

# The nail in the coffin? Pandemic and social dialogue in Poland

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## Abstract

**Purpose** – In the context of debates on the role of social partners in shaping anti-crisis policies, the article explores the developments of social dialogue in Poland following the outbreak of the pandemic. The central research question is whether the crisis has helped to revitalise social dialogue or has it further revealed its weaknesses that were apparent before it.

**Design/methodology/approach** – The paper is based on the combination of literature review and the analysis of primary data derived from 22 expert interviews with the representatives of trade unions, employers and ministries collected in 2020–2021 in four essential industries (education, health care, social care and logistics).

**Findings** – The analysis suggests that the pandemic led to reinforcement of “illusory corporatism” in Poland, deepened mistrust among social partners and triggered a shift to informal channels of influencing policymaking. The weakness of the social partners and the strong position of the right-wing populist government meant that fears of recession and a health crisis were insufficient to develop “crisis” corporatism. While business interests were represented better than labour in policymaking, limited labour-friendly outcomes have been achieved as a result of workers’ mobilisation and unilateral decisions of the government rather than tripartite social dialogue.

**Originality/value** – Based on original empirical research, the article contributes to the discussion on the impact of the crisis on social dialogue under patchwork capitalism. It points to the role of strong governments and informality in circumventing tripartite structures and the importance of essential workers’ mobilisation in response to the lack of social dialogue.

**Keywords** Social dialogue, Tripartism, Pandemic, Poland, Crisis, Trade unions, Path dependency

**Paper type** Research paper

## 1. Introduction

The arrival of Covid-19 in 2020 was initially seen as an unprecedented event, likely to trigger a radical type of social change. Three years later, however, with the pandemic still present but apparently past its momentum, the views have become much more nuanced and balanced. The existing studies suggest that the role of social dialogue in managing pandemic crisis has been path-dependent: the countries with traditions of social partnership cooperation made use of social dialogue more extensively than those with more fragmented industrial relations



(Ebbinghaus and Weishaupt, 2022a; Meardi and Tassinari, 2022; Toplišek *et al.*, 2022). Simultaneously, there are counterarguments that the pandemic emergency served as a booster for a renewed social partnership, even in the countries in which it had eroded in pre-pandemic periods (Brandl, 2023). Strikingly, the consequences of the Covid-19 crisis for the industrial relations are relatively rarely discussed in international literature, and the analysis on the development of social dialogue during pandemic in Central and Eastern European countries remains even more scarce and policy-focused (Brandl, 2023; Gardawski and Towalski, 2020; Lukáčová *et al.*, 2022; Surdykowska, 2021).

In this context, referring to theoretical debates on diversity of Central and Eastern European capitalism(s) and industrial relations (Gardawski and Meardi, 2010; Rapacki, 2019) and the political, institutional and economic conditions for social dialogue (Traxler, 2010), the article aims at exploring the developments of social dialogue in Poland following the outbreak of the pandemic. The main research question is whether the crisis has helped to revitalise social dialogue or has it further revealed its weaknesses that were apparent before it. Based on the analysis of expert interviews with the representatives of trade unions, employer organisations and ministries involved in tripartite social dialogue, we formulate a thesis that Covid-19 has not been a disruptive change that would overturn institutional foundations of industrial relations in Poland. Instead, just like in the case of the previous crises, it amplified the phenomena that had been already present before, namely serious imbalance of power within the tripartite relations among the state, the employers and the trade unions. It also encouraged voluntaristic tendencies of the government, with public policymaking disregarding social concertation.

The article revisits the familiar ground of tripartite social dialogue in times of crisis and adds new arguments to the ongoing debates on the path-dependent development of social partners' and governments' responses to the pandemic-driver economic downturn (Avdagic *et al.*, 2011; Brandl, 2023; Ebbinghaus and Weishaupt, 2022b; Meardi and Tassinari, 2022). It does so by focusing on the case of Poland which has been earlier described in terms of "illusory corporatism" characterised by "façade negotiations" aimed at winning "the complicity of labour for neoliberal transformation" (Ost, 2011, p. 20) or "PR-corporatism" designed to demonstrate government's "adherence to the consensual mode of policy-making" (Bernaciak, 2013, p. 239). The analysis suggests that the pandemic led to reinforcement of "illusory corporatism" in Poland, deepened mistrust among social partners and enhanced informal channels of influencing policymaking. The unprecedented health care crisis served as an additional excuse not to involve social partners in consensual policymaking. While some improvements of social dialogue were noticed in 2021 (Surdykowska, 2021), the pandemics made the further erosion of the tripartism in Poland possible and, unlike during the 2008+ crisis, did not boost even a short-lived "crisis corporatism" in fear of economic shocks (Czarzasty and Mrozowicki, 2022). In that context, business interests were better represented than those of labour, and rather limited, pro-worker policies were achieved not due to tripartite negotiations, but as a result of trade union organising and mobilisation or – more often – thanks to unilateral decisions of right-wing government striving to sustain popular support for its policies by workers. The reproduction of "illusory corporatism" is interpreted in the light of existing theoretical literature on the conditions of successful social dialogue (Baccaro and Lim, 2007; Guardiancich and Molina, 2022; Perez-Diaz, 1986) as the result of durable power imbalance in relations of the state, employer organisations and trade unions, the institutional deficiencies of the social dialogue institutions and the "window-dressing", and PR-oriented approach to social dialogue by the government.

The remainder of the article is organised as follows: first, we provide an overview of the literature, empirical accounts and theoretical concepts regarding the role of social dialogue, especially tripartite institutions, in dealing with socio-economic crises. Next, a methodological note is presented and, subsequently, we deliver an analysis of the 22 expert interviews with

trade unions', employers' and the government's representatives we collected in the course of the COV-WORK project. The conclusions and discussion follow.

