

Coming full circle? Contestation, social dialogue and trade union politics in Poland

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1. Introduction

Compared with other EU member states, the Polish economy has fared fairly well during the recent downturn. Sustaining a positive GDP growth rate even in the most turbulent times, it was portrayed by prime minister Donald Tusk (2007–2014) as a recession-proof ‘green island’ amidst the European sea of crisis. The country’s resilience to macroeconomic shocks seemed to confirm the validity of its ‘embedded neoliberalism’ regime, which combined an export orientation and labour market flexibility with relatively high welfare expenditure targeting selected social groups and – in the form of subsidies – foreign investors (Bohle and Greskovits 2012).

In this chapter, it is argued that Poland’s socioeconomic model saw few changes during the crisis: if anything, Poles got ‘more of the same’ as the labour market and working time regulations became even more flexible. In social terms, however, the downturn served as a catalyst for a change in the strategy of Polish labour organisations, which turned away from social dialogue and adopted a more assertive, mobilisation-based approach. The shift was driven partly by the unions’ disappointment with the tripartite negotiation process, in particular the government’s selective implementation of the anti-crisis pact put forward by the social partners. At the same time, it reflected growing popular discontent with neoliberal policy prescriptions and the paradigm of restraining welfare and flexibilising employment regulations ostensibly for the sake of future convergence with western European levels of economic development. The trade unions’ offensive against the neoliberal agenda was halted, however, following the October 2015 election victory of the right-wing conservative Law and Justice (PiS) party. In the election campaign, the latter professed adherence to social principles, which re-established unions’ trust in social dialogue. Two and a half years later, only some of the government’s promises have been translated into concrete policy proposals and the social partners’ influence on the course of the country’s social and employment policy remains limited. It is unclear, however, whether Polish labour organisations will regain their momentum from the first half of the 2010s and mobilise wider sections of Polish society in the current socio-political situation.

The chapter is structured as follows. Section 2 presents selected features of Poland’s socioeconomic model, including the early adoption of the neoliberal course, the strategic use of social policies, labour exclusion and FDI orientation. Section 3 focuses on the issue of trade union power resources and shows how these have been depleting for the past quarter of a century. Section 4 briefly presents the macroeconomic effects of the recent crisis; it also traces and accounts for the shift in unions’ strategic orientation

from social partnership to open contestation of the government's policy course. Section 5 discusses recent developments in union policies following the Law and Justice election victory. Brief conclusions and outlook follow.

2. Poland's socioeconomic model: juggling market and welfare

In this section the elements of Poland's political economy relevant for the analysis of union strategies and power resources are presented. The account starts with the early transition, because certain institutions and policies adopted immediately after 1989 have shaped the course of the country's economic transformation and its integration with the European and global economies.

2.1 Peaceful transition and the Balcerowicz Plan

Poland's transition from communist rule to democracy was based on a compromise between the party elite and the democratic opposition, gathered around the *Solidarność* movement. The so-called 'Round Table talks' between the two camps, held between February and April 1989, were followed by the first partially free elections in the Soviet bloc. In the poll, *Solidarność* won all 35 per cent of the democratically electable seats in the parliament's lower chamber and 99 out of 100 seats in the Senate. The first democratic government was formed soon afterwards by Tadeusz Mazowiecki.

Already before 1989, Poland had experimented with pro-market reforms. It also hosted a relatively sizeable private sector that contributed 19 per cent to GDP (Frye 2010).¹ However, the economy as a whole was characterised by obsolescence and inefficiency and plagued by chronic shortages. Faced with hyperinflation and high levels of external indebtedness, the government decided to adopt a radical policy course. On 31 December 1989, it launched an economic reform package prepared by the finance minister Leszek Balcerowicz and a close group of his collaborators. Inspired by the policy agenda of the so-called 'Washington Consensus', Poland's 'shock therapy' involved two broad sets of measures. First, it liberalised the economy and facilitated market competition through the removal of price controls and the abolition of preferential credits and subsidies to state-owned enterprises. It also eliminated the state monopoly on external trade and allowed companies to transfer their profits abroad. Second, it stabilised the economic system by introducing a fixed exchange rate and lowered inflation by imposing a tax on wage hikes at state-owned enterprises (*popiwek*). The third pillar of the government's marketising policy – privatisation – was launched a bit later and implemented through the transfer of state-owned enterprises into private hands and the establishment of a legal and administrative framework supporting the creation of new businesses. Even though some elements of the reform package – such as the fixed exchange rate or *popiwek* – were later revoked and Kołodko, the Minister of Finance

1. It must be noted, however, that a large part of the private sector comprised small-scale agricultural production (Frye 2010).

in 1994–1997, called for economic ‘therapy without shocks’ (Myant and Drahokoupil 2011: 11), the country’s basic course towards economic liberalisation and trade openness was preserved.

2.2 Selective compensation and lack of institutionalised access for labour

Balcerowicz put in place clear, transparent rules governing Poland’s young market economy and opened up the country to foreign trade and investors. The short-term social consequences of his ‘shock therapy’ were devastating. Workers’ wages fell precipitously and GDP plunged by 11.6 per cent in 1990 and by 7 per cent in 1991 (Piętka 2007). Bankruptcies of state-owned enterprises, unable to operate without state assistance and preferential treatment, entailed large-scale job losses. The unemployment rate jumped from virtually zero in January 1990 to 6.5 per cent towards the end of the year, and then doubled during the subsequent twelve months (GUS 2015).

