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ROLE OF SOCIAL DIALOGUE INSTITUTION IN THE TIME OF CRISIS. THE CASE OF POLAND

Summary: The world's economic crisis has affected Poland less than other European Union countries. Nonetheless, in 2008 the vision of the crisis consequences was so disturbing for both trade unions and employers' organisations that they initiated the endeavour to formulate the draft package of proposals aimed at alleviating the crisis effects. As a result of the performance of the Tripartite Commission for Social and Economic Affairs and the autonomous dialogue, the social partners prepared the joint proposal of actions that should be introduced. These suggestions were taken into consideration, still in a selective manner, however, by the coalition government led by Donald Tusk. Subsequently, the anti-crisis package has been enacted but its efficacy is, in the general opinion, quite bleak.

Keywords: social dialogue, economic crisis, social partners, Poland.

1. Introduction

Contemporary democracies are perceived as the systems within which several rivalry (cooperation) arenas among divergent actors can be identified, one of which is the ground of the industrial relations¹. The articulation and aggregation of group interests, which could be seen in this sphere, are to establish the state public policy that would reconcile both private and public businesses. The diversity of the procedural solutions that regulate the different areas of functioning of the state, typical of particular cases, is also noticeable within the scope of the tripartite relations. The literature references denote two models of representing the groups interests, specifically the pluralist and the corporate one. Concurrently both models are associated with the precisely defined political frameworks, namely the consensual style characteristic of the corporate model and the rivalry style so distinctive for pluralism².

¹ K.R. Luther, *Dimensions of Party System Change: The Case of Austria*, "West European Politics" 1989, Vol. 12, No. 4, Routledge, London, p. 6.

² R. Herbut, J. Sroka, P. Sula, *Rozwój dialogu społecznego w Europie i w Polsce*, [in:] *Sieci czy struktury? Dialog społeczny na poziomie regionalnym*, red. M. Błaszczuk, J. Sroka, Instytut Spraw Publicznych, Warszawa 2006, p. 13-14.

The pluralistic model assumes the existence of the non-formal and decentralised relations between the state and freely organised interest groups. Considering the rich resources on the matter and the fact that Poland is much closer to the corporatist model, I will not characterise in detail the essence of pluralism. In the corporatism negotiating public and private interests is accomplished with the presence of the state as well as the representatives of employers and workers, which three groups are represented within the body of the institutionalised tripartite networks. The social partners participating in such a form of the social dialogue are granted by the state the monopoly for representing group interests in negotiations. This privilege, however, that some of interest groups are given is bound with the greater responsibility referring, on the one hand, to the content of the state public policy which has to combine social expectations with postulates of the free market. On the other hand, the interest groups' elites taking part in the bidding process are not only obliged to communicate agreed regulations to members of the social groups they represent but also to guarantee their support for these regulations. In this way the public power gains the legitimisation for its actions whereas the interest groups turn out to play a dualistic role as both the representatives of social interests and the state institutions³.

Corporatism is the dominant model of articulating group interests in Europe. This opinion is also referring to Poland, however, in this case, what strikes the most is the high level of formalising the social dialogue and the relative backwardness in respecting the instruments typical of corporatism. Nonetheless it does not imply ignoring the opinions of the interest groups' representatives while setting forth the public policy. The consultations that the government carries out with the social partners can be of particular importance in the situation of the economic crisis.

2. Legal and institutional framework of the social dialogue in Poland

The meaning of the social dialogue in Poland was emphasised in the preamble to the Constitution of the Republic of Poland of 2 April 1997, mainly in the Article 20 of the Constitution according to which the social market economy based, among other notions, on the dialogue and cooperation between social partners is the cornerstone of the system of Poland. The detailed grounds for the social dialogue emerge from the Act of 6 July 2001 on the Tripartite Commission for Social and Economic Affairs (TK) and voivodeship social dialogue commissions (WKDS).

On the basis of this act the Tripartite Commission constitutes the social dialogue forum which embraces such notions as the interests of workers, employers and common good. The competences the Commission holds comprise holding the social dialogue on remuneration and social benefits and other social and economic issues,

³ Ibidem, p. 15.

all to keep the social peace (Article 1 of the Act). The catalogue of subjects the Commission can deal with is actually unlimited as each of the parties of the Commission is entitled, if the issue is acknowledged as significant for the social peace, to put those issues of the great social or economic importance on the agenda (Article 2).

