austerity measures), respect for the social partners and the provision that a social pact would be signed as soon as possible. Possibly, the negative experience of the Pahor I Government was very instructive.

Trade unions

In Slovenia there are eight trade union confederations, six of which are encompassing: Alliance of Free Trade Unions of Slovenia (*Zveza svobodnih sindikatov Slovenije*, ZSSS), Confederation of Trade Unions of Slovenia, Pergam (*Konfederacija sindikatov Slovenije Pergam*, KSS Pergam), Confederation of Trade Unions '90 of Slovenia (*Konfederacija sindikatov '90 Slovenije*, Konfederacija '90), Confederation of New Trade Unions of Slovenia, Independence (*Konfederacija novih sindikatov Slovenije*, KNSS Neodvisnost), Confederation of Trade Unions of the Slovenian Public Sector (*Konfederacija sindikatov javnega sektorja Slovenije*, KSJS) and the recently founded League of Representative Trade Unions of Slovenia (*Zveza reprezentativnih sindikatov Slovenije*, ZRSS). Another two are instead limited to certain professions: Trade Union of Engine Drivers of Slovenia, Alternative (*Sindikat strojevodji Slovenije*, SZS Alternativa) and the Association of Workers Trade Unions of Slovenia, Solidarity (*Zveza delavskih sindikatov Slovenije*, ZDSS Solidarnost). Additionally, there are other independent representative unions, which have, however, no access to collective bargaining at the national level.[2]

As Slovenian unions do not have to declare their members, there are only rough estimates of union density. According to some estimates, ZSSS has probably not more than 200–250 thousand members, including pensioners, Pergam 70 thousand and KSJS around 70–75 thousand. The others are marginal with only 5–15 thousand members. Union density has declined from around two thirds of workers in the mid-1990s to less than one third by 2010. Dissatisfaction with low wages and excessive hopes that EU membership would lift living standards may be some of the causes for the sharp decline in union membership after accession in 2004.

ZSSS is the largest labour organization in the country; it is the successor of the Slovenian section of the former Yugoslav trade union. The 1990s witnessed substantial changes in its organizational structure: decision-making was decentralized, giving sectoral unions an independent role in the confederation. ZSSS consists of more than 20 member unions, organized on a sectoral, regional or professional basis: circa 60 per cent of members are employed in industry (metal, chemical, food and textile), 30 per cent in services (retail, hotels and restaurants), and 10 per cent in the public sector. ZSSS maintained its primacy during the transition, and the union's longstanding president is Dušan Semolič.

During the transition, two other centre-left unions, i.e., Pergam and Konfederacija '90, seceded from ZSSS. Pergam started as a union with membership in the paper and printing industries; however, it soon penetrated other sectors, in particular the public sector. It consists of 23 member unions and it is the second largest organization after ZSSS. The president at the beginning of the crisis was Dušan Rebolj, now it is headed by Janez Posedi. Konfederacija '90 has its majority in the coastal region; it consists of 27 member

2 An exhaustive list can be found on the website of the Ministry for Labour, Family and Social Affairs: http://www.mddsz.gov.si/si/delovna_podrocja/delovna_razmerja_in_pravice_iz_dela/socialno_partnerstvo/seznam_reprezentativnih_sindikatov/

unions (organized on sectoral, regional and professional principles). Membership is equally split between industry and services. Boris Mazalin headed the union during Pahor I; currently, the president is Peter Majcen.

Due to pluralization, the labour movement split along the pro- and anti-communist divide. In 1990, the right-leaning Independence, Confederation of New Trade Unions of Slovenia was founded. Whereas in the mid-1990s, KNSS was the second largest organization, representing 10 per cent of all trade union members, its strength now compares to that of Konfederacija '90. KNSS consists of ten (regional) member unions, whose affiliates mainly work in industry; its current president is Drago Lombar.

Finally, two new confederations sprung up, in 2006 and 2010 respectively. In 2006, seven public employee unions, including the largest Education, Training and Science Union (SVIZ), formed KSJS, whose majority of members are civil servants, working in the health, education, cultural, and science sectors (some 45 per cent of public employees are members of the KSJS, which makes it the third most powerful union in Slovenia). The president, Branimir Štrukelj is, at the same time, general secretary of SVIZ. In 2010, the last confederation was formed the League of Representative Trade Unions of Slovenia, which is fairly heterogeneous, and has almost 20 member unions.

Employer organizations

From 1991 to 2006, two employer organizations – the Chamber of Commerce and Industry of Slovenia (*Gospodarska zbornica Slovenije*, GZS) and the Chamber of Craft and Small Businesses of Slovenia (*Obrtno-podjetniška zbornica Slovenije*, OZS) – represented all entrepreneurs due to compulsory membership. Since 2006, membership is voluntary and employer associations' density decreased, as they now employ some 80–90 per cent of private sector employees. Since collective agreements require a density threshold of 50 per cent for automatic extension, further declines may be detrimental.

The Chamber of Commerce and Industry of Slovenia (GZS) was during the early transition, the only employer organization, representing all entrepreneurs, thereby playing an important function that facilitated social dialogue. In mid-2004 it had 64,000 members; however, due to voluntariness this number is now lower. The president of GZS is Samo Hribar Milič.

The Chamber of Crafts of Slovenia (OZS) represents independent craft workers and small and medium enterprises. In 2006, it had 47,000 members, most of them operating in transport, construction and personal services. It is currently chaired by Štefan Pavlinjek.

Apart from GZS and OZS, three other associations can negotiate at the national level. The Association of Employers of Slovenia (*Združenje delodajalcev Slovenije*, ZDS) was founded in February 1994, following the advice of the ILO and the International Organization of Employers (IOE). In 2006 it had 1,400 members. During Pahor I, the head of ZDS was Borut Meh, now it is Milan Lukić.

Originally established in June 1994, the Association of Employers for Crafts and of Entrepreneurs of Slovenia (*Združenje delodajalcev obrti in podjetnikov Slovenije*, ZDOPS) has its current name since 2008. In 2006 it counted more than 3,000 members, mainly in manufacturing, construction and transport. The president of ZDOPS is Milan Škapin.

Finally, the Slovenian Chamber of Commerce (*Trgovinska zbornica Slovenije*, TZS) was established in 2006 and has almost 6,000 members, the large majority of which are micro enterprises. Sixty per cent of TZS members perform commercial activities, and the remaining 40 per cent deal with activities directly related to commerce. The president of TZS is Marija Lah.

1.2 Institutional framework for tripartite social dialogue prior to the crisis

The Economic and Social Council and other tripartite boards

The social partners have a dual role in welfare state matters in Slovenia: an advisory role through the Economic and Social Council (*Ekonomsko-socialni svet*, ESS); and an administrative role in the tripartite boards of the Institute for Pension and Disability Insurance (*Zavod za pokojninsko in invalidsko zavarovanje*,

ZPIZ), the Health Insurance Institute of Slovenia (*Zavod za zdravstveno zavarovanje Slovenije*, ZZZS) and the Employment Service of Slovenia (*Zavod Republike Slovenije za zaposlovanje*, ZRSZ) (Kopač, 2005). They are all tripartite institutions. The right-conservative political bloc tried to change the composition of these administrative boards to strengthen the role of the Government.

As for the ESS, this was created in 1994 within the Agreement on the Economy's Wage Policy for the Year 1994, an annex to the Social Pact between Employers, Employees and the Government of the Republic of Slovenia. The ESS is hence underpinned only by governmental regulation; but nonetheless, it wields disproportionate power as the National Assembly only discusses socio-economic legislation that had already been debated by ESS members. The ESS cooperates in the drafting of legislation and gives recommendations, it has the right of initiative to adopt new laws or amend existing ones, and it elaborates opinions with respect to legislative drafts, as well as to the budget memorandum and state budget. The ESS sends its opinions to the National Assembly, the National Council and to the public. Its main areas of concern are: social pacts, social rights and social insurances, employment and industrial relations, collective agreements, prices and taxes, economic policy, legal security, collaboration with the ILO and the Council of Europe, co-determination, union rights and freedoms.

Each of the tripartite partners has up to eight representatives in the ESS (currently there are eight representatives for trade unions, and seven representatives each for the employers and the Government). Each national trade union confederation and each employer association and chambers nominate at least one representative. The ESS members elect the President for one year. At the height of the crisis, the president was Ivan Svetlik, the Minister for Labour, Family and Social Affairs during Pahor I. Under the first six months of Janša II, the president was Jože Smole, the general secretary of ZDS.

The President chairs the Council and any of the tripartite partners can convene the ESS, which meets at least once a month. The ESS takes decision on a unanimous basis and each of the tripartite partners has one vote (three in total). Usually each partner's representatives come to the ESS with a collegial position. If no agreement is reached, the ESS sets a new deadline (up to 30 days).

Often the ESS is too big of a forum to discuss legislative details (30–40 persons are present at each meeting); hence, each partner nominates representatives who then convene in smaller working groups, and the ESS discusses only the final opinions.

1.3 Main features of collective bargaining

Collective agreements coverage

Collective negotiations in Slovenia happen at national, sectoral and firm levels. In May 2012, the Ministry of Labour, Family and Social Affairs, which, according to the Law on Collective Agreements (Uradni list RS 43/2006), runs a register of collective agreements, enumerated 45 collective agreements covering practically the whole economy (in addition to four collective agreements concluded before the Law came into force).[3] According to Skledar (2011), four of these collective agreements are inter-sectoral, covering specific issues. Two agreements are for individual occupations: for professional journalists, as well as for doctors and dentists. The other 40 agreements concern different sectors or occupations. Twenty-four agreements are signed in the private sector, three concern public sector industries (public companies in electricity, coal mining, and railways), and 13 deal with public sector social services. The agreements are periodically amended. The coverage is around 96 per cent of the employed labour force (see Table 5.1), as the only two categories not covered are managers and high public administration officials who have individual contracts (Zidar and Mesec, 2010).

3 See the record of Collective Agreements: http://www.mddsz.gov.si/si/delovna_podrocja/delovna_razmerja_in_pravice_iz_dela/socialno_partnerstvo/evidenca_kolektivnih_pogodb/
Firm-level collective agreements are not tracked. National social pacts are 'letters of intent', rather than agreements setting detailed goals and conditions.

TABLE 5.1
EMPLOYEES BY SECTOR AND COLLECTIVE AGREEMENT (APRIL 2012)

Sector	Total	Covered by collective agreement	Individual contracts				
	Number of employees	Average salary (€)	Number of employees	Workers on min wage	Average salary (€)	Number of employees	Average salary (€)
Private	440,465	1,484	421,221	39,238	1,391	19,244	3,530
Public	160,573	1,827	156,770		1,785	3,803	3,561
Total	601,038	1,576	577,991		1,405	23,047	3,54

Source: Agencija Republike Slovenije za javnopravne evidence in storitve (AJPES).

Social pacts
Slovenia has a long tradition of social pacts, which are drafted every year or two (see Stanojević, 2010). These specify the social partners' mutual obligations, including prospective reforms, which are crucial to set the agenda for an incumbent government. Moreover economic, social and wage policy are collectively negotiated. One problem is that implementation is often incomplete.

During 1994–96, the tripartite partners signed three annual pacts, which promoted restrictive income policies and the creation of a centralized collective bargaining system. At the request of trade unions, the employer associations and the Labour Ministry, a tripartite macro concertation process was established in 1994 through the Economic and Social Council, as a *quid pro quo* for wage restraint and to stop the strike wave that engulfed the country in 1992 (Crowley and Stanojević, 2011; Stanojević and Krašovec, 2011). With it, the weak centre-left government included unions and employers into the policy formation process.