The authorities’ response to the growing army of the unemployed was similar to that of other Visegrád² countries, in particular of Hungary: it focused on compensating parts of the dismissed labour force that could potentially disrupt the ongoing reform process through the electoral ‘punishment’ of the ruling parties or through the intensification of protest actions (Vanhuysse 2006). To this end, the government made it possible for the experienced, skilled workers who lost their jobs during the restructuring processes to permanently exit the labour market by providing them with generous early retirement and disability benefits schemes. The measure quickly caught on and in the early 1990s, 40 per cent of Poland’s new pensioners retired before reaching the formally required age (Orenstein 2001). The scheme was downscaled towards the end of the 1990s in view of their considerable impact on the state budget. Nevertheless, the welfare system has remained ‘heavily oriented towards the elderly’ (Piętka 2007: 28), with at-risk-of-poverty rates steadily declining with age (Bohle and Greskovits 2012). As for the unemployment benefits, they too were initially very generous, and amounted to 70% of the person’s last remuneration. Faced with a rapid increase in the number of beneficiaries, however, the government soon introduced restrictions on the maximum duration of payments and reduced them to a mere 36 per cent of the average wage (Speiser 2007).

Much as the government was willing to assist strategically selected groups of transformation ‘losers’, it avoided granting organised labour access to the policy-making process. The initial marketisation reforms – notably the Balcerowicz Plan – were thus implemented in relative insulation from societal pressures (Greskovits 1998; Orenstein 2001). In 1992 and 1993, restructuring-related uncertainties and the rise of unemployment provoked a wave of grassroots protests. Under popular pressure, the government signed the so-called Pact on the Restructuring of State-Owned Enterprises that provided for worker representatives’ participation in privatisation decisions. It also set up the Tripartite Commission on Socio-Economic Matters, which was to serve as a policy discussion forum for labour, employer and government representatives. Since

2. The Visegrád countries are Poland, Hungary, Slovakia and the Czech Republic.

the early 1990s, however, no other social pacts have been signed, despite some modest attempts on the side of the government (Gardawski and Meardi 2010). Tripartite negotiations have often been politicised, and governments have shunned societal consultations on difficult reforms (see also Section 2).

2.3 FDI orientation: targeted subsidies and labour market flexibility

Thanks to experiments with market reforms conducted in the last decade of state socialism, Poland's communist bureaucrats and managers of state-owned enterprises were better prepared than their counterparts in other central and eastern European countries to run companies under market conditions. However, the first democratic governments originating from the *Solidarność* movement were reluctant to grant them control over the country's economic assets and thus the privatisation process in Poland was initially less advanced than in the rest of the region (Bohle and Greskovits 2012). By the same token, given the centre-left coalition's (in power 1993–1997) attempts to boost home-grown economic potential, the country's integration into European FDI and trade networks proceeded at a relatively slow pace. Building a market economy from scratch, lacking capital, know-how and access to western European markets, proved a daunting task, however. Since the end of the 1990s, attracting foreign investors willing to infuse fresh funding into the economy and modernise the country's industrial base has thus become a priority for Polish governments.

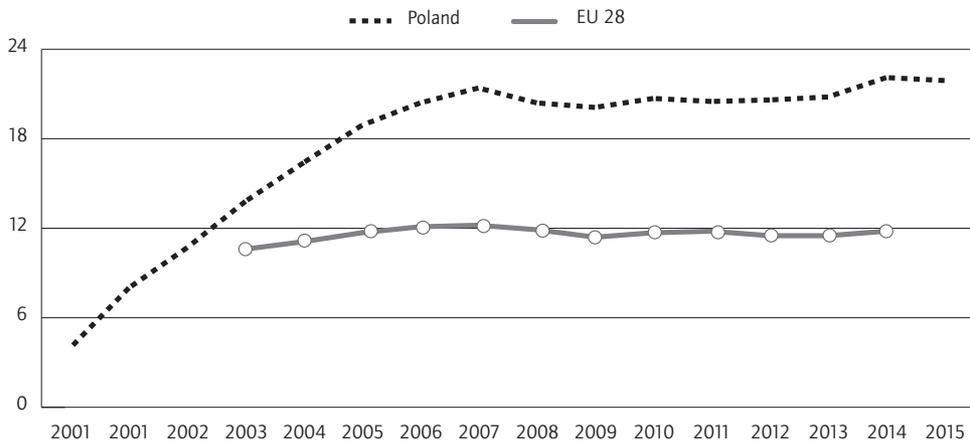
The new economic policy course entailed the adoption of what O'Dwyer and Kovalčík (2005) refer to 'second-generation economic reforms'. In contrast to the liberalisation and stabilisation policies of the early transition, the latter were geared specifically towards attracting foreign businesses and involved a variety of deregulatory measures in the fields of taxation and the labour market, as well as preferential treatment for potential investors. Other Visegrád countries similarly sought to lure in large multinational companies, which resulted in a race-to-the-bottom rivalry between the four states that pushed them to cut taxes and labour market protections, and to outbid each other by offering ever-higher subsidy packages.

