

# Self-organizing Social Dialogue: Impact of the European Union Level on the Relations between Polish Social Partners<sup>1</sup>

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## Abstract

*This paper reports on autonomous actions by the social partners for the implementation of the outcomes of European social dialogue (ESD), i.e. cross-sectoral framework agreements (FA), in Poland. Autonomous actions require efficient functioning of mechanisms for bipartite dialogue. At the time of Poland's accession to the EU, such mechanisms did not exist. This continues to be the case. This constituted a serious challenge for the social partners. However, they have made an attempt to seek alternative solutions. It was a bumpy road. The reader will be familiarised, in chronological order, with these actions. These may not be spectacular, but they have been the only long-lasting manifestation of a cross-sectoral bipartite dialogue in Poland for more than a decade, with intentions that go further and deeper than ad hoc initiatives. A reference will also be made to a relatively fresh but equally important challenge for the social partners, i.e. their inclusion in the European Semester process.*

**Keywords:** European social dialogue, trade unions, employers' organisations.

**JEL Classification:** J50, J80.

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<sup>1</sup> The paper is a modified and extended version of the chapter in the book entitled Gardawski, J., Surdykowska, B. (eds.) (2019), *Ku kulturze dialogu. Geneza i dzień dzisiejszy dialogu społecznego w Polsce*, Warszawa: Biuro Rady Dialogu Społecznego. This paper expresses solely the personal views of its author and does not represent the position of the NSZZ 'Solidarność' trade union. Any positions contained in the text that are not referenced to a source are the author's personal reflections and experience and should be treated as such.

## The Impact of European Social Dialogue

The mechanisms of European social dialogue give the social partners the opportunity to influence the directions of EU social policy, including the ability to shape 'hard' EU legislation through the so-called bargaining legislation (Biagi 1999). This avenue remains underutilised for various reasons, including the reluctance of the employers to make decisions about regulating social policy at EU level (Adamczyk, Surdykowska 2014). The history of European social dialogue began with framework agreements of EU social partners which were based on EU treaties<sup>2</sup>. Over the years, this dialogue has extended to many levels. Currently, it is developing at a cross-sectoral and sectoral level, and it results not only in agreements but also in a 'softer' forms, such as, for example, framework of action (FoA), statements, joint analyses or even joint research projects.

Looking closer at the history of the European integration project, it is hard to find its social dimension on the agenda of its founders. The endeavour had an economic nature, and it was oriented towards negative (removing barriers for the implementation of treaty freedoms) rather than positive integration (coordination of activities, common policies). This began to change after 1985, when Jacques Delors pushed through the construction of the single market and economic and monetary union. It was clear that deepening the integration process entailed transferring part of the Member States' social and labour market competences to the Community level. To prepare the ground for this, Delors began to encourage UNICE (current name: BusinessEurope) and CEEP, the European employers' organisations, and the European Trade Union Confederation (ETUC) to tighten their permanent cooperation. This resulted in the adoption by them in 1991 of an agreement which was then accepted by the Intergovernmental Conference that drafted the Maastricht Treaty. This agreement was included as an attachment, the social protocol, to the Treaty on European Union. The agreement established the rules for the involvement of the social partners in the development of EU labour law and social policy. This gave birth to the European social dialogue. However, it did not become a prelude to the European system of collective bargaining, nor did it lead to the creation of a corporatist model at the EU level, as some euro enthusiasts had expected (Falkner

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<sup>2</sup> For more information on this issue, see Skupień (2016). A comprehensive description of the birth and first years of the ESD framework can be found in Lepeyre (2018).

1998). Rather, it was a bargain that the social partners were making so as not to deny themselves influence over the developments at EU level. It seems that neither employers' organisations nor trade unions considered the EU level to be the right arena for implementing their goals in the sphere of the industrial relations. Once we adopt this point of view, we will not be surprised by the subsequent developments.

The cross-sectoral social partner organisations involved in the ESD framework are, on the employees' side, the European Trade Union Confederation, on the employers' side: BusinessEurope<sup>3</sup>, CEEP<sup>4</sup> and SMEunited<sup>5</sup>. The role of the European Commission as the initiator of some activities within the ESD framework remains contentious (Surdykowska 2015).