## 2. The role of social dialogue in socio-economic crisis: theoretical inspirations

Looking back at the history of neo-corporatism in Europe, it is not difficult to find evidence that social dialogue can play a positive role in mitigating or even curing, to some extent, various consequences of socio-economic crises. There are many examples of social dialogue accomplishments from the era of successful social pacting (Avdagic *et al.*, 2011), although not so much in Central and Eastern Europe (CEE) (Ost, 2011). What is more, it is a plausible claim to make that a crisis can (re)ignite social dialogue (Ebbinghaus and Weishaupt, 2022b). This could happen either by employing its previously unutilised potential or, quite to the contrary, unmasking deficiencies thereof, thus providing incentives to improve the capacities, reconstruct them (by the means of replacing inefficient institutions with new ones) or even build them from the scrap, if institutional vacuums are exposed (Ebbinghaus and Weishaupt, 2022a, b; Katzenstein, 1985).

In order to properly assess the role of social dialogue in battling crises, a dynamic perspective on social dialogue must be adopted. Social dialogue is, thus, seen as “a system of policymaking, rather than a structure of interest representation” (Guardiancich and Molina, 2022, p. 87). In other words, this fulfils the definition of “corporatism IP”, that is, concertation, in contrast to “corporatism I”, which denotes interest-group organisation (Lehmbruch and Schmitter, 1982, pp. 262–263). There is a long and rich tradition of analyses of corporatism that focus on concertation, interest group participation in policymaking or political-economic consensus and claim those phenomena are key components of corporatism (e.g. Baccaro and Lim, 2007; Katzenstein, 1985; Traxler *et al.*, 2001).

The notion of “crisis corporatism” discussed by Urban (2012) and developed further by Ebbinghaus and Weishaupt (2022b) describes processes of negotiation, coordination and cooperation between state, labour and capital in the context of crisis. Urban (2012, p. 230) points out to asymmetry of power between financial capital and other stakeholders (not just trade unions but also state and even “real capital”) and claims that the latter, being weaker in comparison to the former, may be drawn together to form “alliances of the weak”, and in those coalitions, trade unions would play the role of “crisis moderator”. Drawing on the experiences of the 2008+ crises, Ebbinghaus and Weishaupt (2022a) treat crisis corporatism as the central topic of cross-national analysis, albeit in a critical way. In short, they argue that countries where the tradition of social partnership (mainly countries with corporatist-like industrial relations such as Germany or the Netherlands) made use of social dialogue more extensively than those with more fragmented industrial relations leaning on the pluralist type (such as Ireland or Poland). On the other hand, “crisis situations – however severe – do not automatically lead to a flourishing of such experiments in social partnership” (Meardi and Tassinari, 2022, p. 3).

What brings social partners and governments closer to one another and could be described as prerequisites for successful social dialogue in the circumstances of crisis? Based on past experiences, there seem to be two core conditions: first, weak central governments seeking endorsement of their policies by other stakeholders (Baccaro and Lim, 2007; Perez-Diaz, 1986), and second, robust power resources of social partners that would facilitate their veto power (e.g. Traxler, 2010). As Ebbinghaus and Weishaupt (2022b, p. 273) conclude, “governments can ignore weak social partners but they might still engage with them if electoral gains can be made, while more resourceful social partners can be an assent and them become sought-after partners”. There is a correlation between the strength of national-level industrial relations institutions (strong and influential social partners and robust collective bargaining) and the impact of tripartite concertation on public policy programming.

Wherever the institutional environment is viable, the mark tripartite negotiations could leave on public policy is – at least potentially – stronger. And, on the contrary, deficient institutions at the national level are likely to undermine or even dismantle social dialogue.

[Guardiancich and Molina \(2022\)](#) provide a useful summary of fundamental conditions for a viable social dialogue at national level – seen as the “corporatism II” – in terms of policy effectiveness. They include (1) an enabling external environment, (2) an encompassing mandate and (3) problem-solving capacity. The first condition concerns “the acceptance of social dialogue as a part of policymaking process” ([Guardiancich and Molina, 2022](#), p. 90), which involves political support to social dialogue and mutual trust between the social partners. The second one means that social dialogue institutions are endowed with “effective capacity” to consult and/or negotiate socio-economic issues. The third one refers to the balanced power resources of social partners which should translate in their interest in cooperation and increase their capacity to solve socio-economic problems. In the next section, these general considerations will be juxtaposed with the literature on the role of social dialogue institutions in combating the crises in Poland and CEE more broadly as compared to the “old” corporatist countries in Western Europe.

### 3. Pandemic, the crawling crisis and illusory corporatism: the case of Poland

This paper explores the role of social dialogue in mitigating the crisis in the case of Poland as an example of Central and East European semi-peripheral economy. Semi-peripheral countries are fragile to exogenous shocks because of their dependability on the centres of economic development. This is well illustrated by the concept of patchwork capitalism ([Rapacki, 2019](#)), a specific type of institutional order arguably present in the CEE, marked, due to historic legacies, by internal heterogeneity, institutional ambiguity and missing complementarities at various levels of its architecture. Patchwork capitalism has developed in a cyclical, crisis-driven pattern, and its internal incoherence would often prove a source of adaptability to radical shifts in the external environment, including, as argued by [Gardawski and Towalski \(2020, p. 54\)](#), the shock of pandemic. Yet, these ad hoc adaptations are not necessarily a result of well-designed policy responses negotiated with social partners. Besides institutional problems, “crisis corporatism” is weakened due to economic dependency of CEE on capital transfers via transnational corporations which are not interested in multi-employer collective bargaining ([Nölke and Vliegenthart, 2009](#)).