In the mid-2000s, Poland had the biggest inward FDI stock in 2004 in the Visegrád region³ and hosted the highest number of greenfield FDI projects (UNCTAD 2005). The investor-friendly policies and the cut-throat competition with the neighbouring countries proved costly, however, and prompted far-reaching changes in the country's tax and labour market regulations. Between 1990 and 2000, Polish corporate tax was cut by 10 percentage points, from 40 to 30 per cent (Bohle 2009). In the labour market, several reforms – in particular a major modification of the Labour Code in 2002 – facilitated collective dismissals and loosened restrictions on fixed-term contracts. A separate Act on Employment Promotion and Labour Market Institutions from 2004 restricted the duration of unemployment benefit to six months and fixed its amount at

3. However, it must be noted that both FDI stock per capita and FDI as a percentage of GDP were higher in other Visegrád countries (Myant and Drahekoupil 2011 and UNCTAD 2005 respectively).

a low level; it also provided a legal basis for the creation of temporary work agencies. In the years that followed these legislative changes, Poland recorded a steady increase in temporary employment (see Figure 1 for details). As a consequence, it came second in the EU after Spain in terms of the proportion of temporary workforce, and surpassed the latter in 2010, when a crisis-induced wave of dismissals in the Spanish economy hit the country's fixed-term workers to a disproportionately high extent (Eurostat 2016). Importantly, the surge in temporary jobs throughout the 2000s was not linked to employment creation, or 'promotion', as the name of the 2004 Act would suggest. The total number of jobs saw relatively little change because at the same time as fixed-term employment was growing permanent jobs were on the decline (Maciejewska *et al.*, 2016). Since the mid-1990s, the number of people working on the basis of contracts not regulated by labour law but by civil law has also been very high. According to the Polish Statistical Office (GUS 2014), in 2012 1.35 million Poles – 13 per cent of the country's working population – were bound by this type of contract.

Figure 1 **Temporary employment as a percentage of total employment in Poland and EU28, 2001–2015**



Source: Eurostat (2016).

To conclude, Poland's socioeconomic model is aptly described by the 'embedded liberalism' label applied to the four Visegrád countries by Bohle and Greskovits (2012). The country has relied on FDI inflows fostered by investment incentives and flexible labour market regulations. In the social sphere, it opted for selective compensation to buy off the most protest-prone segments of society. The relatively high levels of (targeted) welfare expenditure put a considerable strain on the Polish budget, however, especially because they were coupled with generous FDI assistance. At the same time, however, it provided for the smooth implementation of market-making reforms and the marginalisation of organised societal interests, in particular trade unions.

3. Trade union power resources: a downward slope?

Against the background of the authorities' liberalisation-cum-exclusion policy course, the power resources of Polish labour organisations have been steadily diminishing. This negative tendency has been discernible along all four dimensions of union power identified in the Introduction to the present volume.

To being with, unions' *structural power* has been on the decline as a result of transition-related restructuring. Closures or downsizing of large state-owned enterprises – traditional trade union strongholds – have resulted in membership loss and a decrease in the organisations' mobilisation potential. At the same time, the presence of employee representation in the newly founded subsidiaries of multinational corporations was not always welcome, to put it mildly. For many foreign companies, even those originating from countries with strong social partnership traditions of their own, investing in Poland (and, more broadly, in central and eastern Europe) was not guided by a desire to 'export' codetermination, but rather to escape the compromises they had had to reach at home (Bluhm 2001). Finally, the Polish SME sector, relatively sizable by regional comparison, remained virtually union-free. In view of persistently high unemployment rates, many workers shunned joining a trade union in fear of losing their job; they were also reluctant to participate in large-scale protest actions. It was only in the immediate pre-crisis period that protest levels started to rise, but this should be seen as a result of migration-induced skill shortages and labour-market tightening rather than trade union agency (Meardi 2007).

As far as unions' *discursive power* is concerned, both *Solidarność* and the 'reformed' postcommunist trade unions found it difficult to redefine their priorities within the new socioeconomic system. *Solidarność* in the 1980s was an umbrella organisation gathering those dissatisfied with the lack of democracy and Soviet domination, and thus resembled a broad social movement rather than a workers' union. As a result of this substantial ideological variety, in the first years following the change of system part of its leadership endorsed economic reforms that were socially detrimental to labour; even Lech Wałęsa himself argued that 'we cannot have a strong trade union until we have a strong economy' (Tygodnik *Solidarność*, quoted in Ost 2005: 53). Guided by the same logic, plant-level officials would often accept restructuring drives at their plants, considering them a necessary element of production 'rationalisation' (Ost 2002). The 'old' unions, grouped mainly within the OPZZ confederation, struggled with the legacy of being the 'transmission belt' of the Communist Party. Perceived by many as a relic of the former regime, they had to reform their organisational structures and internal decision-making mechanisms, and reorient themselves from routine servicing towards active representation of members' interests. In the political sphere, they would side with 'reformed' left-wing parties that often proved as eager as their right-wing counterparts to liberalise the economy. Both *Solidarność* and OPZZ have paid a high price for their identity dilemmas and pro-market orientation. In the initial years following the transition, societal trust in unions dwindled and has proved difficult to re-establish (see Table 1). In 2002, Poland saw the emergence of the third union confederation, Forum ZZ, consisting of split-offs from OPZZ and formerly independent unions that favoured direct mobilisation and avoided explicit alliances with political parties. Nevertheless,

Poles have remained divided in their assessment of trade union activities: in a survey conducted in 2015, 39 per cent stated that they had brought positive results for the country, 36 per cent assessed them negatively and 25 per cent did not have a concrete opinion on this issue (CBOS 2015).