The run-up to EU accession started with the unsuccessful attempt to draft a comprehensive pact. Notwithstanding, the unions tacitly agreed to restrictive income policy in 1997–98, in order to de-index the economy. In March 1998, the radical White Paper pension reform proposal triggered mass demonstrations and blocked the drafting of a social pact for 1999. A year later, the agreement on the new labour code elicited less controversy, and an Agreement on Income Policy for 2001–2003 was also successfully hammered out.

In 2003, a three-year comprehensive social pact followed, and had a markedly European content. Disinflation through wages lagging behind productivity growth was given top priority, and tax and healthcare reform plans were spelled out in detail. Social pacts were a source of legitimation for Janša's government as well. A subsequent three-year pact (2007–09) focused on restrictive income policy, reduced public spending, and lowered non-wage labour costs to improve competitiveness and introduce more flexibility into the labour market.

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

The Pahor I Government stepped in when the global financial crisis hit Slovenia and inherited from the previous, Janša's Government a fiscal situation aggravated by failed structural reforms and expensive populist measures, such as the reduction of several taxes without concomitant cuts in spending.

Even though the initial responses were relatively adequate (most short-term anti-crisis measures were concerted in tripartite forums and alleviated the uncertain situation of Slovenian employers and employees), Pahor's major mistake was to underestimate the extent and length of the crisis. This led to grave delays in the first part of his term.

The crisis did not abate, and increased pressure by the EU and OECD forced the executive to propose unpopular reforms (pensions, labour market, etc.). A number of naïve strategic mistakes led to the collapse of social dialogue by mid-2010, to a deluge of referendums in 2011, and to the failure of all structural measures, by which point, Pahor's Government was entirely delegitimized, suffering a vote of no confidence in September of the same year.

After a period of high GDP growth in 2005–8 (almost 5.1 per cent yearly) and real convergence in economic development to the European Union, the global financial crisis annulled most of the gains.

As shown in Table 5.2, GDP in 2009 fell by 8.0 per cent and in 2010–11 the recovery failed to materialize. Slovenian GDP per capita measured at Purchasing Power Parity has plunged from 91 per cent of the EU average in 2008 to 85 per cent in 2010 and further slid in 2011.

TABLE 5.2
GDP GROWTH AND COMPONENTS (2000–11)

	2007	2008	2009	2010	2011
Real GDP growth (%)	6.9	3.6	-8.0	1.4	-0.2
GDP components					
Balance of trade	-2.0	-0.6	2.3	1.5	1.4
Exports of goods and services	9.1	2.0	-11.5	5.6	4.5
Imports of goods and services	11.2	2.6	-13.8	4.1	3.0
Aggregate domestic spending	8.9	4.2	-10.3	-0.1	-1.6
Private consumption	3.2	1.9	-0.1	-0.4	-0.2
Government consumption	0.1	1.1	0.5	0.3	-0.2
Fixed investment	3.5	2.2	-6.7	-1.9	-2.3
Change in inventories	2.0	-1.0	-4.0	1.9	1.0

Source: IMAD (2012: 102).

The main reasons for the big slump (double the EU average) are the structural weaknesses of the Slovenian economy, which lower its competitiveness. The postponement of privatization of sizeable shares of productive assets led Slovenian manufacturing into a low-skill, low-technology equilibrium. Moreover, Slovenian policy-makers failed to both enact structural reforms in crucial sectors, such as finance, tertiary education, the judiciary, and did not get rid of rigidities in health care, pensions, family benefits, and the labour market.

After the slump, the Slovenian economy entered a double dip recession. Among the immediate problems, IMAD (2012: 7–9) points out that domestic consumption has been declining since the beginning of the crisis; hence, economic activity in 2010–11 mainly depended on exports, which grew slower than the recovery in Slovenia's major trading partners. Moreover, Slovenia is stuck in an inextricable credit crunch: first, the domestic financial services industry is failing in its intermediary role as it is plagued by Non-Performing Loans and finds its access to international financial markets barred; second, domestic enterprises are heavily indebted as during the latest wave of privatization (2005–9), the sums lent by the Slovenian banks have been absorbed by management buyouts and not used for restructuring, leading to bankruptcies and the need to refinance financial institutions (e.g., State-owned Nova Ljubljanska Banka lent 5.76 billion Euros for management buyouts between 2005 and March 2009) (Skledar, 2012).

Even more worrying are the long-term concerns: the competitiveness of Slovenian firms has further declined during the crisis; the value added per employee does not exceed the EU average in any sector. The technological and skill intensity in exports is lower than in the other new EU Member States. This requires the elimination of structural weaknesses: the effectiveness of education is low, the labour market is rigid, there are high bureaucratic hurdles to the establishment of a firm, and the judiciary is slow and inefficient.

Therefore, it is not surprising that a country that according to the World Bank's ease of doing business index ranked 63rd in 2006 (now 37th) had a risible share of Foreign Direct Investments.

Finally, public finances worsened substantially. Pahor's government did not react efficiently, as the budget deficit exceeded 6 per cent per year during 2009–11, due to anti-cyclical measures, automatic stabilizers and greater debt servicing (see Table 5.3). Pahor delayed urgent measures to the extent that 2010 was a lost year. Consolidation for 2011–13 was overambitious and impossible to carry out due to the loss of credibility. The opposition and the unions struck down several effective reforms (pensions, mini-jobs), acting as if the 'real' crisis lay still sometime in the future.

However, not everything is imputable to Pahor's executive. The years of buoyant growth, under Janez Janša, were not used to build a budgetary surplus. Instead, the centre-right Government promoted excessive investments in infrastructure and lower taxes (on paid salaries and the Corporate Income Tax). Dwindling revenues were coupled with expensive, populist measures, such as the reform of public salaries named after the Minister of Public Administration, Gregor Virant. The costs of debt servicing increased due to the growing spread between the interest rates on Slovenian and German sovereign debts (from 40–50 bp before the crisis to almost 500 in December 2011). Consequently, gross public debt increased in 2009–11 by 25.7 percentage points, a doubling since 2008.

TABLE 5.3
PUBLIC FINANCES AS PERCENTAGE OF GDP (2007–11)

	2007	2008	2009	2010	2011
Public revenues	42.5	42.4	43.2	44.3	44.5
Public spending	42.5	44.3	49.3	50.3	50.9
Budget balance	0.0	-1.9	-6.1	-6,0	-6.4
Central government	-0.1	-1.3	-5.1	-5.2	-6.5
Local Government	-0.1	-0.6	-0.6	-0.4	-0.1
Social insurance funds	0.2	0.0	-0.4	-0.4	0.1
Gross public debt	23.1	21.9	35.3	38.8	47.6

Source: IMAD (2012: 106).

The labour market

Since late 2008, the labour market continued its adaptation to lower economic activity through lower employment and higher unemployment rates. Employment (15–64 years of age) fell by close to 2 per cent per year during 2009–11, from 67.5 to 64.4 per cent. Most lost jobs pertained to the private sector, whereas the number of public employees rose during the three-year period.

Table 5.4 shows that the two cohorts whose activity rates decreased more substantially were young women (from 33.2 per cent in 2008 to 26.9 per cent in 2011), mainly due to shrinking of the so-called 'student jobs'; and those of elderly male workers (from 46.4 per cent in 2009 to 39.5 per cent in 2011) due to massive layoffs.

Compared to the rest of Europe – the EU-27 average of 47.4 per cent in 2011 – elderly employment is extremely low: only 31.2 per cent of those aged 55-64 work. During the past decade, the effective retirement age has remained too low due to numerous loopholes in the 1999 Pension and Disability Insurance Act (Guardiancich, 2012a).

TABLE 5.4
ACTIVITY AND EMPLOYMENT RATES IN SLOVENIA (2007–11)

	2007	2008	2009	2010	2011
Activity rate >15	59.7	59.5	59.4	59.2	57.9
Employment rate >15	56.8	56.9	56.0	54.9	53.2
15–24	37.6	38.4	35.3	34.1	31.5
15–64	67.8	68.6	67.5	66.2	64.4
55–64	33.5	32.8	35.6	35.0	31.2
>65	8.8	6.4	7.6	7.3	6.3
Men >15	63.7	63.0	61.6	60.4	58.5
15–24	43.2	43.0	39.1	37.6	35.7
15–64	72.7	72.7	71.0	69.6	67.7
55–64	45.3	44.7	46.4	45.5	39.5
>65	12.0	8.5	10.7	10.4	8.6
Women >15	50.2	51.0	50.5	49.5	48.1
15–24	31.4	33.2	31.0	30.0	26.9
15–64	62.6	64.2	63.8	62.6	60.9
55–64	22.2	21.1	24.8	24.5	22.7
>65	6.7	4.9	5.6	5.2	4.8

Source: Eurostat.

Unemployment and long-term unemployment almost doubled since September 2008, as Table 5.5 neatly shows. Nonetheless, as a result of Pahor's anti-crisis measures, it still is below the EU-27 average (10.2 per cent in 2011). As for the registered unemployed, their numbers increased from a low of 59,303 in September 2008 to a high of 115,965 in January 2012.

In 2011 the growth of unemployment slowed down, especially for women, young people and the less educated, and during the first months of 2012 some encouraging developments followed. Due to flexible 'student jobs' and long periods spent in tertiary education, youth unemployment is way below the EU average (21.3 per cent).

TABLE 5.5
UNEMPLOYMENT INDICATORS IN SLOVENIA (2007–11)

	2007	2008	2009	2010	2011
Total 15-64	5.0	4.5	6.0	7.4	8.3
15-24	10.1	10.4	13.6	14.7	15.7
50-64	4.1	3.5	4.2	4.8	7.0
55-64	3.3	4.0	3.6	4.0	6.3
Men 15-64	4.1	4.1	6.1	7.6	8.3
15-24	9.4	9.9	13.8	15.2	15.0
50-64	3.6	3.3	4.7	5.1	7.7
55-64	3.0	3.6	3.8	4.2	7.5
Women 15-64	6.0	4.9	5.9	7.2	8.3
15-24	11.2	11.3	13.4	13.8	16.8
50-64	4.8	3.9	3.5	4.4	6.0
55-64	3.8	4.8	3.2	3.6	4.0
Long-term unemployment (12 months or more) as % of total unemployment					
15-64	45.7	42.2	30.1	43.3	44.2
15-24	29.2	20.2	20.3	33.8	35.3
50-64	54.1	62.1	44.3	58.0	52.3
55-64	57.4	68.5	58.7	60.7	46.2

Source: Eurostat.

As for atypical contracts, the share of part-time work in Slovenia is relatively low and fell to 9.5 per cent in 2011 (see Table 5.6), due to the expiration of the schemes subsidizing part-time employment and less jobs provided through student services.

TABLE 5.6
PART-TIME EMPLOYMENT IN SLOVENIA (2007–11)

	2007	2008	2009	2010	2011
Total 15-64	8.1	8.1	9.5	10.3	9.5
15-24	29.8	31.4	36.6	40.9	40.8
50-64	11.6	9.5	11.0	11.9	10.7
55-64	18.3	13.7	15.0	17.8	17.4
Men 15-64	6.5	6.2	7.4	7.4	7.1
15-24	24.5	24.8	28.0	31.5	32.2
50-64	9.0	7.1	8.7	9.3	7.8
55-64	13.4	9.4	10.5	13.2	11.6
Women 15-64	10.0	10.4	12.1	13.6	12.2
15-24	37.9	41.3	48.9	54.4	53.5
50-64	15.5	12.7	14.0	15.4	14.4
55-64	27.9	22.4	23.5	26.3	27.6

Source: Eurostat.