The article focuses on Poland, known as a notable example of limited and inefficient social dialogue ([Gardawski and Meardi, 2010](#)). Poland – along with most of the CEE so-called new member states entering the EU from 2004 onwards – provides an example of a country where tripartism has been implemented mainly as a necessary precondition for EU membership ([Vaughan-Whitehead, 2000](#)) but never become embedded. It gave the ground for comments that “[i]t should not be assumed that tripartite structures in CEE countries will result in the sort of corporatist outcomes with which they are associated in Western European countries” ([Wallis and Winterton, 2022, p. 386](#)). Reflecting upon tripartism in CEE, [Ost \(2000, 2011\)](#) coined the concept of “illusory corporatism”. The latter term refers to the presence of tripartite institutions which performed their formal duties but failed to make significant impact on public policies and industrial relations. Instead, they legitimised neoliberal policies that ultimately undermined workers’ interests. Similarly, [Bernaciak \(2013\)](#) proposed the term “PR-corporatism” and claimed that tripartite bodies in CEE were used by the governments in the times of crisis to boost popular support for their policies.

“Illusory corporatism” proved very resilient due to structural preconditions, that is, weakness of social partners on both sides of the industrial relations scene. Poland ranks close to the bottom of the union density rankings of the EU, with unionisation rate of 11% (national survey data) in 2021. Works councils have not become embedded in the industrial relations

landscape. Employer organisations' density is at most moderate (ICTWSS figures of 2018, stating it at 55% are debatable, mostly due to multiple membership). This does not mean that power of employers is low, because they exercise influence in different way, including lobbying and direct impact by multinational enterprises on policymaking. Finally, collective bargaining is largely dysfunctional with the coverage at around 15–20% and the virtual lack of multi-employer agreements beyond the public sector. Tripartism compensates for the latter phenomenon (involvement of the central-level body in setting the national minimum wage) somewhat and is seen by social partners as an important source of legitimacy.

Introduced relatively late, as compared to most of the CEE countries striving for EU membership, Poland's tripartite institutions have experienced ups and downs (including a hiatus of the central-level tripartite body between 2013 and 2015) over the years which, interestingly, coincided with episodes of a socio-economic crisis, actual or anticipated, taking place (Gardawski, 2009; Czarzasty and Mrozowicki, 2022). The first central-level tripartite body, the Tripartite Commission for Social and Economic Affairs, was established in 1994, albeit just by a governmental decree, and only gained stable legal foundations in 2001 with the adoption of the relevant legislation by the parliament. Meanwhile, the body experienced a stalemate between 1997 and 2001, without a single joint position reached. Subsequently, there were two futile attempts to negotiate a national social pact within the Tripartite Commission undertaken (2003–2004 and 2006).

In 2009, the social partners seating on the body managed to conclude a bipartite agreement, the so-called "Anti-crisis Package", later partly endorsed by the government in their anti-crisis legislation. Initially seen as a success and a potential turning point in the history of social dialogue in Poland, the "Anti-crisis Package" actually marked the beginning of another impasse in tripartism in Poland, eventually leading to all trade unions leaving the Tripartite Commission in a gesture of protest against unilateral policies (and politics) of the government in 2013. Absence of trade unions led to the demise of the body, which was eventually replaced by the Social Dialogue Council (SDC), furnished by law with stronger prerogatives in 2015. Despite the promising beginnings of the SDC, the victory of right-wing conservative Law and Justice (PiS) in the parliamentary elections in 2015 and its close collaboration with the largest Polish trade union, NSZZ "Solidarność" ("Solidarity") have not led to strengthening social dialogue. Conversely, the government continued to bypass the SDC when it pursued fundamental reforms of education, media and judicial systems and introduced flagship social programmes, such as income support for families with under-age children.

Thus, when the Covid-19 stroke, the institutional and structural conditions for social dialogue in Poland were very weak, and its problem-solving capacities were limited. At the same time, being an unprecedented external shock, the pandemic could potentially open some new opportunities for cooperation for at least two reasons. In the first place, Covid-19-entailed crisis, unlike the former one in 2008+, struck much more rapidly, forcing the stakeholders to react quickly, often in a spontaneous way. Secondly, it was an exogenous shock, and from the very beginning, its impact has been all-encompassing, resulting in "all in it together" type of narrative (Coulter, 2020), powerful in terms of creating a platform for collaborative efforts to minimise dreadful effects of the disastrous event, while discouraging scapegoating and blame-sharing frequently seen during the previous great downfall.

Brandl (2023, p. 23), while reviewing bipartite or tripartite initiatives in 19 OECD countries (including Poland) taken since the outbreak of Covid-19, concluded that the pandemic triggered "an unprecedented increase in tripartite social dialogue in many industrialized countries in the world". While increase in tripartite negotiations is an undisputable fact, the picture seems to be more nuanced. It is interesting that in some countries, where social dialogue largely failed during the post-2008 years (like Italy, Spain or Portugal), the current crisis has proven to be a trigger for social partnership and fruitful negotiations (Canalda Criado, 2022). However, there are countries where social dialogue addressing Covid-19-related turbulences can be described as not fully

matching expectations, among those, specific countries in CEE can be named as luminous examples (Poland and Romania) (Kirov *et al.*, 2023).

If pandemic had acted as a trigger of radical institutional change, there should be some revival of social dialogue also in such “critical” cases. Based on the earlier studies, a counter-hypothesis on the path-dependent reproduction of “illusory corporatism” despite the crisis situation can be formulated. In the remainder of the article, both scenarios will be discussed based on the original empirical data.

#### 4. Methodological note

In order to understand the perspectives of the institutional actors on the constraints and opportunities of social dialogue during the pandemic, 22 semi-structured, expert interviews with social partners were carried out in 2021–2022. The interviewees included key trade union leaders, employers’ representatives and the representatives of the Ministry of Health, and the Ministry of Family and Social Policy (see [Appendix](#)). Interviews were guided by the list of topics, such as the assessment of socio-economic situation during pandemic, the relevance of tripartite and bipartite social dialogue and collective bargaining for problem-solving, the assessment of the government’s measures to combat the pandemic and the predictions on the future of work following the pandemic crisis. Social partners represented national- and industry-level organisations in four industries: education, health care, social care and logistics. Although they differed in terms of their social relevance during pandemic, they could all be deemed “essential” for social reproduction of a society. The number of respondents was determined by theoretical saturation, defined as the moment in the analysis when subsequent data did not provide new information about the analytical categories and their properties (Glaser and Strauss, 1967, p. 61). In each industry studied, between three and five interviews were collected. They were supplemented by information on industry- and national-level developments provided by national-level informants.