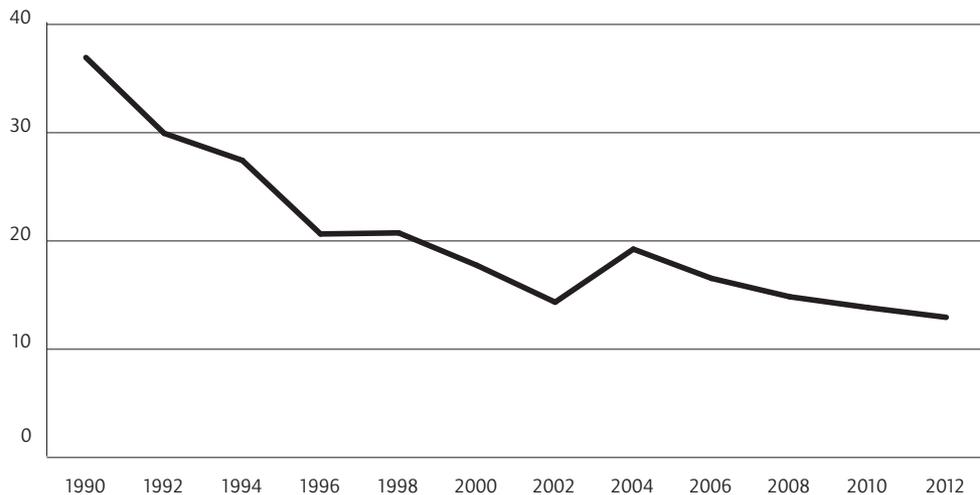
Table 1 Trust in trade unions in Poland, 2004, 2007 and 2010 (%)

Survey year	Tend to trust	Tend not to trust	Do not know
2004	26	45	29
2007	29	37	34
2010	31	47	22

Source: Kahancová (2013) based on Eurobarometer data.

The unions’ structural weakness and legitimacy problems translated into a loss of *associational power*. Between 1990 and 2010, Polish labour organisations lost 61 per cent of their members (see Figure 2 below). In the 1990s, unions refrained from active organising, but in the following decade there were a number of recruitment drives in the automotive sector, retail and security services (Mrozowicki 2011; Krzywdzinski 2010). As a result, the falling density trend has been slowed down, but not yet reversed: in a survey conducted in March 2015 only 11 per cent of employees and 6 per cent of the total working population declared trade union membership (CBOS 2015). These numbers are close to the estimates of the ICTWSS database (see Figure 2).

Figure 2 Trade union members as a percentage of all employees, Poland, 1990–2012



Note: If no data were available for a particular year, data from the following year were used.
Source: Visser (2015).

In some western European countries, the unions’ power deficit due to falling membership has been compensated by their *institutional position* as bargaining parties and social partners. This does not hold in Poland, however, where both collective bargaining and

tripartite concertation play a much more limited role. Sectoral agreements remain rare, while company-level agreements, if they exist, rarely go beyond standard Labour Code provisions. Agreements apply to only a small share of total labour force and bargaining coverage estimates for 2012 vary from 14.7 per cent (Visser, 2015) to 25 per cent, with the majority of agreements concluded in the public sector, mining, energy supply and parts of the building industry (Mrozowicki and Czarzasty, 2013). The weakness of the collective wage-setting system is due partly to the absence of bargaining traditions. In western Europe, collective bargaining structures constituted an important element in a matrix of interconnected institutions that evolved simultaneously and defined country-specific varieties of the capitalist system (Hall and Soskice, 2001). Socialist Poland had some experience with union–management dialogue, pursued at state-owned enterprises within so-called workers’ councils. Collective bargaining institutions in the Western sense, however, were established only after the collapse of the command economy and have remained detached from other elements of the country’s political-economic system. Moreover, in contrast to many western European countries, in which governments support collective bargaining coordination by legally extending agreements to ensure universal compliance, Polish authorities have remained reluctant to apply the statutory extension clause. Under these circumstances, unions find it hard to bring company representatives to the bargaining table: employers rarely join professional associations and tend to avoid any dialogue above the company level that could lead to binding commitments with regard to wages.

Faced with the marginalisation of collective bargaining and the dominance of managerial unilateralism in setting wages and working conditions, Polish trade unions have sought to influence the course of socioeconomic policy-making through national-level social dialogue. Unions’ presence in the tripartite body arguably allowed them to make their voice heard in the public sphere despite their structural weakness (Bohle and Greskovits 2010). As argued in the previous section, however, the effectiveness of tripartite negotiations in Poland has been limited. In the next section, it is shown how national-level concertation was used during the recent economic downturn and how, once again, it failed to live up to trade union expectations.