The following discussion concerns the issue of autonomous implementation of framework agreements concluded by cross-sectoral European social partners. It is worth remembering, however, that European social dialogue began with the negotiation of agreements implemented by decisions of the Council, and thus transformed into directives. This was the time of the EU's legislative rush in the social field. Brian Bercusson aptly described it as 'bargaining in the shadow of the law', since the Commission demonstrated its determination to introduce legal provisions regardless of whether the social partners reach a consensus (1996). Needless to say, such an approach has been conducive to consensus, since employers' organisations, faced with the risk of binding stricter rules, had a much greater incentive to negotiate.

First, the provisions covering the parental leave were regulated by agreement. It turned out that this previously controversial issue was settled quite quickly and, as a result of the agreement adopted on 14 December 1995, a draft directive was prepared<sup>6</sup>. This was followed by further agreements. These covered the increasingly important field of atypical work: part-time employment (6 June 1997) and fixed-term employment (19 March 1999). On a proposal from the Commission, the Council of the EU transformed the agreements into directives, which were then implemented at national level by the governments of the Member States. In December 2001, in their contribution to the EU summit in Laeken, the European social partners expressed their desire to increase their autonomy and to broaden the scope of cooperation

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<sup>3</sup> Private enterprises, formerly known as UNICE.

<sup>4</sup> Its affiliates are the employers organisations in the broadly defined public services sector. From autumn 2020 the organization will be called Services of General Interest (SGI) Europe.

<sup>5</sup> Representing craft and SMEs, until 2018 known as UEAPME.

<sup>6</sup> In 2009, at the request of the Commission, the agreement was renegotiated and its new version was also transformed into a directive.

as an input to the then promoted Lisbon Strategy. The result was a move from ad hoc negotiations on framework agreements to multi-layered cooperation within the framework of working programmes agreed every three years and, naturally, financed by the European Commission. This brought many positive developments. But there was a caveat. This was a prelude to a fundamental change in the way the framework agreements are implemented. They were now to be implemented autonomously. It seems that this approach completely ignored the upcoming enlargement of the EU to the countries of Central and Eastern Europe, where there were virtually no functioning bipartite dialogue mechanisms.

It soon became apparent that the focus on autonomous implementation of framework agreements was accompanied by a decline in the quality of the agreements themselves. Still, the one on teleworking, signed on 16 July 2002<sup>7</sup>, contained specific and detailed provisions for implementation at national level. The subsequent agreements: on work-related stress of 8 October 2004<sup>8</sup> and on harassment and violence at work of 26 April 2007<sup>9</sup> were very vague. It is worth noting that these agreements came about as a response to consultations launched by the European Commission, and thus were intended to help solve specific problems identified at EU level. It is hard to assess whether they produced the intended outcome. This conclusion is suggested by the Commission's 2011 negative assessment of the (lack of) outcomes in the Member States with regard to the 'work-related stress' agreement (European Commission 2011).

Nevertheless, the European social partners have decided to demonstrate their autonomy not only when it comes to the implementation of the agreements, but also as regards the choice of their subject matter. On 25 March 2010, an agreement on inclusive labour markets (ILM)<sup>10</sup> was signed. It was more of a guide to possible labour market measures than a commitment from the parties, so it was difficult to conclude what its implementation was actually supposed to entail. Suffice it to mention that some national trade union organisations explicitly recognised that using the term 'agreement' when referring to the negotiated text is an abuse of treaty terminology. When the Commission proposed that it would verify the implementation of the agreement through its services, the European social partners protested unanimously,

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<sup>7</sup> The agreement is discussed in Karbowska (2008).

<sup>8</sup> The agreement is discussed in Surdykowska (2007).

<sup>9</sup> The agreement is discussed in Surdykowska (2007).

<sup>10</sup> The agreement is discussed in Surdykowska (2010).

probably due to well-grounded concerns about the outcome of such an independent assessment.

The next framework agreement was only concluded on 8 March 2017. This long hiatus was caused by the growing reluctance of European employers to use this instrument of social dialogue. It was also justified by the need to focus on dealing with the consequences of the fiscal crisis. The agreement concerns active ageing and an inter-generational approach (AAIA)<sup>11</sup>. The subject matter of the agreement was agreed by the social partners themselves and the agreement is to be implemented by their national organisations. Its implementation will be assessed in 2021. In June 2020, the social partners signed the agreement on digitisation. It deals with the impact of technological transformation on the stability of employment and the vital question of the right to disconnect, i.e. the guarantee to use free time by the employees as they please<sup>12</sup>. Likewise, this agreement is to be implemented autonomously.