The interviews carried out in four industries combined with desk research provided the foundation for exploring the relevance of structural and institutional conditions, as well as social actors’ capacities to carry out social dialogue during pandemic. Trade union density rates in pre-pandemic period, the latest available data are as of 2014, were the highest in education (25%), followed by health care and social care (21%) and warehousing and transport (24%), mostly due to the high unionisation of railways (GUS, 2015). Employer organisations are present in all industries studied, yet their density is unknown. There are formal national-level tripartite bodies, involving employers, trade unions and ministry representatives covering at least some sections of all industries studied, but their importance for policymaking was limited to information exchange even before the pandemic.

The extended analytical summaries were prepared for each interview, while 16 cases – the most informative and richest in content – were fully transcribed. The analysis included thematic coding of interviews which was focused on the relevance of social dialogue for shaping the anti-crisis measures. It was carried out with the support of the Atlas.ti software for data coding and focused on the following thematic fields: (1) the relations of trade unions and employer organisations with the government during pandemic; (2) the role of the tripartite SDC for shaping social partners’ responses to the crisis; (3) the relations between trade unions and employers, including conflicts and agreements during the pandemic.

#### 5. Industrial relations and social dialogue during pandemics in Poland

Based on the literature, three sources of the weakness of social dialogue in Poland can be distinguished. Firstly, there is the “power resources problem” which is reflected in a visible asymmetry of power between employers and trade unions, and the strong position of the

state in tripartite social dialogue (Gardawski and Meardi, 2010). Secondly, there are “institutional problems” connected with the limited role of the SDC in policymaking. Thirdly, there is an “interpretative problem” of what “social dialogue” actually means to social partners and the government. In the subsequent sections of the article, we will discuss whether the crisis triggered by the Covid-19 pandemic has led to overcoming these lasting structural and institutional problems or rather reinforced and deepened them.

### 5.1 *The relations of trade unions and employer organisations with the government*

The analysis confirms the observations from earlier studies which suggested that the arrival of Covid-19 to Poland has not boosted consultations and negotiations over the anti-crisis policies involving the government of Law and Justice and trade unions or employer organisations (Lukáčová *et al.*, 2022; Surdykowska, 2021). The general assessment of the quality of social dialogue by social partners was formulated in terms of “façade” which echoed the thesis on “illusory corporatism” (Ost, 2000, 2011). The interviewees mentioned short time for consultation of government proposals (usually, 48 h), very limited formal consultation of anti-crisis shields and the lack of consultation of financial shields. The anti-crisis shields (nine in total) involved government assistance to entrepreneurs, the self-employed and workers experiencing pandemic-related economic hardship. There were also Financial Shields (three altogether): special schemes of repayable financial support for enterprises (loans) not financed directly by the state budget but by the public corporation called the Polish Development Fund. The typical statements regarding the process of the implementation of anti-crisis policies were: “there was no time for consultations” (EX\_1\_ZNP), “we had 24 h to make comments [to anti-crisis shields]” (EX\_2\_OPZZ) and “it’s difficult to call it consultations, we rather issued expert opinions” (EX\_9\_Solidarity).

In the interviews, “organisational chaos” was a recurring metaphor for social dialogue at the arrival of the pandemic to Poland in March 2020. It indicated the breakdown of institutional order, which should not be surprising taking into account the crisis situation. The representatives of social partners mentioned number of institutional and structural factors that hampered social dialogue during the pandemic. Firstly, trade unions referred to the power asymmetry between the capital and labour and privileging employers over unions: “The mistake of this governing coalition is of systemic nature. It was the subordination of labour to the capital” (EX\_9\_Solidarity). Secondly, both employers and unionists pointed to the power of the government which did not need social partners to pursue their policies. Support for the right-wing populist Law and Justice government fell sharply during the pandemic (Pankowski, 2022). Yet, the government still enjoyed unshaken majority in the parliament which made it possible to ignore some of the social partners’ voices: (“I mean, it was stated: why should we talk if we can do it on our own (. . .)” (EX\_14\_Lewiatan)).

Power imbalance among social partners which constitutes an important obstacle for social dialogue (Guardiancich and Molina, 2022) was further magnified by what was seen by some trade unions and employer organisations as their unequal treatment by the government. Trade unions argued that employers’ interests were privileged over those of trade unions and NSZZ Solidarność (“Solidarity”), due to its long-standing collaboration with the Law and Justice government, had better access to the decision-makers than other unions. Trade unions other than “Solidarity” claimed that they had limited possibilities to directly lobby their postulates to the government, in particular as compared to employer organisations whose claims were listened to and included in the anti-crisis shields. As one of the trade union leaders observed:

We are having a dialogue with the government, and then the government is having a dialogue with “Solidarity” somewhere else, and then there is a conference where the Prime Minister pats Mr Duda

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[the chairman of Solidarity–AM] on the back and says that they are having a dialogue with “Solidarity”, that is, with all trade unionists. (EX\_12\_FZZ).

The representatives of employer organisations sounded more positive about their assessment of the anti-crisis measures adopted by the government as compared to trade unions, but even they have argued that the contacts with the government were outside the formal structures of the tripartite SDC (EX\_14\_Lewiatan). In the case of long-haul transport, trade unions said their voice was ignored by the government who talked directly with employer organisations: “The Minister of Transport gets along with employers all the time, he strives to make them better off (. . .)” (EX\_20\_Solidarity).