As for fixed-term contracts, their number has remained relatively stable. Temporary work agencies have become very popular, and fixed-term jobs provided through student services affect the age segmentation of

the labour market: almost three fourths of people aged 15–24 have a fixed-term job (see Table 5.7), *vis-à-vis* the EU average of 42.2 per cent.

TABLE 5.7
FIXED-TERM EMPLOYMENT IN SLOVENIA (2000–11)

	2007	2008	2009	2010	2011
Total 15-64	18.4	17.3	16.2	17.1	18.0
15-24	68.3	69.8	66.6	69.6	74.5
Men 15-64	16.3	15.2	14.9	15.2	16.4
15-24	62.5	62.4	59.2	61.8	67.9
Women 15-64	20.7	19.6	17.6	19.2	19.7
15-24	76.8	80.4	76.9	80.4	83.8

Source: Eurostat.

2.2 The 'hotspots' of the crisis

Simply put, GDP in Slovenia fell more than in the EU on average due to two interrelated phenomena: the strong construction cycle in the years before the crisis came abruptly to a halt (quite similar to the circumstances in Spain); and the relative success of many low-technology, labour-intensive firms prevented active restructuring from taking place before the crisis. Passive restructuring – the failure of uncompetitive branches – happened as a consequence of it. The two sectors that were most affected were hence construction and manufacturing, the former lost 12.5 thousand jobs, close to 20 per cent of the total, and the latter almost 44 thousand, close to 17 per cent.

In manufacturing, clothing and textiles, shoemaking, leather, furniture, glass- and metalwork have suffered the most. Some of the bankruptcies in textiles and clothing have made the headlines for bringing to their knees entire Slovenian regions.

The Slovenian construction sector was already too big before the crisis, and thus in need of rationalization. Several factors contributed to its collapse. First, rapid anti-crisis measures by Pahor's Government limited the planned spending for investment in infrastructure (edifices and engineering projects). Second, a plethora of subcontractors faced substantial payment arrears, leading to a domino effect of widespread bankruptcies. Third, the construction sector witnessed the perverse effect of the second wave of privatizations, in the form of management buyouts. All the three biggest Slovenian construction companies (SCT, Vegrad and Primorje) declared bankruptcy in 2010–12.

3. Policy measures and social concertation

3.1 The success of short-term measures

Given the swift spread of the financial crisis, Pahor's Government approved the first anti-crisis measures already at the end of 2008.[4] The Minister for Economic Development and European Affairs Mitja Gaspari deplored that Janša's Government had built up a budget deficit of 1.9 per cent of GDP during 2008, substantially reducing the room for fiscal manoeuvres.

4 Of course, the bulk of interventions lay elsewhere, especially helping the recapitalization of Slovenian banks. For details, see Government RS (2010b).

Notwithstanding, *una tantum* poverty alleviation measures, and greater spending on most social transfers, both complemented the subsidies for employers to retain workers. Most of these interventions had a temporary nature and did not elicit opposition on behalf of the social partners.

Table 5.8 provides a review of the 1.25 billion Euros (circa 3.5 per cent of 2010 GDP) spent on social and labour anti-crisis measures during 2009–11. Of these interventions, the report closely analyses two: the Partial Subsidy of Full-Time Work Act (ZDSPDČ) (Uradni list RS, 05/2009); and the Partial Reimbursement of Payment Compensation Act (ZDPNP) (Uradni list RS, 42/2009), which have saved some 25,000 jobs in total.

TABLE 5.8
LABOUR AND SOCIAL ANTI-CRISIS MEASURES DURING PAHOR I

Directorate for the labour market and employment						
Type of intervention	**2009**	**2010**	**2011**	**Total**	**Beneficiaries**	**Outcomes (number of recipients)**
Eligibility criteria for national stipends: from 60% to 65% of the minimum wage; from 61–65% to 66–68% for those studying away from home; up to 70% of the minimum wage for single-parent households and those households with special needs; since the entry into force of the Act on the enforcement of the rights from public finances (ZUPJS) (Uradni list RS, 62/2010), up to 65% of the average net wage (for students only).	95.5	115.6	118.1	**329.2**	High school and university students	2008: 47,508 stipends per month; 2009: 48,767 stipends per month; 2010: 58,766 stipends per month.
Unemployment benefits: higher benefits due to increased unemployment rate and higher minimum wage (existing law ZZZPB).	191.8	223.0	233.0	**647.8**	Unemployed	2008: 16,240 beneficiaries per month; 2009: 28,002 beneficiaries per month; 2010: 32,425 beneficiaries per month.
More favourable eligibility and disbursement conditions for unemployment benefits: higher benefits for first 3 months (from 70% to 80% replacement rate), longer fruition period by 1 month for people older than 50, higher assessment base, possibility to earn an additional 200 Euros a month (new law ZUTD).	0.0	0.0	0.0	**0.0**	Unemployed	2010: 26,000 beneficiaries per month (estimated).
Greater subsidies due to the rise in unemployment: with ZUTD, the eligibility for interventions on the labour market is extended to employees whose jobs are endangered.	88.6	134.0	140.0	**362.6**	Unemployed, employees, firms	2008: 29,526 unemployed and 407 firms; 2009: 51,781 unemployed and 1,126 firms; 2010: 59,120 unemployed.
Subsidies for firms, which during crises reduce the full working time in order to retain employees	25.4	31.8	0.0	**57.2**	Employees, firms	2009–10: 66,468 employees and 904 firms.
Partial reimbursement of payment compensation for workers that are temporarily waiting for a job post	6.7	41.6	12.0	**60.3**	Employees, firms	2009: 16,446 employees and 833 firms; 2010: 5,912 employees and 60 firms.
Subsidies for re- and self-employment for firms that entered financial difficulties during the crisis	0.5	13.5	0.0	**14.0**	Employees, firms	2009: 123 employees and 8 firms; 2010: 3,544 employees and 85 firms.
Total	**408.5**	**559.5**	**503.1**	**1,471.1**		

TABLE 5.8
LABOUR AND SOCIAL ANTI-CRISIS MEASURES DURING PAHOR I

Type of intervention	2009	2010	2011	Total	Beneficiaries	Outcomes (number of recipients)
Directorate for the disabled						
Wage subsidies for disabled persons employed in firms and in employment centres	4.8	5.8	5.9	**16.5**	Employed disabled persons	2008: 5,650; 2009: 6,000; 2010: 6,000.
Bonuses for exceeding the quotas	12.5	15.6	15.9	**44.0**	Employers employing disabled persons in excess of quotas	2008: 6,000; 2009: 6,800; 2010: 6,800.
Public tenders for employing disabled persons	3.6	0.0	0.0	**3.6**	Employers employing an unemployed and disabled person	2008: 716; 2009: 512; 2010: 0.
Rehabilitation for employment	3.2	4.6	4.7	**12.5**	Unemployed and disabled person under rehabilitation	2010: 1,600.
Social inclusion programmes	1.3	1.7	2.1	**5.1**	Non-employable disabled person under social inclusion	2008: 212; 2009: 272; 2010: 320.
Total	**25.4**	**27.7**	**28.6**	**81.7**		2008: 13,743; 2009: 14,553; 2010: 14,720.
Directorate for social affairs						
Social assistance (in cash), extraordinary social assistance (in cash), supplements for single-parent households and subsidies for the employment of long-term recipients of social assistance benefits	132.0	149.3	0.0	**281.3**	Individuals and families with minimum or no income	2008: 40,788 average monthly recipients; 2009: 47,083 average monthly recipients; 2010: 56.973 average monthly recipients.
Payment of a **una tantum special supplement** for the socially endangered	13.7	0.0	0.0	**13.7**	Socially most endangered	103,117 beneficiaries in total
Increase of the basic amount for the minimum income to 288.81 Euros. Introduction of the supplement for permanence: in the case of permanent incapacity to work, or disability, or old-age, the basic amount is augmented to 450.54 Euros.	0.0	0.0	265.9	**265.9**	Individuals and families with minimum or no income	
Total	**15.7**	**149.3**	**265.9**	**560.9**		
Directorate for the family						
Parental benefits (childbirth, childcare, paternity leave, adoption leave); partial payment for foregone income; work with shorter than full working time; payment of contributions due to care for 4 or more children; parental supplement; child supplement; childbirth assistance; allowance for large families; childcare supplement.	671.2	712.4	719.2	**2,102.8**	Parents with children	2008: 418,957 beneficiaries; 2009: 423,876 beneficiaries; 2010: 437,472 beneficiaries.
Total	**671.2**	**712.4**	**719.2**	**2,102.8**		

TABLE 5.8
LABOUR AND SOCIAL ANTI-CRISIS MEASURES DURING PAHOR I

Directorate for labour relations and labour rights						
Type of intervention	2009	2010	2011	Total	Beneficiaries	Outcomes (number of recipients)
Increase of the minimum wage to the level of minimum living expenses: immediate increase to 734.15 Euros for 19,000 beneficiaries (estimate).	144.2	163.9	169.4	477.5	Workers	2008: 21,090 beneficiaries entitled to minimum wage of 571,30 Euros; 2009: 20,259 beneficiaries entitled to minimum wage of 592,90 Euros.
Increase of the minimum wage to the level of minimum living expenses: immediate increase to 734.15 Euros for 30,000 beneficiaries (estimate), who due to the new law are entitled to minimum wages.	0.0	21.9	26.3	48.2	Workers	
Shorter notice periods for layoffs	0.0	0.0	-27.8	-27.8	Workers	
Reduced severance pay	0.0	0.0	-50.0	-50.0	Workers	
Total	144.2	185.8	117.9	447.9		

Source: Government RS (2010b: 3-8).

Partial Subsidy of Full-Time Work Act (ZDSPDČ)

The tripartite partners discussed the first anti-crisis measures related to the labour market less than one month after Pahor's Government took office. The initial proposal was a pre-emptive, rather than a curative measure, i.e., the linear reduction in social security contributions for employers, a solution favoured by Minister Gaspari and the Minister for the Economy Matej Lahovnik. It would have represented a loan and not a gift: firms would pay lower contributions and would have to repay them, lest the State becomes co-owner of their assets.

Upon discussion within the ESS, subsidies for firms that reduce the full working time in order to retain employees were instead chosen. The previous proposal would have opened several fronts: the employers, opposing State co-ownership, claimed that they could get liquidity elsewhere (rather surprising due to generalized insolvency); and the unions were against lower contributions, because it would undermine the financing of the Institute for Pension and Disability Insurance (IPDI) – again untrue as the State budget would have stepped in.

The Partial Subsidy of Full-Time Work Act (ZDSPDČ) was approved in January 2009. The application deadline ran until 31 March 2010.

The Act was meant for all the employers employing workers full-time according to the Employment Relationships Act (ZDR) (Uradni list RS 42/2002), which reduces the full working time from 40 to 36 hours or, in agreement with the representative unions, to a minimum of 32 hours per week. The subsidy ranged between 60 and 120 Euros per worker per month, for up to six months.

The beneficiaries of the subsidies had to comply with a number of rules: employers had to regularly pay salaries and contributions, no employee could be dismissed for economic reasons and no overtime could be assigned. Finally, no bonuses could be allocated to management or supervisory boards.