## The Polish Way: the Round Table for European Integration

As a consequence of the evolution of the ESD described above, i.e. the autonomous path for the implementation of framework agreements, after Poland's accession to the EU the responsibility for their implementation rested with the social partners. The latter are the organisations affiliated to European social partners. As for the employee representation, NSZZ 'Solidarność' became a full member of the ETUC in 1995, long before Poland's accession to the EU. The same was true for other recognized as democratic trade union organisations from Central and Eastern Europe (CEE) region. However, contrary to their explicitly formulated expectations, the region's unions were not included in the mechanism of European social dialogue. The ETUC secretariat justified this by the fact that the dialogue took place in accordance with EU rules, and thus only organisations from the then member states could participate in it (Henning 2015). It should be pointed out that the second half of the 1990s was the 'golden age' of the ESD during which important agreements were being negotiated which were to affect workers in the CEE countries in the near future (Degryse 2011).

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<sup>11</sup> The agreement is discussed in Surdykowska (2017).

<sup>12</sup> [https://www.etuc.org/system/files/document/file2020-06/Final%2022%2006%200\\_Agreement%20on%20Digitalisation%202020.pdf](https://www.etuc.org/system/files/document/file2020-06/Final%2022%2006%200_Agreement%20on%20Digitalisation%202020.pdf)

Small wonder that organisations from the CEE region might have felt frustrated. It was only in 2002 that the ETUC included for the first time a representative of 'Solidarność' in the group negotiating the framework agreement on teleworking. The trade union in question, however, did not have a right to vote on the ETUC's approval of the agreement. After 1 May 2004, these problems vanished. Polish trade unionists became fully involved in all European social dialogue activities. The OPZZ became affiliated to the ETUC in 2006. Followed in 2012 by the Forum of Trade Unions. The employers' cross-sectoral representation, in turn, was formed throughout the 1990s. In 1989, the Confederation of Polish Employers (current name: Employers of Poland) was established. It then joined CEEP. In 1999 The Polish Confederation of Private Employers (current name: Confederation Lewiatan) was founded. This became affiliated to UNICE (currently: BusinessEurope). Apart from them, the Polish Craft Association has been directly participating since 1991 in the activity at EU level as an organisation affiliated to UEAPME (current name: SMEunited). Out of the members of Social Dialogue Council, Business Centre Club and the Union of Entrepreneurs and Employers have not affiliated to any organisation at the EU level.

The situation in Poland did not bode well for an autonomous, bipartite implementation of European framework agreements. Since 1994, attempts have been made to develop institutional tripartite dialogue with varied effects. As for the bipartite, autonomous dialogue, initially, there were many hopes (primarily expressed by trade unionists) for the construction of a system of sectoral bargaining after the entry into force of the provisions of Section XI of the Labour Code allowing for the conclusion of inter-company collective agreements. These hopes turned out to be futile. With a growing presence of multinational corporations, the few sectoral agreements that emerged after 1996 were quickly pushed aside. The termination of the collective agreement for the steel industry symbolised these developments. At the beginning of the 21<sup>st</sup> century it has become apparent that bipartite sectoral dialogue, with little interest on the part of the state in promoting it, has little chance for growth in our country. The 'flight' of the social partners towards phantom tripartite relations meant that cross-sectoral bipartite dialogue had no chance of spreading wings. There was no platform for joint action to implement the outcomes of European social dialogue on the eve of Poland's accession to the EU.

'Social dialogue', the project implemented in the years 2002–2004 by the Ministry of Labour under the PHARE 2000 programme, offered an opportunity to overcome this stalemate. The main objective of the project was to improve the institutional basis of bipartite social dialogue and to prepare social partners for active participation in it, including by the establishment of institutions for cross-sectoral dialogue and capacity