4. Trade unions in face of the crisis: from ‘PR corporatism’ to mobilisation

With the outbreak of the economic crisis in the late 2000s, it became clear that high levels of dependence on external capital might be risky. Recent political economic studies (Becker and Jäger 2010; Myant and Drahokoupil 2011) established a link between the dominant forms of foreign influence in central and eastern Europe and individual countries’ performance in the crisis. According to these studies, Poland, together with the other Visegrád states, belonged to the so-called ‘dependent industrialisation’ cluster: they had integrated into the European and global economy via FDI and exports, and hence these two areas served as the main channels of transmission of the crisis into their national economies. In all four states, the downturn went hand in hand with a rapid decline in exports, reflecting dwindling external demand. Production figures were accordingly adjusted downwards. In March 2009, the fall in output in Poland

reached nearly 18.8 per cent (year-on-year), with the highest drop recorded in metal manufacturing (34.1 per cent year-on-year) (GUS 2010).

Despite a significant slump in production, Poland was the only EU country to avoid recession. Its relative resilience to the crisis compared with other central and eastern European states can be explained by a number of factors. To begin with, despite the country's FDI orientation, its reliance on exports was significantly lower than that of neighbouring countries (34.4 per cent of GDP in 2006 in contrast to the other three Visegrád countries' average of 69.33 per cent). By regional comparison it also had the smallest share of exports in machinery and complex products, the sector that recorded a particularly deep slump in the early phase of the downturn (13.3 per cent versus 36.53 per cent, respectively; Myant and Drahoukoupil 2011). Moreover, in the years preceding the downturn, the labour market tightened as a result of an economic upswing and labour migration to 'old' EU member states. The resulting wage growth provided for a relatively stable internal demand, which turned negative only during the first three quarters of 2009 and has continuously grown ever since (Jabłoński 2013). In the sphere of monetary policy, the fact that Poland did not belong to the euro zone allowed the government to adjust the zloty's exchange rate, while the upper threshold on public debt stipulated by the Polish Constitution prevented excessive government spending. Finally, large EU-funded infrastructure projects, as well as the construction boom on the eve of the 2012 European football championship hosted by Poland jointly with Ukraine, provided additional investment stimuli that helped steer the economy through the most difficult phase of the downturn.

On the other hand, as argued by Meardi and Trappmann (2013: 197), the fact that GDP growth remained positive does not mean that the crisis has not been felt in Poland. Especially in the labour market, the consequences of the downturn were very pronounced. While the already low employment rates fell further, the unemployment rate grew steadily, reaching a peak of 14.4 per cent in February 2013 (GUS 2016). According to the authors, this was due to limited migration possibilities related to the slump in western Europe, but also to employers' preference for numerical rather than functional flexibility, which triggered a wave of dismissals in the country's manufacturing sectors. Fixed-term and temporary agency workers were the first to lose their jobs, especially in the initial phase of the downturn, when western European demand for goods made in Poland dwindled. Seasonal fluctuations notwithstanding, the unemployment rate in Poland remained high in the first half of the 2010s and began to fall systematically only in 2015. In terms of wage developments, on the level of the economy as a whole real wage growth was preserved throughout most of the period, with the exception of 2009 and 2012 (Bernaciak 2015). Still, as argued by Meardi and Trappmann (2013) on the basis of the Eurostat data, the process of convergence between Polish and western European levels was halted and the ratio between Polish and German nominal hourly wages fell in the early phase of the downturn.

During the crisis, the positions and strategies of Polish trade unions underwent a significant change. In the following two subsections their actions are examined in two distinct periods, the first dominated by social dialogue and the other involving more proactive, mobilisation-based initiatives.

4.1 Phase 1: trade union hopes for social dialogue

Between 2008 and mid-2010, *Solidarność* and *OPZZ* relied on traditional negotiating tools and sought to influence anti-crisis policy via tripartite dialogue. Faced with the deteriorating economic situation – especially dwindling production and growing unemployment – trade unions and employers' associations launched bilateral consultations. On 13 March 2009, they came up with a so-called anti-crisis pack that contained thirteen broad policy measures. In the social field, the deal provided for special assistance to families whose economic situation had worsened during the crisis and for a new mechanism for calculating the minimum wage, which would ensure that it gradually reaches 50 per cent of the average wage. Labour-market measures included the introduction of 'flexible' working time schedules (in particular the extension of the working time reference period from four to twelve months), the creation of company-level training funds and restrictions on the duration of fixed-term employment. Finally, in economic policy, the agreement envisaged subsidies for companies experiencing temporary economic difficulties.