Thirdly, the problems of clashing competencies, shifting responsibilities and multiplying bodies dealing with similar issues have been mentioned by unionists, employers and even some representatives of the government. It all points to the chronic institutional problems of coordination typical for “patchwork capitalism” (Gardawski and Rapacki, 2021). For instance, the regulation of remote work was sent back and forth between the Ministry of Family, Labour and Social Policy and the newly established (October 2020) Ministry of Development, Labour and Technology, before finally landing in the (meanwhile renamed) Ministry of Family and Social Policy in August 2021.

The deficiencies of formal institutions enhanced the relevance of informal ones. In the first wave, the consultations with the government were largely informal, through direct contacts, on ad hoc basis, partially because of the insufficient IT infrastructure and lack of adequate regulation of remote meetings. The interviewed social partners and government representatives suggested that the limited social dialogue in the early phase of pandemic was partially justified by the turbulent and unexpected nature of the situation; an explanation resembling the one present in other countries (Meardi and Tassinari, 2022). The importance of informal consultations in dealing with pandemic crisis was also indicated by other studies (Brandl, 2023). Yet, in the case of Poland, the informality magnified an uneven situation with regard to access to the Law and Justice government: those partners who had better working relations with it prior to pandemic, e.g. due to political and ideological proximity, could do better in promoting their claims and expectations.

The weakness of the genuine consultations of anti-crisis measures combined with government’s claims about the high value attached by it to social dialogue confirms the continuous relevance of PR corporatism (Bernaciak, 2013) aimed at boosting governmental popularity rather than problem-solving (“the PM emphasises the role of social dialogue in his every speech” (EX\_9\_Solidarity)). The description of this kind of corporatism is visible, for instance, in the story of quasi-negotiations on the National Recovery and Resilience Plan presented by one of the trade union leaders:

EX\_2\_OPZZ: The idea of the National Recovery and Resilience Plan (KPO) appeared when this Next Generation EU programme was approved at the EU level. (. . .) And the Ministry at the end of August, the Ministry of [European] Funds, sent us information that first of all we could submit project fiches within the KPO, it was very interesting, they gave us two days to do it [laughs (. . .) And suddenly, in February, this National Recovery Plan appeared, in the form it has, because nobody had seen the new version yet, and we started to ask: “OK, but we did some work there for five months. And where is it? Where is the result of this work?”. And they answered us that it was just such . . . “Listen, it was just such an identification of needs”

Illusory corporatism, as documented in the interviews collected, served at least two social and political functions. Firstly, it enabled the government to demonstrate its attachment to social dialogue, in particular towards “Solidarity” which constituted its important electoral backbone. Secondly, it functioned as a way to communicate governments’ and social partners’ high commitment to tripartite social dialogue to international environment, including the European Union. The efforts to legitimise the government’s actions through social dialogue could have gained in importance also due to the unfolding conflict between the

Polish government and the European Commission (EC) over the violations of the rule of law following the reforms of judicial system by Law and Justice after 2015 which so far (April 2023) blocked the approval of Poland's national recovery plan by the EC.

### 5.2 *The assessment of the functioning of the social dialogue council*

The weakness of the tripartite social dialogue was commonly considered a lasting feature of the industrial relations system in Poland which has not been fixed by the transformation of the former Tripartite Commission for Socio-Economic Affairs into the SDC in 2015 (Surdykowska, 2020; Czarzasty and Mrozowicki, 2022). During the pandemic, earlier problems were reproduced and new ones appeared. The Covid-19 crisis boosted anti-liberal and anti-democratic tendencies which had emerged prior to it in some CEE countries, Poland included, with negative consequences for tripartite social dialogue (Bohle and Eihmanis, 2022). Guasti and Bustikova (2022, p. 17) note that illiberal parties in power gained “disproportionate access to emergency funds” that could have been used to maintain support of them and “reward Allies with a carrot and punish the opposition with a stick”.

The government's intentions towards tripartism became clear when the first legislation dedicated to combating the effects of – then still to be seen – crisis, known as the Anti-crisis Shield 1.0, was adopted. The regulation contained a clause (Article 46) violating the autonomy of the central-level tripartite body (SDC) and social partners by giving the Prime Minister the right to dismiss any member of the SDC if he/she commits an act of “misappropriation of the Council's activities, leading to the inability to conduct transparent, substantive and regular dialogue between employees and employers organisations and the government”. All national-level social partners (even the “Solidarity”) stood against the new regulations by issuing a joint statement and making appeals to international organisations, including ETUC, ITUC and ILO, with a success.

Given the early governments' assault on tripartism, it is hardly surprising that one of the informants described those months as the “worst period in the entire history of the [Social Dialogue] Council” (EX\_12\_FZZ). Although the regulations curbing the autonomy of SDC were abandoned, social partners' mistrust with the government persisted and further undermined its problem-solving capacities. The SDC was often bypassed the government that would push some anti-crisis measures not as their own but disguised as the MPs' proposals in order to skip the requirements for tripartite consultations. In practice, SDC was limited to being a platform for signalling problems rather than consulting or negotiating them. So practices detrimental to social dialogue known from the pre-pandemic times continued (Czarzasty and Mrozowicki, 2022).

Two factors further increased the government's unilateralism. The first one was the lack of procedures related to the organisations of online meetings of the SDC in the early months of pandemic. The second one concerned the absence of trust and consensus among social partners which the government used to unilaterally adopt some policies or withhold from adopting others. The case of the remote work described by one of the informants representing employers provides a noteworthy example:

EX\_14 Lewiatan: First the Ministry of Labour, outside of all official and media channels, in September 2020 made available to the members of the Social Dialogue Council such a working project on remote working. We worked on it for three or four months, we had meetings, sometimes even once a week, with the Ministry of Labour experts, trade unions and us. Even later there were autonomous negotiations between us and the trade unions. It didn't work out. Later it entered the social agreement, where there were negotiations again. We did not succeed. Then there is this draft now from the government, the official government draft, which was also, had to be consulted, so we sent our comments again, so you can say that the effect is unknown what it will be.