building of social partners so that they could play an active role in autonomous social dialogue at national and EU level. This twinning project, carried out with the participation of Danish partners, had several modules. For the purposes of the present article it is important to stress that within the framework of this project, on 28 September 2002 representative organisations of Polish social partners established a common platform: The Social Dialogue Roundtable for European Integration (OSDSIE, from its Polish acronym). It was supposed to be a model institution for bipartite dialogue, with the government as an observer providing expert support. The OSDSIE's task was to discuss commitments related to Poland's participation in the EU in the field of labour law and social policy, and to undertake actions aimed at enabling the proper and effective implementation of European laws to the benefit of Polish employees and employers. Contrary to the intentions of the project organisers, OSDSIE has not become a permanent element of Polish social dialogue. After the completion of the PHARE grant, it continued to exist for two years (until the end of 2005) as an opinion-making and advisory taskforce at the Ministry of Labour. It dissolved due to conflicts concerning its hypothetical independent status and sources of financing for its activities. However, it was not an ephemeral construct. During its short-lived existence, the OSDSIE quickly became a forum for honest, professional expert discussions on important issues, such as: the development of a modern mediation system (which to this day has not been developed), shaping proper representation of employers in the public sector (which, again, continues to be a pending task), or the effective implementation of new EU directives on broadly-conceived employee participation<sup>13</sup>. In one of its positions, adopted on 23 January 2003, OSDSIE even referred to the principle of gender equality in labour relations, opposing all practices and forms of gender discrimination and calling on the government to communicate the social benefits of transferring best practices from the EU. It would not be an exaggeration to state that OSDSIE has contributed to the development of a culture of mutual trust and tolerance among its participants, which later on was reflected by their capacity to cooperate around the European social dialogue for many years. This will be discussed later in this article.

Beyond doubt, the legacy of OSDSIE are the provisions of the Labour Code concerning the rules of teleworking. This was the first attempt of the Polish social

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<sup>13</sup> Specifically, the Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees and Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.

partners to implement the framework agreement of European social partners autonomously. There were no model solutions, the procedure had to be created from scratch. It is therefore hardly surprising that the preparations took much longer than the subsequent negotiation process. In October 2003 OSDSIE adopted a position indicating that implementation should take place through bipartite negotiations, with the government as the guarantor of implementation of the provisions of the agreement concluded. However, it was only in April 2004 that the rules for conducting negotiations were agreed. It was decided that they would be carried out under the auspices of OSDSIE, and that the negotiators would be appointed by representative social partner organisations at the request of the Minister of Labour. The executive bodies of the representative organisations, so far focused mainly on tripartite activities, were so surprised by OSDSIE's innovative initiative that it was only after 7 months that the negotiation teams were formed. The negotiations themselves, in turn, run smoothly: they were initiated on 28 January 2005 and concluded on 25 June that year by signing of an agreement. Its preamble states: 'Recognising the situation in the Polish labour market and the desire to improve the competitiveness of enterprises, the social partner organisations representative at national level ... recognise the need to create the right framework for the development of flexible forms of employment, including teleworking, while emphasising the need to strike a balance between employment flexibility and social security for workers'<sup>14</sup>. The subsequent paragraphs stress the voluntary nature of teleworking and respect for privacy, refer to data protection, work equipment, health and safety standards, etc. This was a professional agreement. However, problems began to appear immediately, and OSDSIE members were well aware that a bipartite agreement alone was not enough to achieve the desired effect in Polish conditions. To ensure the universality of application of the adopted rules, changes to the legislative framework were necessary. Initially, partners considered drafting relevant proposals themselves. This idea, however, was abandoned. The draft of the new regulations was prepared by the government in 2006. The government pointed out that the changes faithfully reflected the expectations of the social partners. And so it was.

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<sup>14</sup> [http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/36b91\\_tele.pdf](http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/36b91_tele.pdf)



## The Post-OSDSIE Landscape: from Spontaneous Actions to Re-institutionalisation

At the beginning of 2006 OSDSIE ceased to operate, which meant that the Polish social partners lost a stable tool to work on the implementation of the outcomes of ESD. There were no other procedures developed for bipartite cross-sectoral negotiations. *Ad hoc* solutions had to be devised. An important element was that the network of experts previously involved in the work of the OSDSIE was maintained. Thanks to this, procedures were worked out which would be replicated in the implementation of subsequent framework agreements. Each time, the actions started with a project co-financed from the European Commission's 'social dialogue' budget line and implemented by the 'Solidarność' Trade Union, which was the project leader, in cooperation with other social partner organisations. In order to ensure the 'international' character of the project, which was a condition for receiving support from the Commission, organisations from other EU countries were also invited to participate in the exchange of 'best practices'. It was clear, however, that the main objective was to prepare the ground for national implementation negotiations. Thus, within the framework of each project, workshops of social partners were held, which resulted in joint recommendations of the participating experts addressed to their home organisations, recommending that autonomous implementation negotiations be undertaken. And it worked: the boards of the organisations did not resist and made decisions about entering into autonomous negotiations.