Despite criticism, the subsidy for reduction of working hours was used by many economically troubled manufacturing firms in Slovenia, such as Gorenje (4,800 workers), Metal Ravna (474 workers), Novoles (274 workers), and others.

Partial Reimbursement of Payment Compensation Act (ZDPNP)

In April 2009, the tripartite partners within the ESS agreed on the Partial Reimbursement of Payment Compensation Act, which subsidizes the inactivity of employees (from three months up to one year). This

measure was targeted at firms that have experienced more than a 25 per cent drop in their demand. However, a few limitations were attached: the employer had to continue to regularly employ half of its labour force, it must not have suffered a loss of more than half of its base capital, there must not be any uncovered liabilities, and it should not be under an insolvency procedure. Additionally, the employer had to submit a programme for the improvement of the quality of its human capital. The Partial Reimbursement of Payment Compensation Act expired in March 2011.

The law had three key dimensions: first, workers would not be dismissed, they would wait for the employer to wade through the crisis and receive a salary replacement equal to 85 per cent of their average wage in the last three months; this could not be lower than the minimum wage and similarly could not exceed the worker's regular salary. The ZRSZ finances 50 per cent and the employer the remaining 35 per cent. Second, the employer must not start complex layoff procedures, but must fulfil similar conditions as for the previous law. Finally, employees are required to participate in training for at least 20 per cent of the non-working hours. The ZRSZ reimburses the training expenses, up to 500 Euros per worker.

As the two instruments were not mutually exclusive, many firms activated both subsidies. Most importantly, Slovenian manufacturing firms benefitted from the short-term anti-crisis measures.

3.2 The failure of long-term measures

The Pahor I Government failed to introduce significant structural, long-term 'anti-crisis' measures that could potentially have put Slovenia on a better footing for future growth. Premier Pahor made the cardinal mistake of claiming that the crisis was nearly over, which led to unnecessary delays in policy-making. Not agreeing on a new social pact for 2009–11 was also a miscalculation, for it would have detailed the planned changes to social and labour legislation; furthermore, it would have helped the resumption of social dialogue and would have possibly prevented the unravelling of most reforms.

The employers (e.g., the president of ZDS Borut Meh) explained that the Social Pact for 2007–09 was agreed upon under favourable economic conditions, and therefore needed a substantial update. The Government should have immediately revived the ESS, adapting the social pact to the present critical situation and have led a more realistic incomes policy, also in the public sector. Instead, the starting points of the Social Pact were presented to the ESS only in November 2009. Even though the Government (in the person of the Labor Minister Ivan Svetlik) and the employers (Jože Smole of ZDS and Samo Hribar Milič of GZS) tried to convince the unions that these were only starting points subject to negotiations, the labour representatives (Branimir Štrukelj of SVIZ and Dušan Semolič of ZSSS) wanted more clarity on the value side and walked out of the ESS.

Lacking the time and will to forge the social pact, two other documents de facto substituted it: at the domestic level, the Slovenian Exit Strategy 2010–2013 (Government RS, 2010a) presented an overambitious structural reform plan, in line with the OECD's (2009: 49) recommendations; at the European level, the Stability Programme 2009 Update (Government RS, 2010b) rephrased these reforms in budgetary terms as a response to the Excessive Deficit Procedure launched by the Council against Slovenia in December 2009.

The Slovenian Exit Strategy 2010–2013 was criticized and often ridiculed, as Pahor invented a 'traffic light' system, which signalled in which step of the legislative process were 26 different laws. With respect to flexicurity and social cohesion (12 laws), the Exit Strategy sought to achieve the objectives shown in Table 5.9.

TABLE 5.9
MAIN LABOUR MARKET INDICATORS, 2008–2011

Concept	Structural and institutional adjustments	Measures within sectoral policy	Success
Flexicurity in the labour market	Employment system, labour market: *Employment Relationship Act, Labour Market Regulation Act, Mini-Jobs Act*	Active Labour Market Policies	NO: Referendum, Withdrawal
Secure old age to all generations	Pension system: *Pension and Disability insurance Act* Long-term care	Every job counts	NO: Referendum
Social cohesion Prevention of poverty and social exclusion Equal opportunities	System of social security and social benefits: *Act on Entitlement to Public Funds, Social Security Benefits Act, Social Security Act, Minimum Wage Act, Scholarship Act* Equal opportunities and personal assistance for persons with disabilities	Active social policy Minimum wage policy Scholarship policy Disabled persons protection policy	Some
Health care for all	Health-care system and legislation	Health policy	NO: Postponement

Source: Government RS (2010: 14).

This paper focused on two structural reform areas: the labour market, including the minimum wage policy; and pensions. These two policy domains sanctioned the failure of Pahor's centre-left government, the collapse of social dialogue in 2010–11, and the deepening of the crisis in Slovenia.

Labour market reform

According to Labour Minister Svetlik, Slovenia underwent the institutionalization of a two-tier labour market: on the one hand, employees on permanent contracts are overprotected (layoffs are particularly expensive and time-consuming), while on the other, a growing number of fixed-term employees, usually young, enjoy much less security in their employment.

Consequently, the positions of Pahor's Government and of employers converged towards the crafting of a packaged solution exchanging labour market flexibility with more (income) security, mimicking the flexicurity present in some Scandinavian welfare states. The Government planned to substantially modify four laws: security would have increased through the Minimum Wage Act (ZMinP) (Uradni list RS, 13/2010) and the Labour Market Regulation Act (ZUTD) (Uradni list RS, 80/2010), while flexibility through the Employment Relationship Act (ZDR) (Uradni list RS, 42/2002) and the Mini-Jobs Act (ZMD) (National Assembly RS, 2010).

The Minimum Wage Act increased the minimum wage in Slovenia with the dual purpose to alleviate poverty and to weed out those labour-intensive jobs that rely on substandard wages, spurring technological innovation and capital investment. The Labour Market Regulation Act extended the eligibility and the fruition of unemployment benefits, replacing the Employment and Insurance against Unemployment Act (ZZZPB) (Uradni list RS, 107/2006). The two-step novelization of the Employment Relationship Act had the objective to, first, decrease the termination pay and shorten the dismissal notices and, later, to reduce overall labour costs, by lowering reimbursements as well as compensation for breaks and meals. Finally, the Mini-Jobs Act sought to regulate fixed-term jobs in Slovenia and especially student work, which are the most flexible, insecure and abuse-prone atypical contracts in the country.

The packaged solution, favouring a *quid pro quo* between minimum wages and flexible dismissals, was dismissed early on, following the protests of the unions. As a result, with the great irritation of all employers' associations, the four laws were treated separately. This was a strategic mistake, as Pahor wrongly thought that the unions would not betray him. If they did and labour market reforms could not be agreed through social dialogue, the Government would press ahead and send them to the National Assembly by April 2010.

The outcome of the cumbersome manoeuvre was not surprising. Whereas the two acts increasing

security (Minimum Wage Act and the Labour Market Regulation Act) are now in force, those promoting greater flexibility were either withdrawn (Employment Relationships Act) or defeated at a referendum (Mini-Jobs Act), promoted by a motley crew of opposed interest groups.

a. Minimum wages

The Ministry of Labour, Family and Social Affairs (2009) asked in early 2009 the Institute for Economic Research (IER) to calculate the minimum consumption basket of goods for Slovenian households. Changes in relative prices and consumption patterns rendered social transfers inadequate as these were last determined in 1998 and indexed to inflation.

The IER calculated two measures of minimum income: 562.07 Euros for recipients of permanent social assistance, who must cover all living expenses; and 385.08 Euros for recipients of temporary social assistance, who have lower assistance needs. These exceeded most social transfers in 2009: the minimum net wage amounted to 459.23 Euros, the average unemployment benefit was 431.17 Euros, and social assistance totalled 226.80 Euros.

Given the shocking results, the Labour Ministry decided to increase the minimum wage to reduce poverty and to eliminate those labour-intensive jobs that were thriving on such low remuneration.

Content

The Minimum Wage Act, passed in January 2010, increased the minimum (gross) wage in Slovenia from 597.43 Euros to 734.15 Euros (from 460 to 562 Euros net). Regular indexation is now at least to prices and can be further adjusted in agreement with the social partners. The employers who were particularly harmed by such a hike had two months to draw up a plan, together with the employees, to increase their salaries to the minimum wage level by January 2012.

In order to share these costs between employers and taxpayers, the Personal Income Tax Act (ZDoh-2) (Uradni list RS, 13/2011), increased the general tax exemption from 2,000 to 3,019.83 Euros and the first two tax brackets (from 8,300 to 10,200 Euros and from 9,600 to 11,800 Euros). According to Finance Minister Franc Križančič, these changes finance approximately half of the minimum wage increase.

Of course, the OECD was particularly unimpressed with the 23 per cent hike.

Policy disagreements

The main disputes with regards to the minimum wage were the final amount, the pace at which the employers would have to increase them and whether they would be tied to other labour market reforms.

With respect to the amount, the unions were asking in 2008 for 500 Euros net. Only after the Government presented the results of IER's study, the labour movement organized a huge demonstration in Ljubljana in November 2009, asking for 600 Euros net. Of course, neither the Government nor the employers agreed to such ruinous requests, so, the executive settled for minimum wages covering the minimum consumption basket –that is 562 Euros net circa. However, this was then to be carried out at once: Labor Minister Svetlik proposed a stepwise increase ending by 2012, which was flatly deemed too slow by ZSSS President Semolič.

The employers were adamantly against the 20+ per cent increase, claiming that it could endanger 75 thousand jobs. Jože Smole of ZDS required adequate compensation in the form of a packaged solution, allowing for greater hiring and firing flexibility.[5] As explained above, the Government gave in to the unions' threats and dealt with the act autonomously.

Process

As opposed to the first anti-crisis measures, minimum wages elicited little constructive social dialogue. ZSSS threatened from the very beginning with strikes, demonstrations and referenda. Both employers (e.g., Igor

5 And other measures, such as the introduction of a cap on social security contributions, which would balance the cap in pension benefits.

Antauer, the general secretary of ZDOPS) and the Government deplored that the unions were putting social dialogue under the threat of street demonstrations, as the place for discussing minimum wages and pensions should have been the ESS. The other union confederations were also critical: Boris Mazalin smugly argued that after the wave of wildcat strikes ZSSS had a serious internal legitimacy problem.

The unions' aggressiveness continued after abandoning the ESS due to disagreements on the draft Social Pact 2010–11. On 28 November 2009 the (then) seven confederations, backed by students and pensioners, staged a mass protest in Ljubljana, where circa 30 thousand participants showed up. They demanded the immediate increase of the minimum wage and changes to the draft pension reform.

In order to convince the unions to continue negotiating, the Government guaranteed that the minimum wage would be valid for all workers (also those not covered by collective agreements), and withdrew the idea of a packaged solution. Instead of letting go, the confederations stepped up the threats and embraced the common position that if the Minimum Wage Act were not to pass (even without the agreement of employers), all social dialogue on social and labour law would be interrupted.