It needs to be added, though, that in May 2021, trade unions backed off from the negotiations as the governmental draft ignored their requests. In January 2023, the regulations on remote

work were finally incorporated into the Labour Code and passed through the parliament, albeit largely reflecting the government's perspective.

Although the stalemate in social dialogue has lasted through the first two years of pandemic, the situation evolved. In April 2020, as a result of informal negotiations between the government and "Solidarity", certain anti-union and anti-employee provisions of the draft Anti-crisis Shield 3.0 (e.g. suspending collective agreements and company social funds due to "economic hardship" experienced by the employer) were not included in the adopted legislation. In August 2020, SCD met for the first time for a plenary meeting since the pandemic's outbreak. In 2021, some revival was observed with 78 meetings of various tripartite teams compared to 39 in 2020 (of which 27 after March 2020). The recovery continued in 2022 with over 90 meetings of tripartite teams taking place. However, they were mostly focused on the information given by the government's representatives, with social partners participating in subsequent discussions. As they did not reach the consensus on core issues, such as minimum wage, pension increases and state budget plans, the government could continue to unilaterally pursue its proposals.

All in all, the Covid-19 crisis has not provided a booster for tripartism in Poland but rather reinforced its chronic weaknesses which reflected in particular the lack of enabling political environment and very limited problem-solving capacities (Guardiancich and Molina, 2022). In few cases, in which problems were addressed by social dialogue, the results were ambivalent. The negotiation of bonuses for medical and non-medical staff working with Covid patients in the tripartite team for health care in 2020–2021 provides an interesting example. While doctors and nurses in hospitals obtained such a bonus at the level of 100% of the hourly wage for each hour of contact with Covid patients, the rules of granting the bonuses excluded primary care doctors and non-medical personnel (e.g. diagnosticians). In the latter case, as a result of trade union pressure, the one-off bonus of 5,000 PLN was granted in December 2021, an outcome which was not in line with unions' postulates which demanded equal treatment of medical and non-medical staff.

### 5.3 *The relations between trade unions and employers: protests and agreements*

The chronic weakness of bipartite social dialogue manifested by the lack of enabling environment, power imbalances and institutional problems (Guardiancich and Molina, 2022) has also negatively affected bilateral social dialogue during the crisis. Bipartite dialogue in Poland was very limited in most industries after 1989, except in those with strong trade unions, which translated into their veto power over restructuring and privatisation plans (Gardawski, 2009). The virtual absence of sectoral level as a space for consultations and bilateral agreements is also a consequence of the strength of multinational enterprises that refuse to enter into multi-employer bargaining and the lack of institutional incentives to conclude collective agreements (Gardawski and Meardi, 2010). Simultaneously, in the public sector, represented by the most industries in focus (except logistics), the role of the employers is played by the state or local government. As a result, the aforementioned problems of social dialogue and communication between the trade unions and employers' organisations apply.

The potential strengthening of the role of bilateral dialogue may have been brought about by the Anti-crisis Shield 2.0. It required concluding an agreement with trade unions and, in case their absence, with employee representative appointed in accordance with the procedure adopted by the employer on such issues as reduction of working hours, the extension of the working time reference period to 12 months and changing the terms of employment contracts. It was estimated that some 20,000 agreements were signed till January 2021 [EX\_14\_Lewiatan], yet our informants suggested that the majority of them were concluded with non-union, ad hoc representatives appointed by employers [EX\_10\_Solidarity].

Although there is an opinion that the agreements on the implementation of anti-crisis shields were generally “effective” in preventing job losses (Latos-Miłkowska, 2020), their role as potential boosters of social dialogue was rather limited. As reported by the National Labour Inspectorate (PIP, 2022) monitoring violations in the implementation of anti-crisis shields, “the signatories to the agreement with the employer were most often trusted persons, i.e. among others, employees of the personnel, chief accountants” and the rest of the staff did not know about the agreement. The situation was much better in unionised enterprises in which trade unions had real influence on the stipulations of agreements preventing, for instance, the reduction of rank and file workers’ earnings in one of the logistic centres (IP, 2020). Interviewees also mentioned some more or less formal consultations of the introduction of health and safety measures in some unionised workplaces. In long-haul transport, an informal agreement between “Solidarity” and one of the employer organisations (“Transport and Logistics Poland”) was signed including the recommendations on the necessary measures to minimise health risks of truck drivers in the first months of pandemic. There is no information on such bilateral agreements in other industries studied which points to their very decentralised, company-level nature.

The institutional and structural problems which made bilateral social dialogue in Poland weak have not been overcome during pandemic. Instead, growing tensions and new areas of conflicts between trade unions and employers emerged in all industries studied. In logistics, the conflicts which had started in pre-pandemic period, e.g. the collective dispute in Amazon, continued after the Covid-19 outburst and expanded onto new issues, including work intensification and health and safety issues during pandemic. According to one of the trade union leaders, the mobilisation supported by the discourse of essentiality and international coordination of actions made pandemic an opportunity to voice louder and more efficiently concerns around job quality:

EX\_2\_L\_Workers’ Initiative: The pressure on the company led to things that we always said were a problem, which was the pace of work, the working hours. So it’s like, well, actually, as Amazon was introducing all these things, our postulate to close warehouses turned out to be more and more absurd when they started to open everything for the summer, so our postulate to close or reduce was more and more difficult to maintain, so we adopted this first strategy more and more, and we know that in the US it’s strongly exploited, that since we are essential employees we should be simply appreciated.