Among the assignments enumerated in the act a lot of place is devoted to the role of the Commission in the work on the budget act. Having the monopoly on the initiative of submitting the budget act for the following year to the Parliament, every year until 10 May, the government presents the Commission with the initial prognosis of the macroeconomic values which are to be the base for the work on the budget act. The representatives of workers and employers outline their joint proposals as far as the increase in the minimal payment, pensions and retirement pensions for the following budget year are concerned. If the consensus in this field is not reached among the social partners, they present separate stances. Such divergent attitudes can be also submitted until 30 May every year by particular workers' or employers' organisations represented in the Commission, if their attitudes are not convergent.

The deadline for the government to submit the budget act to the Commission is 15 May every year. 31 July, in turn, is the due date for the organisations represented in the Commission to present their divergent opinions concerning the budget in case of not reaching any compromise.

The last phase of the Commission being involved in the work on the assumptions to the budget starts with sending the draft budget law no later than 20 days before submitting the act to the Parliament. Also on this stage social partners have the right to express their joint or divergent opinions (Article 3).

In the context of the mentioned corporatism attribute, which can be translated as the peculiar control of the number of dialogue participants, quite important is the identification of the actors engaged in the work of the Tripartite Commission. According to the Act, the Commission is composed of representatives of the government assigned by the Prime Minister and representatives of employees and employers. Likewise, the representatives of local governments and the representative of the President of the National Bank of Poland and the representative of the President of the Central Statistical Office have an advisory voice.

The representative trade union organisations represent employees in the Commission (they unite at least 300 000 workers employed in the subjects which represent more than half of the sections of the Polish Standard Industrial Classification of Economic Activities, the PKD). In turn, the representative employers' organisations act in the name of employers in the Commission (they unite employers active in more than half of the sections of the PKD and employing more than 300 000 workers).

Currently, the representative organisations on the side of trade unions are as follows: the Independent Self-Governing Trade Union 'Solidarity' (Niezależny Samorządny Związek Zawodowy "Solidarność", NSZZ Solidarność), the All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych,

OPZZ), and the Trade Unions Forum (Forum Związków Zawodowych, FZZ). As it comes to the employers they include the Polish Confederation of Private Employers Lewiatan (Polska Konfederacja Pracodawców Prywatnych Lewiatan, PKPP Lewiatan), the Polish Crafts Union (Związek Rzemiosła Polskiego, ZRP) and the Business Centre Club (BCC)⁴.

The social partners' potential as contrasted with the government power leads to the asymmetrical character of the relations within the Tripartite Commission⁵. All these contribute to the fact that the dialogue institutions are becoming a sort of a facade thanks to which the government does not have to take into account opinions gathered during the numerous consultations.

It is also worth adding that there exist the complementary for the Tripartite Commission formulae of the social dialogue. Here, the attention should be focused mainly on the institutionalised dialogue on the regional level, which dialogue was also established in the mentioned above act of 6 July 2001. The voivodeship social dialogue commissions (WKDS) are, as their personnel concerns, almost the carbon paper of the Tripartite Commission with one, however, reservation, as together with the representatives of trade unions, employers, the representative of the government being the chairman of the commission (a province governor) there is one more side present in the commission, which is the representative of the regional government (the marshal of voivodeship).

The WKDS has the qualifications to express the opinions on matters within the scope of tasks assigned to trade unions or employers' organisations that fall under the jurisdiction of the government and the regional administration. The WKDS can also investigate the problematic cases which lead to conflicts between employees and employers.

The issue of the economic downtown concerns the whole economy therefore I will not elaborate on the characteristics of the dialogue on the regional level, on the business enterprises' level or the one from the perspective of tripartite sector teams recognising them as marginal in the process of shaping the anti-crisis measures.

3. Role of the Tripartite Commission in developing the anti-crisis package

The first evidence of the crisis on the world's financial markets appeared in 2008. The United States were the first country to annotate weakening of the situation on the market⁶. In Poland the first symptoms of the development deceleration appeared just

⁴ J. Sroka, R. Herbut, P. Sula, *Dialog społeczny na poziomie regionalnym. Raport z badań*, Instytut Spraw Publicznych, Warszawa 2004, p. 15.

⁵ J. Gardawski, *Dialog społeczny w Polsce. Teoria, historia, praktyka*, Ministerstwo Pracy i Polityki Społecznej, Warszawa 2009, p. 243.