Confronted with such grim prospective, in the face of the multiple structural reforms ahead, the National Assembly unanimously approved the Minimum Wage Act on 14 January 2010. Dušan Semolič of ZSSS claimed the credit for such success. This was only partly true, as the Labour Ministry had planned the hike in advance. It was a Pyrrhic victory as well: soon after, the employers deserted an ESS meeting in protest against dealing separately with the remaining labour market laws. Labour Minister Svetlik promptly promised to pass them before May 2010.

b. Mini-jobs, employment relationships and labour market regulation

In order to reduce dualism in the Slovenian labour market, the Labour Ministry started preparing in November 2009 a draft Mini-Jobs Act. This would regulate, expand and render more secure student work. These fixed-term jobs, managed by student services and based on individual receipts *(napotnica)* to employers, have become a problem in Slovenia.

First, this is confirmed by their widespread application: during 2008, student services issued 1,180,000 receipts for 84,258,616 hours of work. Second, these jobs do not guarantee basic social security rights, and are subject to very low taxation (14 per cent). Third, a precondition for eligibility is to be enrolled as a student in university, *de facto* prolonging the time spent in undergraduate studies (the average peaked at 6.8 years). Fourth, given the limited number of universities, student jobs create regional employment disparities. Fifth, employers who employ students have an unfair advantage over firms that do not. Finally, student services get a huge slice of the cake (37.5 per cent of the concession fees; some 15 million Euros) and their spending record is not spotless.

Experts were unanimous on the need to reform this segment of the labour market, Minister Gaspari noted that: 'The greatest informal economy in Slovenia is lawful, and this is student jobs.' The OECD (2009: 89) recommended phasing out the preferential treatment of student work and strengthening the incentives for rapid graduation.

The Employment Relationship Act (ZDR), the so-called workers' constitution, was approved in 2002 after three years of negotiations; hence, any change to this law should be discussed thoroughly with the social partners, lest social peace be jeopardized. The law exacerbates the dualization of the Slovenian labour market. Not only is the protection of permanent workers against individual dismissals inferior to the Czech Republic, Portugal and China (OECD, 2009), but the ZDR also burdens employers with additional non-wage labour costs (paid meals, breaks, vacation, and commuting). Hence, there is a need to reduce these rights to gain in competitiveness.

One of the contentious points is that in 2007 shorter termination notices were already agreed on in a novelization of the Employment Relationship Act (ZDR-A) (Uradni list RS, 103/2007). However, they would enter into force only after new unemployment rules for people older than 50 and who have 25 years of qualifying insurance period had been added to the Employment and Insurance against Unemployment Act (ZZZPB). As this never happened, the Labour Minister decided to tackle the two laws simultaneously.

Content

According to the draft Mini-Jobs Act, mini-jobs are fixed-term jobs aimed at students, the unemployed (who inform the ZRSZ of their activities, which can earn them up to 200 Euros gross per month), the retired, and other inactive persons.

There are several limitations: an individual cannot work in mini-jobs more than 60 hours per month; while a student can work up to 720 hours per year in total. The gross minimum wage for a mini-job cannot be lower than 4 Euros per hour (2.96 Euros net), and total earnings cannot exceed 6,000 Euros (5,070 Euros net) in a calendar year. The hours that a firm can assign to mini-jobs are capped: from 180 hours per month for enterprises employing one person, to 5,760 hours for firms employing more than 1,250 employees (the Labour Ministry must explicitly allow that, otherwise the cap is 2,880 hours). NGOs enjoy higher limits.

Mini-jobs now cost employers some 10 per cent more than student work; for the first time social security contributions are paid: 15.5 per cent in total, divided into 9.01 per cent for pensions (every hour of work counts for 40 minutes of pension-qualifying period); 5.96 per cent for healthcare and 0.53 per cent for sickness and accidents at work.

The concessionary contribution of 12 per cent – divided between student organizations, student services acting as intermediaries and the Public fund for the development of cadres and stipends – is increased to 14 per cent. The funds are then distributed differently, penalizing student organizations and services, and used to finance ALMPs, active ageing and education initiatives.

The Employment Relationship Act (ZDR) and the Labour Market Regulation Act (ZUTD) were dealt with conjunctively to simultaneously increase the flexibility of individual dismissals and protection for the unemployed, especially older workers. First, the ZDR would gradually reduce the termination pay to 20 per cent of the average wage in the last three months for each year worked for an employer. The termination notices would be significantly shortened: 30 days for 0–15 years of employment, 60 days for 15–25 years and 90 days for 25 years and over. Second, at a later stage, various non-wage labour costs, such as subsidies for meals, vacation, reimbursements, would be cut.

At the same time, the ZUTD (substituting the ZZZPB) would strengthen the security of the unemployed, by increasing the number of beneficiaries, the length of fruition and the benefit. The ZUTD reinforces the protection of young people, for which nine months of insurance period are enough to enjoy three months of benefits, and protection of older workers, as benefits can be obtained for 19 and 25 months, for people over 50 and 55, respectively. The benefit is increased from 70 to 80 per cent of the base for the first three months of fruition (the rest stays at 60 per cent). The base is *de facto* augmented by higher minimum wages; and *de jure* by calculating the average wage of the last eight months before unemployment, instead of 12. The number of beneficiaries rises, as the requirement to have worked 12 out of the past 18 months has been lowered to nine months out of 24.

Policy disagreements

The policy disagreements surrounding the Mini-Jobs Act were important enough for the social partners to fail to find a compromise. Labour Minister Ivan Svetlik extolled the virtues of the law: students would achieve work experience and security; the unemployed would gain swifter entry into the labour market; and pensioners would enjoy active ageing. The Director of ZRSZ Lučka Žižek estimated that mini-jobs might create as many as 10 thousand new jobs. The opposition parties had several counterarguments: SDS representatives argued that stipends should be regulated first and SLS posited that standard jobs should have priority.

The employers had three orders of complaints. First, Jože Smole of ZDS wondered for whom the Mini-Jobs Act was intended, if it could not cover those tasks that fell under the Employment Relationships Act, and this restriction was subsequently lifted. Second, the employers regretted that a packaged solution was impossible to hammer out. Third, they complained that the social security contributions were too high and the hourly restrictions excessive.

The unions, e.g., Dušan Semolič of ZSSS, argued that mini-jobs 'offer work without workers' rights'. The Employment Relationships Act already offers flexible solutions; instead mini-jobs would create a working

environment without paid vacation, sickness allowance and termination pay. The main worry was the extension of mini-jobs to the unemployed, who would enter a mini-job trap and never get a Standard Employment Relationship.

The most vehement opponents of the Act were the student services and organizations, the Student Organization of Slovenia (ŠOS), which would have its allowances halved due to the new distribution of the concession fee. Their main complaint was an issue of status: student work should be retained, regulated and treated separately from other fixed-term contracts (mini-jobs, personal care services), available to the unemployed and to pensioners.

As for the other two laws, whereas the reactions to the proposed changes to the Employment Relationship Act were bilious, the new regulation for the unemployed stirred few controversies. If it was expected that the unions would oppose cuts in termination pay and notices, it was more surprising that the employer associations were equally dissatisfied. Samo Hribar Milič of GZS plainly stated that the novelization did not propose substantial changes and was mainly aimed at older workers, who already had special rights with respect to layoffs. Hence, the new ZDR would not facilitate firing or hiring, it would only slightly reduce the termination pay.

Process

As soon as Labour Minister Svetlik presented the Mini-Jobs Act draft in November 2009, Katja Šoba of ŠOS stated that the student organization would refuse to collaborate until a professional discussion on the labour market effects of such measures would be guaranteed. Insufficient involvement in social dialogue (the Government was under extreme pressure due to union demonstrations) led to the rejection of any compromise on behalf of students.

Since the pressure by the employers was stepping up, Svetlik promised them to introduce fundamental changes to the labour market with or without the consent of the unions, to balance the increase in minimum wages.

During none of the following ESS meetings, did the tripartite partners find a common position. Moreover, ŠOS walked out of a meeting at the Government's council for student issues, because of a total conceptual disagreement. The crisis reached the climax at the end of April: Semolič of ZSSS labeled the Pahor I Government as totally incapable of negotiating with the social partners. In response, Labour Minister Svetlik announced during the ESS meeting that there would be no further discussion, and that the three labour market laws would be sent to the National Assembly.

While the Mini-Jobs Act was allowed another 50 days of public debate, the student organizations organized a huge demonstration (circa 8,000 participants) in front of the National Assembly on 19 May 2010. The protests turned violent, and sizeable damage was provoked to the Parliament's façade.

Despite continuing fervent negotiations, no agreement was reached, and the unions withdrew their support for two reasons: first, the Government insisted to treat the labour laws as a package, and the unions had too many reservations on mini-jobs to bundle the Act with the other two. Regarding the Employment Relationships Act, ZSSS representatives argued that if the modification on termination pay were dropped, an agreement would have been possible. Second, the Government started separate, bipartite negotiations with the employers, who were against giving in to any further requests.

As a final warning, the unions staged a peaceful protest at the beginning of July in front of the Parliament, under the slogan: 'Withdraw the anti-labour acts from the agenda'. Dušan Rebolj of Pergam threatened a general strike and Dušan Semolič said that passing these laws without adequate social dialogue would be a big mistake.

After being sent to the National Assembly, the three laws' legislative paths sharply diverged. The Employment Relationships Act was quietly withdrawn, not due to failed agreement with social partners, but because the reemployment of workers in empty-shell companies had not been adequately tackled. The Labour Market Regulation Act, due to its less controversial nature, passed without creating problems. Finally, during the debate on the Mini-Jobs Act, the Parliamentary committee for labour, family, social affairs and

the disabled rejected the requests by students (to exclude them from the law) or the unions (to exclude the unemployed). The National Assembly approved the new Act on 26 October 2010 and the National Council did not impose its veto.

As a result, the Student Organization of Slovenia (ŠOS) and ZSSS collected enough signatures to call for a referendum, creating an unholy alliance: the unions would campaign against mini-jobs and students against pension reforms (rather counterproductive, as any postponement would just result in a harsher reform afterwards). The political opposition joined them in the attempt to bring the government down. Only the Union of Associations of Pensioners (ZDUS) supported the Act.

The defeat of the mini-jobs laws on the 10 April 2011 referendum was memorable: 80.1 per cent of voters rejected the new law.

Pension system reform[6]

Since independence, old-age pensions were almost perennially on the agenda of Slovenian decision-makers. Two major reforms, in 1992 and 1999, marked the period (Stanovnik, 2002; Guardiancich, 2012a). However, neither was sufficient to fiscally stabilize a pension system plagued by a rapidly ageing population, low average retirement age, and a high pension-to-wages ratio.

Even though the 1999 Pension and Disability Insurance Act (Uradni list RS, 54/1998) temporarily reined in public pension spending, this would increase from 11.2 per cent of GDP in 2009 to 19.7 per cent in 2050 (Čok, Sambt and Majcen, 2010b). Hence, reforming the pension system became a *conditio sine qua non* to stabilize Slovenia's fiscal position and to gain in international competitiveness, by encouraging the labour participation of older workers (see Table 5.4).

The financial crisis precipitated the situation: Pahor's centre-left coalition proposed the 2010 pension reform in response to mounting external constraints: the Excessive Debt Procedure launched in 2009, and the OECD's several warnings – Slovenia has been a member since July 2010. However, constructive social dialogue simply failed, the Government acted with excessive haste and there was no agreement within the coalition, as DeSUS disapproved of some policy solutions. At the same time, the crisis radicalized the attitudes of the other social partners, which remained entrenched in their original negotiating positions. The Government had to bypass the Economic and Social Council, and legislated the new Pension and Disability Insurance Act (PDIA-2) only with the external votes of the Slovenian People's Party (SLS). The referendum that struck down the Act became a plebiscite against Pahor's executive.