The March pact received wide – predominantly positive – media coverage. Prime minister Tusk called it a 'very mature and responsible [instance of] dialogue' (*Gazeta Prawna* 2009) and pledged to include its points in an anti-crisis bill. Academic assessments were equally enthusiastic, presenting the agreement as a step towards the 'revival of social dialogue' in Poland (*Czorzasty* 2009). It soon turned out, however, that the anti-crisis bill prepared on the basis of the social partners' proposals did not meet the initial expectations; during parliamentary debates, many of the pact's initial provisions were either ignored or significantly diluted. In a joint letter, unions and employers criticised the planned act, arguing that 'it d[id] not represent a coherent and concrete answer to the social partners' proposals' (*Komisja Trójstronna* 2009). Unions claimed that the bill ignored the socially-oriented goals and did not provide a viable mechanism enabling minimum wage increases. They also insisted that only companies experiencing crisis-related difficulties should be allowed to introduce longer working-time reference periods in order to prevent firms from using the measure to avoid paying overtime rates. Finally, they criticised the relatively high threshold for state-funded wage subsidies (a 30 per cent fall in turnover in at least one quarter after 1 July 2008, year on year).

On 22 August 2009, the so-called Law on Alleviating the Impact of the Crisis came into force. After consultation with unions or worker representatives, all companies, irrespective of their economic condition, could extend working time reference periods to twelve months. Individual working schedules could also be modified. At the same time, the law set the maximum duration of fixed-term employment to 24 months, after which workers had to be offered open-ended contracts.⁴ It also provided for state subsidies for wage and social security payments, which could be granted to enterprises experiencing a crisis-related fall in turnover (25 per cent and not 30 per cent). Troubled

4. Regulations that were previously in force stipulated that the employer and the worker could conclude three temporary contracts, whereas the fourth was to be open-ended. The maximum duration of temporary employment was not legally determined.

companies could send their employees on supplementary training courses, during which they would receive a state-funded allowance. The government earmarked nearly PLN 1 billion (about 250 million euros) for the subsidies and PLN 500 million (about 125 million euros) for the training allowance.

Employers welcomed increased working time flexibility, even at the cost of temporary limitations on the length of fixed-term employment. Unions, by contrast, criticised the asymmetric character of the law, claiming that ‘everything that was advantageous to employers was pushed through, and what was good for workers – omitted’ (Interview OPZZ 2012). *Solidarność* even launched a campaign under the slogan ‘the anti-crisis law is not the anti-crisis pact’. It also warned that the temporary restrictions on fixed-term employment could lead to massive lay-offs once the two-year protection period was over.

The anti-crisis law remained in force until the end of 2011. According to the report of the Polish Labour Inspectorate (PIP 2011) companies made extensive use of the extra working time flexibility offered by the act: between 2009 and 2011, over 1,000 firms, employing about 700,000 workers, extended reference periods to twelve months. Encouraged by this, the government and employers sought to turn the year-long period into a permanent Labour Code provision. Despite the firm opposition of all three union confederations, fearful of possible abuses of overtime pay regulations and lack of genuine company-level employee representation, the new rules were nevertheless passed in the Civic Platform–dominated parliament and came into force in August 2013.

The 2013 reform of working time regulations is not the only example of the unilateral approach followed by the Polish government for the rest of the downturn. In 2010, the Tusk-led cabinet rejected social partners’ proposals for the annual increase in the minimum wage, unilaterally setting a lower rate. Between July 2011 and March 2012, it did not convoke a single plenary meeting of the Tripartite Commission, even though such sessions are supposed to take place at least every two months. Further procedural shortcomings documented by *Solidarność* (2011) included the government’s failure to consult the social partners despite its legal obligation to do so and its shortening of consultation periods. The prime minister’s decision to lift the retirement age to 67, announced in February 2012 and not discussed with the social partners, further worsened the negotiation climate.

The government’s change of approach to social dialogue might at first sight seem contradictory, but it can be given a political-economic explanation. Faced with the worsening economic situation, on one hand, and extreme electoral volatility and/or the presence of opposition parties espousing social principles on the other, it is likely that the authorities staged tripartite negotiations to persuade public opinion that they were actively seeking anti-crisis remedies and that their policies were based on a wider societal compromise. The resulting ‘PR corporatism’ was an attempt to boost government popularity at a time when every badly targeted anti-crisis measures could easily result in a loss of power (Bernaciak 2013). This strategy proved successful and after the 2011 parliamentary elections, for the first time in Poland’s post-1989 history, the ruling coalition remained in power for a second term of office. No longer needed as a popularity-boosting tool, social dialogue has subsequently fallen into oblivion. Trade unions were

very disappointed with this state of affairs and their frustration was one of the main factors behind the change in their strategic repertoire, documented in the next subsection.

4.2 Phase 2: unions' discursive shift and heightened mobilisation

From approximately mid-2010 onwards, Poland's main trade union confederations became more involved in protest actions. They also tried to reach beyond their traditional constituencies and to address broader societal concerns. New elements in the unions' rhetoric and repertoire of action cut across a number of areas.

Discursive change and opening up to atypical workers

In the early 2000s, Polish trade union organisations became vocal critics of atypical employment and opposed to further increases in labour market flexibility. It is notable that in the decade preceding the downturn their negative stance on the issue was not yet pronounced. *Solidarność's* 2002 programme, for instance, focused on combating unemployment, the country's 'most serious social problem' (*Solidarność* 2002). In the same document for 2010–2014, however, the accent shifted and 'the protection of jobs and permanent employment' featured as one of the organisation's strategic priorities (*Solidarność* 2010). *OPZZ* started to address the issue of atypical employment at around the same time: its 2010 resolution criticised the one-sided implementation of the flexicurity agenda in Poland, in particular the priority given to flexibility over employment protection, and advocated the restoration of a balance between the two notions (*OPZZ* 2010). In its programme for 2014–2018, the organisation listed the lack of employment security as one of the main drivers of post-enlargement labour migration and pledged to fight against 'scandalous forms of worker exploitation' (*OPZZ* 2014).