⁶ S. Claessens, M.A. Kose, M.E. Terrones, *The Global Financial Crisis: How Similar? How Different? How Costly?*, "Journal of Asian Economics" 2010, Vol. 21, Elsevier Inc, p. 248.

in 2008. At the stage preceding the Tripartite Commission debate on the consequences of the world's economic crisis for Poland, which means from January to the end of November 2008 (the first session of the presidium of the Tripartite Commission was held on 18 December 2008), lower growth in the industrial and assembly-production materials sales as well as the decrease in the retail sales were noted. Nevertheless, in this phase the number of the employed increased as contrasted with the falling percentage of the unemployed. Taking into consideration, however, the analogous data concerning just November 2008, the participants of the social dialogue had the grounds for anxiety as the indices balance sheets of November and October 2008 indicate not the decrease in the rate of the economic growth but the decline in the industrial, assembly-production and retail sales⁷. In November 2008 for the first time after quite a long period of the contradictory trend, also the unemployment rate rose edging up to 9.1% in November compared with the previous month's statistics showing 8.8 % of the unemployed registered in the job offices⁸.

In the face of the first symptoms of economic downturn and taking into account the scope of the crisis in other countries the session of the Tripartite Commission that took place on 18 December 2008 resulted in the belief that the socio-economic situation in Poland should be carefully monitored. The participants of this session admitted also the demand for special instruments stimulating Polish economy which would minimise the negative results of the crisis. Coordinating the work of the Tripartite Commission in this scope was agreed to belong, in accordance with its competences, to the problem team for economic policy and labour market.

In December 2008 it turned out that the unemployment rate had increased again (reaching 9.5%) with even more pessimistic prognosis as the data of the Central Statistical Office showed 361 factories declaring to make 36.900 employees redundant at the end of December 2008⁹.

During the next meeting of the Tripartite Commission's presidium which took place on 28 January 2009 the representatives of the government, the employers of the Polish Employers' Confederation, the Polish Confederation of Private Employers "Lewiatan", the Polish Crafts Union and the Business Centre Club advocated for more flexible working hours as the instrument that should be introduced during the crisis time. The change was to extend the working time settlement period from the adopted 3 months to one year which solution would mean that in one month an employee could work four hours a day whereas in the next month this time could be extended to twelve hours a day. The arguments in favour of such a solution highlighted

⁷ *Informacja o wynikach w gospodarce w listopadzie i w okresie styczeń – listopad 2008*, Ministerstwo Gospodarki, Departament Analiz i Prognoz, Zespół Statystyki, Warszawa, styczeń 2009, p. 3.

⁸ *Miesięczna informacja o bezrobociu w Polsce w październiku 2008 roku oraz Miesięczna informacja o bezrobociu w Polsce w listopadzie 2008 roku*, Główny Urząd Statystyczny 2008.

⁹ P. Sula, *Tripartite Commission Debates Impact of Economic Crisis*, <http://www.eurofound.europa.eu>, accessed 10 May 2010.

the unchangeable payment for employees regardless of the working time during a month combined with the freedom for employers to increase or decrease the production capacity depending on the current market situation. This understanding of the flexibility of the working time would require an amendment of the Polish Labour Code.

The proposal met the objections of the unions from the Independent Self-Governing Trade Union "Solidarity, the All-Poland Alliance of Trade Unions and the Forum of Trade Unions represented in the Commission. They mainly objected to reducing the means of fighting the crisis merely to the issue of the labour code reform. They were convinced that the existing regulations gave the opportunities to reach the agreement just at the level of individual business enterprises. Nevertheless, the trade union representatives did not exclude the approval for adjusting the flexibility of the working time and for individual working time accounts (employers' second postulate) providing employers would accept the maximum of 18 months for the run of fixed-term employment contracts.

The beginning of 2009 showed the huge determination of the social partners to look for and to arrive at the common stance, which direction was confirmed by the subsequent bilateral meetings (on 2 February and the following one on 10 February 2009) and by the performance of the problem teams for labour law and collective agreements and for economic policy and labour market between these bilateral meetings.

It was agreed that the further discussion should concentrate on the following problems:

- subsidising jobs with the EU funds,
- subsidising jobs with the public funds,
- accelerating the process of using the EU funds,
- increasing the funds for loan guarantees for business enterprises,
- introducing 12-month working time settlement period under the control of trade unions or employees' representatives,
- financing some remuneration using the public funds,
- acknowledging the social packages as the source of the labour law¹⁰.