Content

The 2010 Slovenian pension reform was chiefly parametric, diluting the most radical early proposals. At the micro level, rational individuals are forced to work three years longer for a similar level of pension benefits. At the macro level, pension outlays decrease by 2 per cent of GDP by 2050 (with respect to the no-reform scenario). Fiscal sustainability is, hence, assured for 10–15 years (Čok, Sambt and Majcen, 2010a; 2010b), but not in the longer run (OECD, 2011: 14). The retirement age and the benefit formula underwent substantial changes.[7]

As for the retirement age, the reform simplified the excessively obscure Slovenian retirement system (Stanovnik, 2002). Several exceptions prevented the effective retirement age from significantly rising, the PDIA-2 eliminated a number of anomalies and increased the statutory retirement age from 61/63 for women/men to 65 for all. The effective retirement age would increase by two to three years, thereby lowering aggregate spending; in turn this would be partly offset by bonuses and the possibility to draw a partial pension, once minimum eligibility is reached (Čok, Sambt and Majcen, 2010a: 19, 34-7).

6 This section is an extract from Guardiancich (2013; 2012a; 2012b).

7 Additionally, the 2010 pension reform envisioned major changes to supplementary pension schemes. These are, due to their technical nature, less relevant for this chapter.

Even though the plan to update the benefit formula was diluted during negotiations, the final result was a tighter contribution-benefit link, including more effective bonuses and maluses, the elimination of horizontal equity, less generous indexation, and the possibility to draw a partial pension under determinate conditions. Initially, the document on pension modernization envisaged a two-step reform: first, the elongation of the pension assessment base from the average net wage of the 18 best consecutive years to 35, and then the gradual introduction of either a point system or individual (NDC) accounts. PDIA-2 settled for the best 30 consecutive years, from which the three worst are deducted (Ministry of Labour RS, 2009). Within the coalition, the most controversial issue was lowering indexation, which since 2005 was tightly anchored to net wage growth. The final text envisaged yearly indexation based on 70 per cent wages and 30 per cent prices, after a transitory period (2012–15), when the ratio is 60:40. This came together with a notable simplification, the elimination of horizontal equalization.[8] Finally, PDIA-2 introduced the possibility to draw a partial pension, and more effective bonuses, if a person continues to be employed after reaching the minimum eligibility conditions; finally, the decrements for retiring early increased substantially.

Policy disagreements

Increased retirement age and pension qualifying period were the most controversial issues on which the social partners did not reach an agreement. The unions (especially ZSSS) did not accept any *quid pro quo* to lift their request for retirement without decrements at 58/60 for women/men with 38/40 years of service period, stressing that workers employed in arduous or hazardous occupations are unable to work that long before retiring. According to Minister Svetlik, this was an ‘anti-reform', as the effective retirement age for men was already 62. Similarly, the employers repeatedly alerted the Government that, in the absence of adequate incentives, the labour market was unprepared to absorb high numbers of elderly workers.

The disagreements surrounding lower indexation started even before the 2010 pension reform was debated. As a quick fix for the crisis, the Government prepared two austerity budgets, for 2010–12, (partially) freezing the indexation of pensions, public employee wages, and social transfers. These measures provoked an outcry both within and outside the centre-left coalition.

Originally, the Ministry of Labour (2010a) proposed Swiss indexation (50 per cent wages and 50 per cent prices). This was unacceptable to DeSUS, which had to cater to its constituency of pensioners. Subsequent negotiations even created a rift between the pensioner party (supported by some 15 thousand retirees) and the Union of Associations of Pensioners (ZDUS) (which has circa 250 thousand members). The latter was willing to find a compromise (60 per cent wages and 40 per cent prices), while DeSUS even backtracked on its own concessions, asking for an 80:20 ratio. Finally, the Government's coalition partner voted against the budget 2011-12 and PDIA-2.

Process

Although most social partners decried the deterioration of social dialogue in Slovenia, at least initially Pahor's executive was willing to build consensus around reforms. Between March 2009 and September 2010, the Government had with the social partners more than 50 meetings in at least seven different fora, and produced around 300 documents.

During the debate, the Government diluted the most radical early policy solutions. This notwithstanding, the negotiations broke down because the social partners felt that their alternative proposals were not taken into account (Guardiancich, 2012b). Consequently, in September 2010, the Government submitted the text to the National Assembly without either the consent of the unions or the support of DeSUS. That the unions did not give their seal of approval was an irremediable *faux pas:* the social agreements that were signed in 1998 in support of the then pension reform, explicitly said that any further changes had to be approved through social dialogue.

8 Horizontal equalization is a unique feature of the Slovenian pension system. People retiring under similar conditions at different times receive a similar pension. This requires different indexation of existing and entry benefits.

Despite a veto by the National Council, the Parliament approved the PDIA-2 in December 2010, with the votes of the opposition Slovenian People's Party (SLS). Unsurprisingly, ZSSS collected the 40,000 signatures necessary for a referendum on the whole Act. The government formally asked the Constitutional Court whether a referendum that undermines the pension reform was at all feasible – the impossibility to pay pensions infringes a human right in the Slovenian Constitution. The court ruled against the Government and the referendum took place on 5 June 2011; 72.2 per cent voted against the pension reform (Stanovnik and Turk 2011: 16).

4. Austerity measures and the role of social dialogue

Pahor's 2012 budget, approved in November 2010 in response to the Excessive Deficit Procedure, both overestimated revenues and underestimated expenditures, due to lower-than-expected growth, excessive indebtedness and high servicing costs.

In order to honour the obligations towards the EU, the newly elected Janša II government decided to keep the promise and reduce the deficit in 2013 under 3 per cent of GDP. As explained in the Stability Programme 2012 Update (Government RS, 2012a: 4) this would be ensured through expenditure reducing measures. Structural balance in 2015 would be instead achieved by reforming pensions and healthcare, increasing the tax system's efficiency and improving tax collection.

As opposed to the previous, centre-left government, Janez Janša's executive managed both to approve through extensive social dialogue, also within the ESS, short-term savings measures as well as the Starting Points for the Social Contract 2012-16 (Government RS, 2012b), whose finalization was under way at the time of writing

That a centre-right executive (at least initially) succeeded where a centre-left government failed is a major puzzle. Several explanations exist, for example that Janša's negotiating teams were better, that the centre-right government decided to tax the wealthy in exchange for the cuts, etc. However, the common denominator is that the social partners 'sobered up' after the wave of referendums in 2011 and realized that the crisis is not a temporary storm, but that the entire climate has radically changed in the past five years.

The following paragraphs analyse the legislative process and content of the Public Finance Balance Act, and cast a glance at the future social pact.

4.1 Public Finance Balance Act

As opposed to the ailing Pahor I executive, Janša's Government achieved a tangible breakthrough in May 2012, by passing the Public Finance Balance Act (ZUJF), the Amendment to the 2012 Budget (Rb2012) (Uradni list RS, 40/2012; 37/2012), and by convincing the public sector unions to sign Annex 5 to the Collective Agreement to the Public Sector (KPJS) (Uradni list RS, 40/2012).

The new 2012 Budget had to reduce total spending to 9,014 million Euros, that is, by circa 1,1 billion Euros less than what was foreseen before. As the reductions in material costs were simply not enough, the Government had to change the laws regulating public spending. Hence, 220 million Euros have been saved as a direct consequence of the ZUJF, and the remaining 880 million Euros through changes to executive orders, lower investments, subsidies, and consumption of goods and services.

Content

ZUJF was approved on 11 May 2012 and entered into force already in June. The super-law modified as many as 39 laws, touching upon three areas: internal savings in the organization and operation of the State; adjustments in the operation of the public sector (reduced salaries of civil servants, lower costs of healthcare and education, fewer investments); cuts to benefits in the labour market and to social security transfers.

Given the law's immense complexity, this chapter follows the analysis prepared by the Government[9] and the newspaper Delo (14 May 2012). Only selected areas are presented.

Families

Relatively mild cuts were introduced: whereas maternity benefits remained unchanged, the rather complex child allowances were reduced slightly. Parental benefits (leave for childcare, part of the maternity leave, paternity leave and adoption leave) were reduced to 90 per cent of the base salary (100 per cent if the base does not exceed 763.06 Euros). Parental benefits cannot exceed two times the average monthly salary in Slovenia (1,888 Euros net in June 2012).

The kindergarten allowance has also been cut: parents who have two or more children in kindergarten (at the same time), have to pay 30 per cent of the costs for the second child, who was previously exempted. Each additional child is still exempt.

Eligibility requirements for childbirth assistance and large family allowances have been tightened: the average monthly income per family member must not exceed 64 per cent of the net average wage. Simulations have shown that there will still be 25 thousand large families (instead of 30 thousand) receiving the allowance.

Finally, most social transfers will not be indexed until the year following the year in which GDP growth exceeds 2.5 per cent.

Healthcare

ZUJF reduces most sickness allowances: a worker's own illness to 80 per cent; injuries outside of work to 70 per cent; transplants to 90 per cent. Professional illnesses, accidents at work, child or elderly care stay unchanged at 100 per cent.

The Act alters the supplementary health insurance regulations, leading to yearly savings of 66.3 million Euros (35.7 million in 2012). In particular, ZUJF transfers part of the payments (some 5 per cent on average) from the compulsory to supplementary insurance, relieving the budget from part of healthcare expenditures.

Other changes to healthcare regulations aim to rationalize the service. ZUJF introduces new and comparable categories of therapeutic medicines, it limits the possibility for a public healthcare institution to stipulate work contracts with their own employees, and it connects the database held by the Health Insurance Institute of Slovenia to other national databases (e.g., in education) in order to better determine the status of the insured person.

Pensioners

Of the numerous initial provisions (many of a permanent nature), just three have survived. First, indexation is frozen until the end of 2012 (third year in a row). Second, instead of being disbursed to everybody, the annual allowance for pensioners is lower and limited to pensions not exceeding 622 Euros, excluding supplements for survivors, disabled and income support. Third, pensions exclusively paid out of the budget (hence, not based on contributions) and that exceed 622 Euros are being curtailed. The cuts range between 100 and 350 Euros, for benefits above 1,450 Euros.

This last measure is under the scrutiny of the Constitutional Court; indeed, it stirred much controversy both due to its exceptions and the fact that it affects Second World War veterans and people who have lawfully contributed in other Yugoslav Republics and later moved to Slovenia. The 26,300 pensioners that are affected are disproportionately part of centre-left constituencies; hence, this part of ZUJF had a purely ideological imprint.

9 Republic of Slovenia: Saving– Government act to restore public finances: http://www.vlada.si/teme_in_projekti/varcevanje/

Public holidays

ZUJF eliminated 2 January as a public holiday and retained 2 May. This will probably raise Slovenian GDP by 0.05–0.1 per cent.

Public employees

The bulk of the savings measures affect public employees, which had been basically excluded from the crisis, save for frozen indexation. After extremely tough negotiations, Janša's Government managed to find a *quid pro quo:* from June 2012, ZUJF linearly reduces all public employee wages by 8 per cent; however, it also implements Virant's equalization of public sector salaries. Therefore, the actual reduction depends on the difference between the two.

The wage cuts imply 164 million Euros of savings in 2012 and 328 million in 2013. The equalization reduces these savings by 102 million Euros in 2012 and 206 million in 2013 (unblocked career advancements in 2013 add another 47 million Euros). Net savings amount to 62 million in 2012 and 75 million in 2013.