Workers’ Initiative also organised street protests (in November 2021, together with farmers’ movement – AgroUnia) and media campaigns following the dismissal of trade union activist and social labour inspector in Amazon in November 2021 which trade unions considered unlawful. Beyond Amazon, limited protests took place in other logistic centres (e.g. in Avon and HL Distribution). The first protests of food delivery couriers took place in two larger cities in Poland (Gdańsk and Białystok) in spring 2021. They focused on the issue of unpaid working time on the way to restaurants to pick up orders. In autumn 2022, the first trade union of food delivery workers in Poland was formed in the subsidiary of takeaway. Smaller protests were also organised by lorry drivers against the governmental restrictions during the pandemic and in favour of more advantageous regulations of working time.

New conflicts also emerged around the issues of financial compensation for work with the Covid-infected patients in health care. Their peak was the sit-in strike in front of the Prime Minister’s Office running for 75 days in autumn 2021. The “White Village 2.0” has focused in particular on wage postulates of workers who were underprivileged in the health care system, such as young resident doctors, paramedics, nurses and non-medical staff. As already mentioned, as a result of protest and tripartite consultations, the Covid wage bonuses were extended and covered a larger part of workforce employed in hospitals.

Much smaller (wage-oriented) protests were observed in education with street demonstrations organised in autumn 2021. The mistrust between the government and the largest organisation, the Polish Teachers' Union (ZNP), led to exchange of letters and opinions only, without any formal negotiations of important matters (e.g. financial support for teachers working remotely). Tensions in the relationship between the government and teachers continued throughout the pandemic, and even increased further in 2022 against a backdrop of stagnant wages and a shortage of hands to work in schools and new challenges connected with the arrival of Ukrainian refugee children to the Polish schools as a result of Russia's attack on Ukraine in February 2022. The pandemic also brought a momentum to organise employees in nursing homes around the issues of overtime, lack of Covid bonuses and understaffing in 2020–2022. It was led by organisations supported by Central European Organising Centre (COZZ), an NGO aided by UniGlobal and contributed to increase of internal solidarity among workers.

All in all, pandemic has not led to the reinforcement of company- and sectoral-level social dialogue in Poland. The data of the National Labour Inspectorate (PIP) indicate the further decline in the number of new collective agreements signed during the pandemic (68 in 2019, 49 in 2020 and 48 in 2021); the number of additional protocols to existing agreements which would modify their provisions declined too. In absolute terms, the number of strikes was limited to just 27 in 2020 and 7 in 2021. However, in the absence of social dialogue, workers in essential industries retreated to unorthodox forms of protests and intensified efforts aimed at trade union organising. Notably, a wave of such non-conventional workers' mobilisation rose from the second half of 2021 onwards, which can be explained by relaxed restrictions on public gatherings and growing assertiveness of labour as the pandemic was being gradually "normalised".

## 6. Discussion and implications

The article aimed at contributing to the discussion on "crisis corporatism" by exploring the role of social dialogue in managing the socio-economic and health care crisis triggered by the Covid-19 pandemic (Ebbinghaus and Weishaupt, 2022b; Meardi and Tassinari, 2022; Urban, 2012). Existing research suggests that economic crises can become an opportunity to develop social dialogue, provided certain institutional and political conditions are met. National governments have to seek support of social partners for anti-crisis policies, and trade unions and employers need to have sufficient organisational resources ("veto power") to be a partner for governments that cannot be ignored (Ebbinghaus and Weishaupt, 2022b; Traxler, 2010). In Poland's case, these conditions were not met in either the 2008+ crisis or in the Covid-19 pandemic crisis. However, while in the former case, the fear of recession unfolding triggered a short-lived "crisis corporatism" (Czorzasty and Mrozowicki, 2022), our analysis shows that global health risks and fear of economic downturn in 2020 were not sufficient for the development of social dialogue.

The research supports the hypothesis of path-dependent nature of managing socio-economic crises. As Meardi and Tassinari (2022, p. 15) note, "(r)ather than encouraging the forging of 'unitary politics', the pandemic seems to have, on the whole, reinforced some of the patterns, modes of interaction and frictions already present in each country". In Poland, this meant reproduction of mechanisms of "illusory corporatism", in which tripartite dialogue serves not so much to solve problems but to legitimise solutions adopted by the state (Ost, 2011). Yet, besides the traditionally identified factors undermining social dialogue, such as power imbalances and limited trust of social partners and institutional problems reflecting limited prerogatives of the RDS in the law-making process, the pandemic revealed new challenges.

Firstly, the Law and Justice government, similar to other anti-liberal governments in CEE (Bohle and Eihmanis, 2022), not only escaped consultations with social partners during the first months of the pandemic but made an (unsuccessful) attempt to institutionally weaken

the SDC. Empirical analysis exposes the mechanisms behind the emergence of the new versions of “illusory corporatism”. It combines ritualistic assertions of illiberal governments about their support to the idea of social dialogue with attempts to undermine autonomy of tripartite institutions *de iure* and to limit their prerogatives *de facto* by a set of procedural measures justified by the extraordinary conditions of the crisis. By exploring the emergence of the illiberal variety of illusory corporatism, the analysis contributes to the existing studies on pandemics as an opportunity to reinforce authoritarian tendencies in the development of capitalism in the countries, in which they had been present in pre-pandemic times (Bohle and Eihmanis, 2022; Guasti and Bustikova, 2022).

Secondly, the research provides additional arguments supporting Meardi and Tassinari’s (2022) thesis of trade unions in the “essential” industries becoming more assertive during the pandemic. Due to the lack of effective mechanisms for grievance resolution and the new lockdown-related limitations on workplace protests, some workers chose to engage in protests outside the workplace. Conflicts occurring during the pandemic have also indirectly influenced the process of trade union organising in hitherto poorly unionised industries, such as food delivery and social care. Even though the outcomes of such mobilisations are yet to be seen, they indicate that at least in some new, often precarious occupational groups, pandemic served as a booster of collective mobilisation and union capacity building.