These decisions brought the results on 13 March 2009 when the social partners during the autonomous dialogue (without the government representatives)¹¹ adopted the package of anti-crisis measures comprising 13 postulates:

- supporting indigent families which suffered most because of the crisis and increasing funds for social benefits in connection with the growing unemployment,

¹⁰ Ibidem.

¹¹ About the autonomous dialogue: J. Gardawski, *Konfliktowy pluralizm polskich związków zawodowych*, Fundacja im. Friedricha Eberta, Warszawa 2002, p. 94.

- abolishing the taxation of allowances granted by trade unions and social benefits paid by company social benefits funds,
- the personal income tax exemption to the social service help in the form of vouchers exchanged for goods and services,
- repealing the act on the negotiable system of shaping the increase of average wages in enterprises and the abolition of the Act on remuneration of management executives in state-owned companies,
- actions aiming at increasing the minimum wage to the level of 50% of the average wage,
- introducing 12-month working time settlement period,
- creating company training funds,
- rationalisation of the solutions concerning the 24-hour working cycle in the context of working time settlement period,
- acknowledging the social packages as the source of the labour law,
- recognising the flexible working time as the measure reconciling the family and professional responsibilities,
- limiting the use of the fixed-term employment contracts and stabilising the employment by doing so,
- accelerated amortisation (increasing the tax costs limits in the form of one-time capital allowances),
- subsidising the employment as the alternative for group dismissals¹².

Formulating these postulates was met by the favourable reaction of the government. In late April 2009, however, there appeared some objections in reference to which the government proposed the modification of these abovementioned premises and in May 2009 they were put in the form of the draft law. At this point the government did not provide any space for the discussion on the premises of the act, yet obviously the social partners did express their point of view. Especially the trade unions (e.g. NSZZ "Solidarity") were critical both towards the proposed solutions as well as the lack of precision in formulating stipulations included in this regulation. The NSZZ "Solidarity" raised the question of disregarding some essential arrangements included in the package which was originally supposed to be the integral project (e.g. help for employees affected by the crisis)¹³.

Despite the trade unions' protest, the government submitted the draft law to the Polish Parliament (the Sejm). The act on alleviating the economic crisis effects for employees and entrepreneurs was enacted by the Parliament on 1 July 2009 and entered into force on 22 August 2009.

¹² J. Czarzasty, *Government Accepts Anti-crisis Package Submitted by Social Partners*, <http://www.eurofound.europa.eu>, accessed 10 May 2010.

¹³ J. Czarzasty, *Trade Unions Threaten to Abandon Tripartite Dialogue*, <http://www.eurofound.europa.eu>, accessed 10 May 2010; *Wstępna opinia NSZZ „Solidarność” z 1 czerwca 2009 r. do projektu ustawy z dnia 22 maja 2009 r.*, www.solidarnosc.org.pl, accessed 10 May 2010.

4. The effects of the anti-crisis package implementation

Questioning the validity of some regulations included in the act started even before its coming into force. At the same time the experts underlined the fact that it might not bring the desired effects since the support was more of the illusory character while the same procedures of getting the financial support were quite sophisticated.

This opinion can be illustrated by the analysis of one of the act provisions offering the financial support for employees and employers. It concerns the financial benefits from the Guaranteed Employee Benefits Fund (FGŚP) payable to an employee on request made by the employer who has some temporary financial problems. This support can be granted for the following purposes:

- partially satisfying employees' wages for the time of the economic slowdown (reaching the value of the unemployment benefit, which, in practice, in 2010 means 717 PLN for a span no longer than 6 months); the economic slowdown implies not working for an employer who faces temporary difficulties while being ready to work,
- partially compensating for the limitations in the working time for no longer than 6 months and sums amounting up to 70% of the unemployment benefit.

On the basis of the application submitted to the FGŚP, an entrepreneur may be granted the support for paying the social insurance as well as the employees' benefits I have enumerated above.

The Ministry of Labour and Social Policy (MPIPS) published in early May 2010 a fragmentary report on the implementation of the anti-crisis package¹⁴. The given data shows that since 4 May 2010, 146 applications have been submitted to pay out benefits for the reason of the economic slowdown and working time limits. These applications have concerned 10 503 people and the total sum of 19 806 827.14 PLN. Thus, it turns out that the interest in the instruments prepared by the legislator to fight the crisis is rather small.