Vacation allowances are halved from the 112.3 million Euros spent in 2011. If the gross allowance amounted to 692 Euros for all in 2011, then ZUJF renders it proportional to the salary level. Employees above the 41st salary level are not entitled to vacation allowances. Other reimbursements are also reduced, namely for meals, commuting, and work missions. These cuts will save 37 million Euros in 2012–13.

In addition, promotions have been frozen, civil servants, who were promoted in 2012, obtain their right to the respective salary in June 2013. During 2013 no promotions are possible.

Furthermore, ZUJF caps the number of paid holidays for public employees to a maximum of 35 days per annum. These depend on the service record, work difficulty, seniority, and social and health conditions. Up to 15 more days can be allotted, depending on the work's special conditions.

One of the most controversial norms is the mandatory retirement of those employees who fulfil the minimum requirements for an old-age pension. In exceptional cases, the employer and the employee can agree on the continuation of the contractual relationship.

Moreover, the standard termination pay for public employees has been curtailed: two monthly average wages in the last three months in Slovenia or two last salaries of the employee, if these are higher. Finally, all 'jubilee' bonuses for years of work have been reduced by circa 37 per cent.

Students

Despite Janša's opposition against the Mini-Jobs Act, ZUJF introduced some fundamental changes to the financial side of student work. The concession fee for intermediaries increases from of 12 to 23 per cent. With the Act, the Labour Ministry establishes a fund that finances stipends for students, awarded on the basis of the Scholarship Act. The new 23 per cent concession fee is distributed as follows: 67 per cent goes to the new fund for stipends, 16.5 per cent for the management of ŠOS and 16.5 per cent to student services. Hence student organizations face a small absolute decrease in funding.

Finally, ZUJF abolishes the right to subsidized meals between 15 July and 15 August, and limits their fruition during the rest of the year (students famously ate at rather upscale restaurants, almost for free).

Taxes

The revenue side of ZUJF is as important as the cuts, and it introduces both temporary anti-crisis taxes and permanent ones, most of which are aimed at the wealthiest strata, by for example instituting taxes on larger vehicles and water vessels.

Among anti-crisis measures, ZUJF establishes a tax on real estate of substantial value, except for property for commercial and industrial use and for public purposes, and payable by both natural and legal persons. The tax rate is 0.5 per cent for real estate worth 1–2 million Euros, and 1.0 per cent if it exceeds 2 million. This tax is levied until 2014, and flows directly into the budget.

ZUJF introduces a tax on profits generated by land use change (e.g., if an estate suddenly becomes suitable for building). This is to be levied upon the sale of land. The taxable amount is the difference

between the purchase and sale values. Tax rates depend on the time elapsed between a change in land use and its sale: less than one year, 25 per cent; 1–3 years 15 per cent; 3–10 years 5 per cent. Taxes on capital returns undergo a hike from 20 to 25 per cent (for the sale of derivatives as well). Moreover, ZUJF adds a fourth Personal Income Tax bracket for 2013–14, the marginal rate of which is 50 per cent and which applies to net annual tax bases over 69,313 Euros.

Finally, ZUJF introduces a safeguard to prevent the overshooting of the budget. If in 2013–14 the deficit exceeds 3 per cent of GDP, the general VAT rate increases up to the rate needed to cover the deficit, but no more than three percentage points.

Unemployed

ZUJF lowers the unemployment benefits disbursed after 12 months of unemployment (that is, to people whose insurance period is longer than 25 years) from 60 to 50 per cent of the assessment base. The maximum benefit is reduced from 1,050 to 892.50 Euros.

Policy disagreements

Given that the Public Finance Balance Act is mainly about retrenchment, the opposition of trade unions, most vocally of ZSSS for private and KSJS for public employees, led to protracted negotiations. Against all expectations, reason prevailed and a solution has been hammered out. Finance Minister Janez Šušteršič plainly said that the Government gave in to the unions (around 130 million Euros) in order to avoid a referendum. Additionally, the executive sweetened the bitter pill by proposing tax hikes targeted at the wealthy. The employers agreed and Samo Hribar Milič of GZS stated that: 'If this is the price to achieve a compromise, we are ready to pay for it.'[10]

As shown in detail in Annex I, the unions extracted various concessions. In addition to lower reductions in public sector wages, reimbursements and various social transfers, the key to find a compromise was the removal of a mini pension reform from the austerity package and of all the changes to norms and standards in education. Similarly to education, which should be discussed within the new Social Pact, Dušan Semolič deemed unacceptable that changes to the Pension and Disability insurance Act sneaked in.

The compromises did not solve all the outstanding issues. The cuts to education and research shook the academic community; parts of ZUJF have already been challenged in front of the Constitutional Court; some of the envisaged solutions are deeply dissatisfying for the unions (ZSSS) and the opposition parties (SD and PS); the law is not harmonious and was passed using the urgent procedure; the eligibility conditions for the annual allowance to pensioners are too stringent; the law mixes short-, medium- and long-term objectives; and lower coverage by compulsory health insurance decline will translate into higher supplementary health insurance premiums.

Process

The adoption of ZUJF was unprecedentedly swift. Two weeks after Janša's Government took office, in February 2012, Finance Minister Šušteršič presented the plans concerning the 2012 budget amendments, and set 13 April as final date for their adoption by the National Assembly, after public discussion in March.

At the following ESS meeting, Šušteršič presented the austerity package, composed by three sets of measures: i) internal savings, such as the abolition of agencies, better management of real estate, reduced travel costs, contraction of funds for political parties and religious groups; ii) savings in the public sector, through lower salaries of public employees, new rules on employment, adjusted norms and standards in education; and iii) policies, which require the accelerated fruition of EU and other funds.

The reactions were heterogeneous: the employers and experts agreed on the measures with reservations;

10 As stimulus to business activity, the Government will gradually lower to 15 per cent by 2015 the Corporate Income Tax, as well as substantially increase possible exemptions and deductions.

Samo Hribar Milič of GZS saw the package as a step in the right direction, to be followed by structural reforms and measures that encourage a new economic cycle; Professsor Mojmir Mrak praised that the measures were concentrated on the expenditures side.

The opposition in Parliament was outraged: Positive Slovenia (PS) argued that instead of unrealistic cuts to public employee salaries, new investments and higher VAT are needed. Former Labour Minister Svetlik said that if Janša did not undermine the previous government's reforms, the population could have been spared 300–400 million Euros worth of cuts. Even the Government coalition was divided: DeSUS was against reducing the annual allowance of pensioners, NSi against lowering family benefits, and SLS was sceptical. Premier Janša retorted that since the EU put Slovenia among the Member States at risk, the austerity measures were simply unavoidable.

The unions opposed both the excessively short deadlines and the content itself. Dušan Semolič of ZSSS was categorical in condemning the cuts to the most vulnerable categories and warned that social peace may be at risk. The Police Trade Union of Slovenia (*Policijski sindikat Slovenie*, PSS) immediately threatened a general strike and future referendums.

The toughest task of the Government was to convince the public sector unions, Branimir Štrukelj, the long-standing general secretary of the Education, Science and Culture Trade Union of Slovenia (*Sindikat vzgoje, izobraževanja, znanosti in kulture Slovenije*, SVIZ) chaired the main negotiating team. Moreover, in order to force the Government to withdraw the harshest measures, the public sector unions threatened not to sign the Starting Points for the Social Contract 2012–16 and, more incisively, to stage a general strike on 18 April 2012.

Finance Minister Šušteršič was unmoved and urged the unions to put forward suggestions that might be agreed upon; fortunately, negotiations bore their fruits already five days later.

First, the Minister of Justice and Public Administration Senko Pličanič reduced the cuts to public employee wages from 15 to 10 per cent and reintroduced 50 per cent of the yearly allowance, which had been originally wiped out. Second, a solidarity package was proposed as a *quid pro quo*, some 100 million Euros of new revenues would be extracted from the wealthiest, and both employers and labour ended up agreeing.

Notwithstanding, by mid-April, Janša sent the revised budget and the ZUJF to the National Assembly without prior consent of the social partners. This irritated both Dušan Semolič of ZSSS and Branimir Štrukelj of SVIZ, and they announced that the cuts should be reduced, lest they use any means to strike down the law.

The situation was dangerously heating up. On 18 April, civil servants, represented by 21 unions with approximately 80–90,000 members, launched the second general strike of the public sector in Slovenia's history. Soon after, Štrukelj made it clear that they would rather give up their salaries than accept a revision of standards and norms in education, showing how particularistic the union's demands can be. The rationale was clear: if the Government interfered with the collectively agreed rights of employees, SVIZ would immediately start collecting signatures for a legislative referendum.

Admittedly, the positions of the social partners slowly converged, but negotiations ended on 5 May without an agreement. The main culprit on this occasion was the Government, which did not withdraw either the mini pension reform, or the changes to norms and standards in education. This notwithstanding, so-called silent diplomacy continued between Labour Minister Andrej Vizjak and Branimir Štrukelj but the timing was extremely tight, as the Parliament would discuss the super-law on 10–11 May. Additionally, both Positive Slovenia and the Social Democrats stated that they would not vote for a law which had not received the agreement of the social partners.

At the last minute, the Government and 14 striking public sector unions signed the 'Agreement on the settlement of strike demands', which became the basis for some concessions within ZUJF. The 'Agreement on measures pertaining to salaries, compensation and other benefits in the public sector to balance public finances for the period from 1 June 2012 to 1 January 2014' was signed by 20 out of 33 representative unions, leading to Annex 5 of the Collective Agreement to the Public Sector. Branimir Štrukelj, the head of the strike committee of public unions, said that not only all strikes would be over, but also that no referendum would be filed if the Government kept its promises. The latest agreement included less radical wage reductions, the

withdrawal of all changes to pensions and norms in education, higher compensation for travel expenses, and so on.

This opened the door for the smooth approval of the Public Finance Balance Act by the National Assembly; Finance Minister Šušteršič explained that the latest concessions reduced savings by circa 130 million Euros.

Even though the agreements were huge successes for Janša's executive, there are still pending issues: the unions, *in primis* ZSSS, filed several appeals to the Constitutional Court to determine the constitutionality of parts of ZUJF. Among others, the most contested articles concern the abolition of protected wages, vacation allowances for civil servants, the mandatory termination of employment when the minimum conditions for retirement are reached, lower annual allowances for retirees and the cuts to pension benefits paid out of the budget (especially to Second World War veterans).

4.2 The Social Contract 2012–16

A difference between the Janša II and the Pahor I governments was that the centre-right executive very early on approached the social partners to define those common goals to be included in the Social Contract 2012–16. Already the coalition agreement explicitly mentioned that a new social pact would be signed with the social partners during the first 100 days in office (SDS, DLGV, DeSUS, SLS and NSi, 2012: 7). The most likely explanation for the rejection of conflict is that the situation was too serious and the unions too dangerous to give universalism another try.

The idea to forge such a social pact was originally conceived under Pahor I but it shipwrecked against the souring relations between the social partners; this notwithstanding, the employers and trade unions continued to discuss the major guidelines of a social pact and hoped that the new Government would endorse these guidelines. Ten days after Janša's Government took office in mid-February 2012, the Starting Points for a 5-year social pact were sent to the employers and unions, and the document also included concrete points for discussion between the social partners and other stakeholders, such as pensioners, at the ESS. Namely, the competitiveness of the economy should be improved through lower unit labour costs, greater tax relief for investments, and less bureaucracy and costs in starting new businesses, while on the spending side, the rationalization of the public administration was mentioned. Among structural reforms, with the Employment Relationship Act, pensions and healthcare would soon be on the agenda again (Government RS, 2012b). Janša started discussing the pact at the first ESS meeting, hoping to finalize it by 20 June 2012.