This mechanism was used for the first time when implementing the agreement on work-related stress. Bipartite negotiations began on 15 January 2008 and were concluded in June of the same year with agreement on the content of a joint statement. Due to logistical problems<sup>15</sup>, the heads of the organisation did not sign the agreement until 14 November 2008. In the preamble, the statement asserted that its objective 'is to identify actions to raise the awareness of employers, employers' organisations, trade unions and workers about work-related stress and ways of counteracting it'<sup>16</sup>. Since

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<sup>15</sup> The formal signing of the declaration took almost as long as the negotiation process, this was due to the fact that, after the conclusion of the negotiations, it was not clear for a long time who was to coordinate the procedure.

<sup>16</sup> [http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/36b91\\_deklaracja\\_stres.pdf](http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/36b91_deklaracja_stres.pdf)

the negative consequences of work-related stress affect both business and society at large, 'the struggle against stress at work should be a joint responsibility of employers, employers' organisations, trade unions and employees'. The parties pledged that they would encourage their members to address the issue of reducing work-related stress in all collective bargaining covering the subject of working environment. The ambitions of trade unions went further: they hoped that the negotiations would, again, result in proposals for legal regulations, this time supporting the fight against stress at work. However, the employers' representation was strongly against such approach, supported by the position of the Ministry of Labour and Social Policy which stated that the implementation of the European framework agreement did not require changes in labour legislation, since the existing regulations were sufficient.

Work on the implementation of the next agreement, on harassment and violence at work, was carried out according to a similar model and with similar outcome. However, it took much longer to negotiate: negotiations began on 20 October 2009 and were concluded in November 2010. The formal signing of the statement by the heads of organisations took place on 24 March 2011<sup>17</sup>. The trade unions postulated the revision of legal provisions so as to explicitly take into account psychosocial risks (including violence) in occupational risk assessment. The employers did not share this opinion. They pointed out that there were legal instruments against mobbing. However, when trade unionists proposed to formalise cooperation on anti-mobbing policy in companies, employers' negotiators declared that they did not have a mandate from members of their organisations to make decisions that would limit the autonomy in managing their companies. Thus, it was not possible to agree on recommendations concerning changes to the legal framework. Instead, the parties agreed that 'the elimination and reduction of risks caused by harassment and violence at work should be a matter of common concern for employers, employers' organisations and employees and their representatives, and should receive appropriate support from public authorities'<sup>18</sup>. However, there has been some progress compared to previous negotiations. Since there was a recognition of the fact that 'the mutual exchange of experiences and best practices in dealing with harassment and violence at work is valuable', a decision was taken to set up a permanent social partners' team on harassment and violence at work to coordinate this exchange.

The social partners began further negotiations on the issue of occupational psychosocial risks in October 2012. It is worth noting that this came about through

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<sup>17</sup> The situation was the same as with the previous statement.

<sup>18</sup> [http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/11817\\_nekanie.pdf](http://www.solidarnosc.org.pl/stara/uploads/oryginal/3/3/11817_nekanie.pdf)

their autonomous initiative, as a reaction to the aforementioned report of the European Commission of 24 February 2011, which suggested that Poland was one of the countries where there were doubts about the actual effectiveness of the implementation of the work-related stress agreement (European Commission 2011: 3). This time, the talks were more fruitful and resulted in the joint recommendations adopted on 7 February 2014. These presented a catalogue of best practices recommended for use by trade unions and employers at all levels of their activity. According to the negotiators, 'The dissemination of best practices is a useful way to effectively reduce the scale of risk of work-related stress with a relatively low costs for employers, which is particularly important for the small and medium-sized enterprise sector'<sup>19</sup>. The authors also recommended that 'voluntary, informed action in this field should be accompanied by dialogue between employer and employee representatives and by actions involving employers and employees around the implementation of the adopted measures'. Interestingly, recommendations regarding changes to the legislative framework were also agreed. Specifically, these were the proposals to modify two occupational health and safety related regulations in order to include psychosocial risks in occupational risk assessment. This time, the employers were in favour of these changes. The recommendations were highly appreciated by the Polish Central Institute for Labour Protection and National Labour Inspectorate. But the proposals for legislative changes sent to the Ministry of Labour were ignored, as they have not received any reaction to date. The negotiators also recognised that 'there is an urgent need for joint action on work-related stress issues in a continuous, consistent and organised manner'. To achieve this, it was decided to use the potential of the existing joint social partner team on harassment and violence at work which in April 2014 was broadened and transformed into a team on psychosocial risks. It is worth noting that the team is still active, being perhaps the only non-state sponsored cross-sectoral social dialogue body in our country.