The research confirms there is an urgent need to reinforce the institutional and organisational basis of social dialogue in Poland. Its weakness magnifies social tensions that are not conducive to the effective management of a crisis situation where human lives and health are at stake. While shaping anti-crisis measures under the conditions of “patchwork capitalism” (Gardawski and Rapacki, 2021), combined with emergent authoritarian tendencies (Bohle and Eihmanis, 2022; Guasti and Bustikova, 2022), weak industrial democracy collides with the government’s unilateralism. The decisions taken in such turbulent circumstances are shaped by situational logic, significant degree of informality, adhocacy and the growing role of political capital measured by the proximity to a governing party. The human cost of such a state of affairs has proved extremely high, and Poland, like some other countries in the region, saw some of the world’s highest increases in Covid infections and deaths in the successive waves of the pandemic. While the weakness of social dialogue is not the only and even dominant source of this situation, it is a part of a bigger picture of systemic underfinancing, neoliberal restructuring and privatisation of public services in Poland.

How could social dialogue in Poland be reinforced is beyond the scope of this article. However, the solutions advocated by both employers’ organisations and trade unions need to be taken more seriously by the government (Duda and Potocki, 2021; Lewiatan, 2022). They propose, *inter alia*, making consultations of MPs’ bills by the SDC obligatory, increasing the funding for expert advice in SDC (independent of the government) and reducing the possibility to use shortcuts in consulting legal drafts. Strengthening bipartite dialogue requires increasing the bargaining power of trade unions with both the state and private employers. This involves efforts to organise new groups of workers, mobilise discursive resources to rebuild the position of trade unions as the major defenders of workers’ interests, and build coalitions with political parties only in circumstances where the autonomy of social partners and social dialogue institutions is safeguarded.

## 7. Conclusions

This article poses the question of whether the socio-economic crisis triggered by the Covid-19 pandemic provided a stimulus for the renewal of social dialogue in Poland or amplified the weaknesses known from the past. Observations from international comparative studies had justified expectations of the revival of tripartism with the pandemic-related crisis at the gates.

Some of them indicated that the shock of the pandemic and fears of the economic downturn reignited tripartite consultations even in countries where they had not taken place for years (Brandl, 2023; Canalda Criado, 2022). However, the analyses presented in this article do not support such a diagnosis in the case of Poland. Instead, they confirm the findings of previous studies (Gardawski and Meardi, 2010; Czarzasty and Mrozowicki, 2022) on the limited impact of bi- and tripartite social dialogue in times of crisis in Poland. In 2020, tripartite dialogue in the SDC completely froze due to the lack of regulations for online operations. Once it resumed in the new, unusual situation, it was limited to information exchange and occasional consultation of the government-drawn anti-crisis solutions only. According to the social partners interviewed, the inadequate time for formulating opinions and the government's disregard for their positions made such consultations superficial and meaningless. The pandemic did not revive collective bargaining either, and the actual impact trade unions could make on the workplace-level arrangements introduced under the anti-crisis shields was limited to unionised establishments, which remained a minority of all workplaces in Poland.

Still, the diagnosis of the pandemic as the "nail in the coffin" of the social dialogue in Poland requires further research. At present new factors contributing to the post-pandemic crises are emerging: the dramatic rise in inflation in 2022, the energy crisis threatening the economic stability of households and companies, the influx of more than 1.6 million refugees to Poland from Ukraine after the Russian invasion in February 2022, the growing problems of public finances or an ongoing conflict with the EC over the rule of law in Poland, effectively blocking the transfer of recovery funds under the National Recovery and Resilience Plan scheme. It remains an open question whether, while being confronted with those interlinked crises, the government will be more inclined to use social dialogue to address and solve socio-economic problems. Although the frequency of tripartite meetings returned to its pre-pandemic levels, their impact in policymaking has not improved. It is obvious that further longitudinal and comparative research is needed, not only in Poland but also in other Central and Eastern European countries, on the opportunities for overcoming the traps of "illusory corporatism" and the risks of their petrification under conditions of overlapping economic, social and political crises.

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(The Appendix follows overleaf)

| No. | Organisation name                      | Organisation type <sup>1</sup> | Industry                    |
|-----|--|--------------------------------|-----------------------------|
| 1   | ZNP                                    | TU                             | Education                   |
| 2   | OPZZ                                   | TU                             | Nationwide                  |
| 3   | OZZ IP                                 | TU                             | Logistics                   |
| 4   | COZZ                                   | TU                             | Nationwide                  |
| 5   | NSZZ Solidarność                       | TU                             | Logistics                   |
| 6   | COZZ                                   | TU                             | Social care                 |
| 7   | FZZPOZiPS OPZZ                         | TU                             | Health care and social care |
| 8   | NSZZ Solidarność                       | TU                             | Health care                 |
| 9   | NSZZ Solidarność                       | TU                             | Nationwide                  |
| 10  | NSZZ Solidarność                       | TU                             | Logistics                   |
| 11  | Primary school                         | EMP (director)                 | Education                   |
| 12  | FZZ                                    | TU                             | Nationwide                  |
| 13  | NSZZ Solidarność                       | TU                             | Health care, social care    |
| 14  | Lewiatan                               | EMP                            | Nationwide                  |
| 15  | Primary school                         | EMP (director)                 | Education                   |
| 16  | Ministry of Health                     | GOV                            | Health care                 |
| 17  | Pracodawcy RP                          | EMP                            | Logistics                   |
| 18  | Ministry of Family and Social Policy   | GOV                            | Social care, nationwide     |
| 19  | Ministry of Family and Social Policy   | GOV                            | Nationwide                  |
| 20  | Lewiatan                               | EMP                            | Logistics                   |
| 21  | Supreme Chamber of Nurses and Midwives | SGOV                           | Health care                 |
| 22  | Confederation of Labour                | TU                             | Nationwide                  |

**Table A1.**  
The list of expert  
interviews

**Note(s):** <sup>1</sup>TU: trade union, EMP: employers, GOV: government, SGOV: professional self-government.  
Government representatives in education refused to be interviewed  
**Source(s):** Authors' own work

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