Beyond the modifications of their action programmes, Poland's biggest labour confederations initiated a public debate on precarious employment and the social effects of excessive labour market flexibility. The label 'junk contracts' to signify civil-law contracts and other labour law-circumventing accords – coined by a small radical union *Inicjatywa Pracownicza* – was picked up by mainstream labour organisations and subsequently made its way into public and political discourse (Mrozowski and Maciejewska 2013). The unions' discursive activism prompted a slow but steady change in media rhetoric: even popular outlets that had not usually been sympathetic to union demands moved away from unconditional support for neoliberal labour market strategies, making space for the presentation of union stances and reform proposals (see, for example, Szumlewicz 2015). Precarious employment also became a subject of trade union campaigns aimed at raising social awareness of the importance of the quality and security aspects of the employment relationship. The most emblematic initiative in this regard – 'Sisyphus: Stop junk jobs!' – launched by *Solidarność*, used the symbol of the mythical figure⁵ to illustrate the everyday plight and lack of security experienced by dependent self-employed persons working on civil-law contracts.

5. Legendary king of Ephyra punished for his self-aggrandising cunning and deceitfulness by being forced to roll an immense boulder up a hill, only to watch it roll back down, repeating this action for eternity.

End of inter-union conflicts

During the transition process, the Polish trade union scene was marked by turf wars between OPZZ, a 'reformed' organisation set up by the communist authorities in 1984, and Solidarność, a challenger to the former regime. This 'conflict-ridden pluralism' (Gardawski 2002) was driven partly by the unsolved issue of Solidarność's property, which was confiscated by the state after the organisation's de-legalisation in the early 1980s and handed over to OPZZ. There were also significant ideological differences between the two confederations: while OPZZ espoused social democratic traditions, Solidarność was primarily a conservative movement. The differing ideological stances further shaped the two movements' political allegiances (see Section 3). In the mid-1990s, the conflict transcended national boundaries and moved to the European level. Having become a full-fledged member of the European Trade Union Confederation in 1996, Solidarność blocked OPZZ's entry. In effect, it was only in 2006 that the latter formally joined the European trade union family.

At the company level, inter-union animosity was less pronounced and instances of close cooperation between representatives of the two main confederations were not unheard of. Towards the end of the 2000s, however, a thaw in relations was also discernible at the national level. To some extent, it could be attributed to a change in Solidarność's leadership in 2010, shortly after the entry into force of the Polish anti-crisis law. Piotr Duda, the new chair of the union, distanced himself from politics, arguing that despite the general centre-right orientation of his organisation, it was in the first place 'a social and workers' union' (Newsweek Polska 2011). The de-politicisation of Solidarność and the emphasis on the defence of employee rights helped it find a common language with OPZZ and Forum ZZ, the third largest trade union confederation in Poland, founded in 2002 and consisting of breakaways from OPZZ and formerly independent unions, which favoured direct mobilisation over political involvement. The three confederations accordingly joined ranks in opposition to the government's 'austerity' agenda and its unilateral policymaking approach.

Large-scale protest actions

Around 2010 the frequency of protest actions in Poland started to rise. Table 2 presents major strikes and demonstrations on socioeconomic issues that took place between 2010 and the end of 2014. The compilation is based on qualitative country reports submitted by national correspondents to Eurofound's European Industrial Relations Observatory (EIRO; now EurWORK). The decision on which events to report on was made by national correspondents, which makes it difficult to assess the representativeness of the supplied data. In the absence of other sources, however, the reports remain the best source of information on large-scale protest actions in the postcommunist region.⁶

6. Information from the EIRO database was used for a similar purpose by Meardi (2007), who examined the extent of societal discontent in central and eastern Europe in the pre-crisis period.

Table 2 Major strikes and protest actions in Poland, 2010-2015

Year	Form of action	Sector, no. of participants (if known)	Reasons for protest / Issues addressed
2010	Protest	Metalworking company	Pay
2010	Solidarity demonstration	Ship component producer	Restructuring and dismissals
2010	Demonstration	National	Women rights and gender pay gap
2010	Demonstration	Public sector unions	Planned wage freeze for 2011
2010	Protest	Railway sector	Privatisation and restructuring
2010	Strike warning	Mining company	Restructuring and pay cuts
2010	Protest	National (part of Eur Days of Action)	Minimum wages and taxation of low-wage earners
2010	Protest	Retail sector	Working conditions and collective agreement terms
2010	Strike	Healthcare institutions	n.a.
2010	Strike	Prosecutors	n.a.
2010	Strike	Airport crew	Working conditions
2010	Strike	Electricity provider	Pay and restructuring
2011	9-day hunger strike	Nurses	Freelance contracts for nurses
2011	Strike warning and demonstration	Railway sector	Privatization and restructuring
2011	Strike and go-slow strike	Coal mining	Collective agreement modalities and state support
2011	Demonstration and go-slow strike	Copper mining company	Pay
2011	Demonstrations in large cities	National	Minimum wage and support for low-wage earners
2011	Demonstration	National	Minimum wage and support for low-wage earners
2011	Strike	Railway sector	Pay
2011	Demonstration	National and European (20-50,000)	Austerity measures and labour market flexibility
2011	Protest campaign	National union confederation	Precarious employment contracts
2011	Campaign and signature-gathering	National union	Raising pension age
2012	Demonstrations in large cities	National	Raising pension age
2012	Complaint to Ombudsman and the ILO	National unions	Court decisions on the right to strike
2012	Protests and demonstration	Nurses	Raising retirement age and working conditions
2013	Strike	Railway workers	Subsidy cuts and restructuring
2013	General strike	Regional (85,000)	Lack of social dialogue, labour market flexibility
2013	Withdrawal from the tripartite body	National	Lack of social dialogue
2013	Six rallies and Demonstration	National unions (100,000)	Lack of social dialogue, working conditions