Both the social partners and the experts share the opinion that the possibility of extending the working time settlement period is of the biggest interest. Yet there is no reliable data on the number of agreements between employees and employers in this field.

The faint effects of the anti-crisis package and the criticism of the solutions which only seemingly created the chance for employers to get the financial support point to the necessity of introducing the modifications of the programme premises. This opinion is even more justified by the voices of employers, many of whom have got discouraged from applying for the public support by the numerous formalities.

¹⁴ *Stan realizacji ustawy z dnia 1 lipca 2009 r. o łagodzeniu skutków kryzysu ekonomicznego dla pracowników i przedsiębiorców (stan na 4. 05. 2010 r.)*, <http://www.mpips.gov.pl>, accessed 10 May 2010.

5. Conclusion

Regardless of the assessment of the anti-crisis package and its effects, the process of formulating its premises in the Tripartite Commission as well as in the autonomous dialogue confirms many opinions on the character and the quality of the social dialogue in Poland. As works on the package have progressed the government side has turned out to be mostly interested in the consultative form of the dialogue which form allows consultations without the implication to listen intently to its partners' opinions. The government extending its patronage over the social dialogue institutions gives them the opportunity to express their argumentation without any guarantee that their opinion will be taken into account.

The question of whether the problems with keeping the symmetry in the relations between the social partners and the representatives of the government continue to be the consequence of the recent politicisation of the social dialogue in Poland is difficult to answer¹⁵. This thesis can be promoted more so that the term of politicisation implies assigning a greater role to the political factors rather than the social ones. Perhaps, however, the problem may result from a particular type of political culture.

This example seems to correspond with the suggestions made by J. Sroka who defines the social dialogue in Poland as the combination of etatism and weak corporatism resulting from the progressive fragmentation of industrial relations¹⁶ which occurred, among others, due to the proliferation of the number of forums in which the dialogue took place.

The presented above case study reconstructing the process of the social dialogue institutions' commitment to agreeing on issues relating to the economic policy of the country allows to formulate particular conclusions which highlight the government's potential for shaping the macroeconomic indicators. The anti-crisis package has been adopted by the Parliament after the peak of the crisis which fell on the first half of the 2009. It has appeared that the value of the macroeconomic indicators is determined by the whole complex of factors; therefore, legislators' delayed reactions are not always able to either improve or worsen the economic situation. Nevertheless, contemporarily the implementation of the economic policy premises seems not to be able to ignore the role of the interest groups in this process. Not always, after all, the social partners' opinion should serve the purpose of the fig leaf allowing hiding the government's pursuit for the monopoly in influencing the decision-making process.

¹⁵ T. G. Grosse, *Social Dialogue During Enlargement: The Case of Poland and Estonia*, "Acta Politica" 2010, Vol. 45, No. 1/2, Palgrave, p. 123.

¹⁶ J. Sroka, *Dialog społeczny i stosunki przemysłowe w krajach Europy Środkowej i Wschodniej*, [in:] *Systemy polityczne Europy Środkowej i Wschodniej. Perspektywa porównawcza*, red. A. Antoszewski, Wrocław 2006, p. 189.

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ROLA INSTYTUCJI DIALOGU SPOŁECZNEGO W DOBIE KRYZYSU. PRZYPADEK POLSKI

Streszczenie: Światowy kryzys ekonomiczny dotknął Polskę w mniejszym stopniu niż inne kraje Unii Europejskiej. Niemniej w 2008 r. wizja konsekwencji kryzysu była tak niepokojąca zarówno dla związków zawodowych, jak i organizacji pracodawców, że rozpoczęły one prace nad pakietem propozycji, które pozwoliłyby złagodzić skutki stagnacji gospodarczej. W rezultacie na forum Trójstronnej Komisji do spraw Społeczno-Gospodarczych oraz w ramach dialogu autonomicznego partnerzy społeczni przygotowali wspólną propozycję niezbędnych działań. Koalicyjny gabinet pod przewodnictwem Donalda Tuska wykorzystał zgłoszone propozycje, ale w sposób dość selektywny. W konsekwencji uchwalono pakiet antykryzysowy, którego rezultaty w powszechnej opinii są mizerne.