The Starting Points were surprisingly well received, eliciting relatively few comments; indeed, despite the concomitant negotiations on the ZUJF, all representative union confederations and employer associations signed the Starting Points on 3 April 2012, with the final text still being negotiated (by seven working groups) at the time of writing.

Even if it takes longer than envisioned, a new social pact is a key document which will allow the resolution of Slovenia's pressing problems in respect of its tripartite tradition, for otherwise it will be impossible to tackle the much-needed structural reforms. As Janša claimed in mid May: "In contrast to many discussions on pension reforms, we believe that the focus is primarily on those actions that improve the competitiveness of the Slovenian economy, and this is probably key to labour market reform". This is likely to be the hardest task of Janša's Government.

5. Conclusions

The global financial crisis hit Slovenia hard due to the multiple weaknesses of its economy; of these, excessive gradualism and a lack of structural reforms in crucial developmental sectors were both key. The tasks of the governments in power during the emergency were, with hindsight, clear: to provide anti-crisis measures to maintain social peace and protect the vulnerable, fiscal consolidation through cuts to wasteful sectors, and structural reforms to regain lost ground.

Despite good intentions, the Pahor I Government mishandled the crisis, although on the positive side, the centre-left coalition successfully devised some short-term anti-crisis measures; for example, the subsidies to employment saved as many as 25,000 jobs and both employers and the unions welcomed these measures. On the negative side, the executive underestimated the gravity of the crisis, it postponed the necessary fiscal cuts, and it prepared an overambitious structural reform agenda. Under tough external constraints (OECD and EU warnings), facing radicalized unions that were losing their internal legitimacy, and weak employers plagued by insolvency, Premier Pahor and Labour Minister Svetlik decided to abandon social dialogue and unilaterally send the key pension and labour market reforms to Parliament; this in turn elicited the outraged reaction by the unions, which contributed to the defeat of several laws at a number of referendums in 2011. Confronted with internal defections and dwindling public support, Pahor was forced to step down in September 2011.

In order to rein in the budget deficits and honour obligations towards the EU, the Janša II Government that followed enacted drastic expenditure-reducing measures. In contrast to his own first experience in government, and to Pahor's centre-left executive, Janez Janša managed to negotiate, approve, and legislate a tough austerity package and the Starting Points for the Social Contract 2012–16 through extensive social dialogue within and outside the ESS.

The centre-right executive succeeded where a centre-left government failed entirely. The most plausible explanation is that common sense prevailed: after the spectacular failure of the Pahor I Government and the drift of Slovenia from a successful EU Member State to a problematic case, the social partners realized that finding a compromise was crucial to the country's wellbeing.

The results of protracted warmongering are still today unforgiving: first, two years of fiscal rigour were entirely skipped; second, several reasonable structural reforms were unnecessarily postponed; third, after an already tough round of negotiations, social dialogue which has already been put under strain, will only be tested further when the really critical issues, such as pensions and labour market rules, come to the fore.

Hence, the situation is far from rosy and may soon deteriorate. Ideally, the SDS-led Government should swiftly conclude a social pact underscoring the mutual obligations of the Government, the employers and of labour. Additionally, two important constitutional changes (now stalled) were debated, that is, the inception of a golden fiscal rule, and a reform of referendum legislation, as both are needed to avoid irresponsible behaviour with respect to legislation affecting public finances. Finally, a law regulating the tasks and competences of the Economic and Social Council would also be welcome. The tripartite council is a fragile institution: two subsequent governments tried to sideline it, and the mere attempt pushed the country into political and economic chaos.

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Annex I: Collective bargaining results in 2012

What the starting points for the amendment to the 2012 budget proposed (23 March 2012)	What the draft Public Finance Balance Act (ZUJF) proposed (12 April 2102)	What the unions obtained through negotiations in family policy, social policy, healthcare, pensions and holidays (7-10 May 2012)
Family policy		
Lowering of the (upper ceiling) of parental benefits; introduction of means-testing for childbirth assistance; lowering of the allowance for large families.	All the measures in family policy are permanent.	All the measures in family policy are temporary.
Lowering of the parental benefit for childcare from 100% to 90% for the first 6 months, to 80% for the last 3 months; capping of the upper amount for the childcare benefit from 2.5 to 1.5 times the average wage.	The ceiling of parental benefits (apart from childbirth assistance) is 1.5 times the average wage. The parental benefit (apart from childbirth assistance) for total absence from work equals 90% of the base for 6 months and 80% for any additional days. It amounts to 100% of the base if this does not exceed 740.00 Euros.	The ceiling of parental benefits (apart from childbirth assistance) is 2 times the average wage. The parental benefit (apart from childbirth assistance) for total absence from work equals 90% of the base. It amounts to 100% of the base if this does not exceed 763.03 Euros.
-	-	The parental supplement is increased to 55% of the minimum wage (in July 2011 this amounted to 196.49 Euros), meaning that it will increase for some 2,500 eligible individuals.
Social transfers		
-	The basic guaranteed minimum income is frozen until 31 December 2014, meaning that there is no indexation of the social assistance benefits to the Consumer Price Index. There are circa 55 thousand individuals receiving such benefit in Slovenia.	The basic guaranteed minimum income is still indexed twice a year to the Consumer Price Index.
Unemployment benefits		
Shortening of the time of fruition of the unemployment benefit to maximum 18 months (instead of 25), and lowering of the unemployment benefit from 80% to 70% of the base for the first 3 months. This means that for 12,734 people the length of fruition would be reduced by at least 1 month.	Same as previous cell. In practice: a 56-year old worker dismissed due to bankruptcy of his firm, who had 850 Euros salary during the past 8 months, would get in total 9,350 Euros, that is, 3,910 less than according to the current legislation.	The maximum time of fruition of the unemployment benefit remains 25 months. During the first 3 months the benefit remains 80% of the base, decreases to 60% during months 3 to 12, and then to 50%. This means that the 12,734 beneficiaries continue to get the benefit, and the maximum loss is now 1,095 Euros.
-	The lowering of the benefit is permanent.	The lowering of the benefit is temporary.
Healthcare		
-	The sickness allowances for the time of absence from work are reduced progressively, starting with the day until which the mandatory insurance is covering the benefits, until the 90th day of absence.	The sickness allowances for the time of absence from work remain unchanged in case of: professional illness, injury at work, and absence due to care of a family member.
Pension system		
-	Elimination of the lowering of the pensionable age for men due to children. Elimination of most assimilated pension periods for which contributions had not been paid: 1 year for a child towards pension insurance; ‘added pension periods’, such as years at university, years of mandatory military service, years being registered at Employment Service of Slovenia as an unemployed person.	Removed.

What the starting points for the amendment to the 2012 budget proposed (23 March 2012)	What the draft Public Finance Balance Act (ZUJF) proposed (12 April 2102)	What the unions obtained through negotiations in family policy, social policy, healthcare, pensions and holidays (7-10 May 2012)
Holidays		
-	2 January and 2 May become working days.	2 May remains a holiday.
Public sector		
Reduction of the basic salaries in the public sector, including that of officials, by 15% with an option of quicker salary equalization until the end of the year.	The basic salaries in the public sector are reduced by 10%. Higher basic salaries to public employees are granted at the same time due to Virant's equalization (by qualification) of salaries: steps three and four are carried out on 1 June 2012 and 1 January 2013, respectively.	The basic salaries in the public sector are linearly reduced by 8% the first day after the entry into force of ZUJF. The steps three and four of Virant's equalization of public sector salaries are carried out on the same day.
Instead of reimbursing the public transport to commute to work, a worker gets 4% of the cost of petrol per km; subsidies for meals and other subsidies are reduced. On work missions, the reimbursement for travel is reduced to 15% of the cost of petrol and daily allowances are reduced by 20%.	Commuting is reimbursed only for distances of more than 3 km. The reimbursement of the commute amounts to 5% of the cost of petrol. The reimbursement for travel on work missions, using one's own car, is reduced to 18% of the cost of petrol. The daily allowance for national work missions, which last more than 12 hours, is 16 Euros.	Retention of the reimbursement of expenses for public transport at the original level. Commuting is reimbursed only for distances of more than 2 km. The reimbursement of the commute amounts to 8% of the cost of petrol. The reimbursement of the commute expenses up to 8% of the cost of petrol. The reimbursement for travel on work missions, using one's own car, amounts to 18% of the cost of petrol, if occasional; 30%, if determined by the employment relationship.
Maximum allowed yearly holidays capped at 32 days.	Independently from laws, bylaws, general acts, collective agreements, which determine the number of holidays for public employees, these are capped at 32 days from 1 January 2013.	Public employees are allowed maximum 35 days of yearly holidays from 1 January 2013, depending on their service record, work difficulty, seniority, social and health conditions (unattended children, chronic illness, disability) and an additional 15 days maximum depending on the work's special conditions.
Education		
Changes to the norms and standards in education	During a school's daily extension, the teaching time is 60 minutes. Changes to the standards for counselors, librarians and cleaners.Changes to the norms for the formation of classes in schools. Reduced amount of funds from the state budget for financing the implementation of special interest activities, morning and afternoon care in primary schools. Teachers carry out these elements of their educational work within the framework of their weekly and annual work commitments. Increased maximum weekly teaching commitment of teachers in public schools from 1 to 3 hours. After the school's daily extension (up until 15.30), schools provide afternoon care for children enrolled in classes 1 to 5; and from class 1 until the completion of the educational programme for students enrolled in adapted or special educational programmes.	All amendments to the standards and norms in education are removed from ZUJF. These will be debated with the social partners within the frame of social dialogue.

What the starting points for the amendment to the 2012 budget proposed (23 March 2012)	What the draft Public Finance Balance Act (ZUJF) proposed (12 April 2102)	What the unions obtained through negotiations in family policy, social policy, healthcare, pensions and holidays (7–10 May 2012)
Public sector strike on 18 April 2012		
No compensation.	No compensation.	Public employees are paid compensation equal to their salary for 18 April 2012, when they held a general strike. The compensation is paid during the month following the entry into force of ZUJF.

Source: ZSSS (2012).

Annex II: List of interviewes

Ministry of Labour and Social Policies:

Kopač-Mrak Anja – Faculty of Social Sciences, University of Ljubljana, former State Secretary at the Ministry of Labour, Family and Social Affairs

Ivan Svetlik - Faculty of Social Sciences, University of Ljubljana, former Minister of Labour, Family and Social Affairs

Helena Kamnar – former Government Secretary-General and Chief of Staff

Ministry of Economy and Finance:

Štefan Skledar – Expert on Social Dialogue, Institute for Macroeconomic Analysis and Development (Independent Bureau)

Trade unions:

Ladi Rožič – Executive Secretary at the Association of Free Trade Unions Slovenia

Pavel Vrhovec – Executive Secretary at the Association of Free Trade Unions Slovenia

Andrej Zorko – Executive Secretary at the Association of Free Trade Unions Slovenia

Employers' associations:

Čerin Tatjana – Executive Director for Social Dialogue at the Chamber of Commerce and Industry of Slovenia

Experts/academia:

Igor Masten – Faculty of Economics, University of Ljubljana

Mojmir Mrak – Faculty of Economics, University of Ljubljana