As for the implementation of the inclusive labour market agreement, it did not follow the same path. The implementation negotiations started on the initiative of the NSZZ 'Solidarność' and were led by this trade union, even though it had previously strongly criticised the content of the agreement at the ETUC. On 18 May 2012, the social partners agreed that they would prepare a joint analysis of the challenges on the Polish labour market and then make proposals for recommendations for the government and internal recommendations, for the organisations, relating to

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<sup>19</sup> [http://www.solidarnosc.org.pl/images/files/dokumenty/Rekomendacje\\_partnerw\\_spoecznych\\_dotyczce\\_stresu\\_related\\_z\\_prac.pdf](http://www.solidarnosc.org.pl/images/files/dokumenty/Rekomendacje_partnerw_spoecznych_dotyczce_stresu_related_z_prac.pdf)

the following four vulnerable groups in the Polish labour market: women, young people, the elderly and people with disabilities. At the beginning the prospects looked promising, but it turned out that subsequent meetings did not bring any progress. Negotiators representing employers did not present their own proposals, nor did they react to the proposals of trade unions. After 12 months of fruitless meetings, due to the inability of the employers' representation to comply with the arrangements adopted at previous meetings, and in particular, due to their failure to present their proposals regarding the analysis of challenges in the labour market, the trade unions suspended their participation in the negotiations. The trade unionists promised to resume the negotiations as soon as the other party showed a genuine desire of concluding the negotiations. The desire only appeared a year and a half later. The bitterness of the trade union negotiators, because of the lost time, and their justified mistrust were so deep that they demanded that the representation of employers take over the task of chairing the next round of negotiations. This did not come about and talks were not resumed. The external cause of the failure of these negotiations was certainly the poor quality of the European agreement, its vagueness, opacity and shallowness. The reports on the implementation of the agreement presented by the national social partners to the EU Social Dialogue Committee can testify to the fact that this is not merely a Polish conclusion. In many cases, other initiatives, which would have been implemented anyway, have been 'included' to the ILM implementation actions. Polish social partners decided not to keep up appearances and did not present a joint report. However, this can hardly be considered a disregard for the outcomes of the ESD. It should be noted that the 'work-related stress' negotiations described above, which were conducted almost at the same time, have reached a satisfactory end. However, that European agreement did contain concrete benchmarks. On the other hand, it has to be admitted that there was also an internal reason for the failure. The formula of an ad-hoc bipartite dialogue on European matters based on personal contacts between experts, which were rooted in the OSDSIE era, began to run out of steam, which was also related to generational change. This change became evident during the Polish implementation process of the European Framework of Actions for Youth Employment, a document that was also prepared within the ESD mechanism<sup>20</sup>. Initiated in 2015 by the Polish members of the EU Social Dialogue Committee, the talks were then conducted by

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<sup>20</sup> Paradoxically, although framework of actions (FoA) are 'weaker' ESD instruments than framework agreements (FA), in this case the FoA provisions were much more specific than in the ILM FA.

young experts and activists representing both parties to the dialogue. They resulted in joint recommendations concerning internships in the open labour market, with highly specific provisions, e.g. concerning the suggested working time or mentoring. Autonomous negotiations were concluded with the adoption of a resolution of the social partners of the Social Dialogue Council on 19 June 2017 (RDS 2017).

At this point, the new opening in terms of Polish social partners actions with regard to European social dialogue will be discussed. In July 2015, as a result of breaking the deadlock around the form of tripartite dialogue in Poland that had lasted for two years, a new institution, the Social Dialogue Council (RDS, from its Polish acronym), was set up. The remit of one of its taskforces, Taskforce for the Development of Social Dialogue, included, among others, work on the implementation of the outcomes of European social dialogue in Poland, and, in particular, its framework agreements and frameworks of actions. It was obvious, however, that the tripartite composition of the taskforce was not compatible with the autonomous nature of European social dialogue. Two organisations that were heavily involved in the implementation of the ESD, i.e. the 'Solidarność' Trade Union and the Polish Craft Association, took the initiative to establish a bipartite working group for European social dialogue (GREDS, from its Polish acronym) within the taskforce. It was established on 22 November 2016. Thus, more than 10 years after the collapse of the OSDSIE, the Polish social partners again had a platform for actions for the implementation of ESD outcomes. GREDS started its activities by presenting a proposal for the 'rules of Monitoring and Support by the Social Dialogue Council for the Implementation of European Social Dialogue outcomes in Poland'. It was accepted by the RDS Presidium and became a basis for further actions. The idea is simple: after a two-stage discussion within GREDS, recommendations are made to the social partners (employers and trade unions) in the relevant RDS taskforce(s) to take further substantive discussion and decisions on how to implement a given ESD outcome.

First, the work of GREDS focused on developing recommendations for the implementation of the EFA on Active Ageing and Intergenerational Approach (AAIA) of 2017 in Poland. In March 2018, following the translation of the agreement and a number of discussions among experts, it was decided that the subject of the mentoring agreement and change in the organisation of working time would be submitted for consideration to the RDS Labour Law Taskforce, whereas the RDS Labour Market Policy Reform Taskforce would deal with a proposal to assess the availability of trainings in the context of the idea of lifelong learning and the offer for older employees. Following a series of discussions held within the Labour Law taskforce (both autonomous discussions and with the participation of government

representatives), in 2019, the Confederation Lewiatan presented to the other social partners a draft Agreement between the employees and employers representation on active ageing. Bipartite negotiations were short and fruitful, although the text was not officially signed until 8 June 2020 (the delay was caused by the COVID-19 epidemic). In accordance with the provisions of the agreement, the social partners affirm their joint commitment to introduce, for example, such solutions as: improvement of employment conditions, including the introduction of an additional break from work and increasing the autonomy of working time of older workers; promotion of health at work and beyond, inter alia, by counteracting routine / burnout, reducing the strain of carrying out specific tasks or gender-specific adaptations at work; management of skills and competences, including support for educational investment in human capital and implementation of the so-called mentoring contract<sup>21</sup>.

In this way, the first test of the procedure developed by GREDS was successfully completed. Of course, up to date, the success only applies to the efficiency of the mechanism in question. The real impact of the agreement will be determined by whether its provisions will be taken into account by the very social partners that signed it in the substantive work of the RDS. The signatories of the agreement decided to evaluate its effectiveness in 2023.

## The Involvement of Social Partners in the European Semester Process

Another initiative taken up by GREDS was to increase activities of the RDS with regard to the European Semester. This is a relatively recent development. European Semester describes the procedure for coordinating economic and budgetary policies in the EU. It was introduced a decade ago to prevent a repeat of the 2008 fiscal crisis. This is a cyclical procedure. Each year in December, the European Commission presents the Annual Growth Survey (AGS)<sup>22</sup>. In February, it publishes country reports assessing the progress of the country in the previous cycle. The European

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<sup>21</sup> [http://www.solidarnosc.org.pl/images/files/dokumenty/bran%C5%BCowe/Porozumienie\\_polskich\\_partnerow\\_spoecznych\\_na\\_rzecz\\_aktywnego\\_starzenia\\_sie.pdf](http://www.solidarnosc.org.pl/images/files/dokumenty/bran%C5%BCowe/Porozumienie_polskich_partnerow_spoecznych_na_rzecz_aktywnego_starzenia_sie.pdf)

<sup>22</sup> Since December 2019, this document is called the Annual Sustainable Growth Strategy (ASGS). The name change is related to the refocusing of the Semester include the objectives of the European Green Deal.

Council then sets out guidelines for the priorities under the Semester in March. Based on this, Member States prepare National Reform Programmes and Stability or Convergence Programmes in April. These are assessed by the EU institutions. As a result, in May, the Commission proposes country-specific recommendations (CSRs) for actions to be taken by the Member States when planning their budgets and macroeconomic policies for next year, with final approval by the European Council in June. This is, in a nutshell, how the procedure looks like. Initially, despite the obvious impact on the labour market and social policy of the activities potentially carried out under the Semester, no role was envisaged for the social partners in this process. This caused a backlash from both the ETUC and EU employers' organisations. As a result, the procedure has been modified. Now, the European social partners are fully involved in the consultation process. An increase in their involvement in the Semester was guaranteed in the joint statement entitled *A New Start for Social Dialogue* signed on 27 June 2016 by the Dutch Presidency on behalf of the Council, the Commission, and European social partners<sup>23</sup>. The statement also promises that efforts would be made to ensure timely and appropriate involvement of national social partners in the Semester procedure. However, the situation in this regard in some EU Member States leaves much to be desired.

In Poland, issues related to the European Semester are discussed in the Interministerial Team for 'Europe 2020' Strategy. Representative social partners do participate in its work, but are regarded as merely one of many stakeholders to whom information about the government's activities is passed. According to regular surveys on the involvement of national social partners in the European Semester, carried out by the Dublin Foundation, Polish organisations do not feel that their voice is being listened to and taken sufficiently into account (Eurofound 2020). Therefore, GREDS prepared several variants of recommendations concerning the strengthening of indirect involvement of social partners in the Semester process – within the RDS. The initial proposal was very ambitious: one of the variants envisaged the establishment of a separate taskforce for the European Semester. This was met with a strong opposition from the government. Ultimately, the RDS Presidium approved the minimalist variant. The government representatives did not oppose it, as it clearly stated that the RDS would only focus on analysing the documents prepared by the EU institutions and would not comment on the actions of national institutions in the context of the Semester. Hence, GREDS would carry out an initial review of the basic

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<sup>23</sup> *A New Start for Social Dialogue – Statement of the Presidency of the Council of the European Union, the European Commission and the European Social Partners, 27 June 2016.*

documents of the Semester (ASGS, CR, CSR) and provide brief information on their content in fields relevant to social partners, including recommendations on subjects that could be addressed by the relevant RDS taskforces. Once a year, following the adoption by the Economic and Financial Affairs Council (ECOFIN) of an opinion on the Stability/Convergence Programmes and National Recommendations, a plenary debate in the RDS would also take place. GREDS has started the implementation of these tasks: it has presented information on the ASGS (January 2020) and the draft CSRs (June 2020), together with relevant recommendations. As for the former document, the recommendation stated that due to the change of focus of the Semester (to the European Green Deal implementation mechanism), the RDS should start a discussion on the implementation of sustainable development objectives in Poland and request the information from the government on how it intends to conduct consultations with social partners in this field. As for the draft CSRs for Poland, the recommendations included a call for urgent discussions on the legislative regulation of online work, which is an obvious consequence of the changes in the working environment caused by COVID-19.

## Concluding Remarks

It seems that promoting direct dialogue between the labour and the capital has never been a priority for public authorities in Poland. The case of the support for OSDSIE described in this paper does not alter this picture. This was a fleeting initiative which sprung at a specific period, right before Polish accession to the EU, and also had a propaganda dimension: to show the commitment of the Polish Government to the promotion of social dialogue around European issues. The initiative then simply fizzled out. Generally speaking, the policy of the government (regardless of its ideological origins), implemented since the beginning of the political transformation after 1991, can be summed up as offering verbal support for the idea of dialogue between social partners, with no specific actions to ensure its effectiveness. As a result, a model of industrial relations that was established in Poland is based on strong decentralisation, or even fragmentation, of collective bargaining. In these conditions, there was no place for ensuring proper ground for the development of genuine autonomy of social partners.



One of the few impulses to carry out cross-sectoral bipartite dialogue has been the inclusion of social partners into the European social dialogue. Although the remarks made in the introductory part of this article do not inspire optimism about the impact of this mechanism, its existence undoubtedly affects Polish social partners, who are affiliated at EU level. They feel obliged to negotiate autonomously (without the participation of the government) the implementation of the ESD outcomes. There may be different opinions on the effects of these actions. The research carried out within the ARTUS-CEE project<sup>24</sup> suggests that many trade union leaders have little knowledge about the effects of implementing European autonomous agreements. The same is probably true for members of employers' organisations. Focused on the phantom mechanisms of tripartite dialogue, Polish 'umbrella' organisations of social partners are not able to effectively promote their achievements within the framework of autonomous dialogue. One can hope that this will change a little, thanks to the existence of a permanent platform for bipartite dialogue on European issues within the framework of the tripartite RDS, if the results of its work are not marginalised and the social partners themselves are interested in its maintaining.

And the final point. The COVID-19 pandemic and the fight against its consequences for the labour market have fully exposed the threats arising from the weakness of bipartite dialogue in Poland. The government began to work out legislative proposals in the field of labour relations without paying attention to the opinions of trade unions and employers' organisations. Despite the fact that in many cases these proposals drastically interfered with the autonomy of the social partners. However, the latter were unable to take effective joint action to defend their autonomy. This suggests that Polish social partner organisations may be facing more serious problems than just the quality of cooperation around the implementation of the outcomes of European social dialogue.

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<sup>24</sup> The research project entitled 'Articulation of the Trade Unions' Strategies on upward convergence of social standards in the enlarged European Union – voice of CEE countries' is being carried out in 2019–2020 by the Institute of Public Affairs in cooperation with research institutes from several Central and Eastern European countries.

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