Source: EIRO database (now EurWORK). Note: table scheme partially adopted from Meardi (2007).

Contentious actions listed in Table 2 fall within two broad categories. The first encompasses plant-level protests on wage issues. Once the initial, most acute phase of the economic crisis passed and the economic situation started to improve, trade unions reiterated their pay increase demands in a variety of settings, from the public sector to the extractive industry. The second type involves mass protests and demonstrations staged jointly by all three trade union confederations in Warsaw and other major Polish cities. Several such actions addressed crisis-related themes and the austerity agenda. A series of autumn 2010 demonstrations, for instance, were directed against the planned wage freeze in the public sector, whereas a parallel protest was directed against government plans to privatise the parts of the country's railway network that still remained under state control (Mrozowski 2010). The biggest demonstrations of workers' anger, however, addressed broader societal demands. During the March 2013 general strike in the Silesia region, organised jointly by the three big confederations and two smaller, radical labour organisations, unions criticised the failure of tripartite negotiations and further flexibilisation of working time regulations. In addition, they advocated an increase of the minimum wage to 50 per cent of the average wage and the reduction of the tax burden for low-income earners. The general strike, first in the history of the postcommunist Poland, was joined by 85,000 workers; simultaneous smaller-scale protests were organised in big cities outside Silesia (Dziennik 2013). Encouraged by this experience, the three confederations held a historic joint meeting of their executive committees and launched a nationwide campaign against the government's unilateralism, under the motto 'Stop ignoring the people!' The campaign cumulated in a series of joint actions in Warsaw in September 2013, the so-called 'National Days of Protest', during which the unions held meetings with labour market experts, rallied in front of several ministries and organised a 100,000-strong demonstration – the biggest public gathering in post-1989 Poland. As in the case of the Silesian general strike, the protesters addressed a wider set of socioeconomic problems. They accordingly demanded that the government revoke its recent decisions to flexibilise working time regulation and to raise the retirement age to 67. They also called for a minimum wage increase and for regulatory measures curbing the spread of 'junk jobs' (Czarzasty 2014). All three organisations distanced themselves from political parties, but were united in their criticism of the government's neoliberal policy course. In the words of Solidarność president, 'prime minister Donald Tusk's government has one undoubted success it can be proud of: uniting the three trade unions' (Radio Poland 2013).

4.3 Discussion: end of labour quiescence in Poland?

During the recent economic crisis Polish trade unions ceased to rely solely on their institutional position. Instead, they tried to acquire new discursive resources and boost their associational power by increased mobilisation and open criticism of state policies. Caution is advised when making causal links between the two phenomena, however. Whereas the downturn served as a catalyst for changes in the organisations' strategic repertoire, it seems that the shift was driven not only by immediate policy concerns, but also by long-term problems besetting the Polish economy.

On one hand, the change in the unions' strategic approach can be seen as an expression of their frustration with the poor quality of social dialogue at the time of crisis. Even

though most post-1989 governments have tried to sideline the social partners and minimise their influence on policymaking, the Civic Platform (PO) and Polish Peasant Party's (PSL) coalition cabinet that was in power during the downturn went particularly far in its disregard for procedural rules and the results of tripartite negotiations. From this perspective, the selective manner in which it implemented the provisions of the anti-crisis package proposed by unions and employer organisations can be viewed as the 'last straw' that made unions abandon hopes for effective tripartite concertation and search for partners and strategic solutions away from the bargaining table.

On the other hand, the unions' increased reliance on mobilisation reflects long-term muted, societal dissatisfaction with the neoliberal policy course followed by subsequent Polish governments. It is true that Poland maintained positive GDP growth throughout the whole economic downturn, but the macroeconomic data – if taken only at face value – conceal serious structural problems besetting the Polish labour market. The two most burning issues – the growing share of precarious employment and the notoriously high unemployment rate – have been discussed earlier in the chapter. Other problems include skill mismatch – one of the main drivers of post-accession workforce exodus (Kureková 2011); low levels of innovation even in the leading sectors of the Polish economy, such as the automotive industry (Pavlínek 2016); and the sluggish pace of wage growth despite significant productivity increases.

The latter point – the discrepancy between productivity and wage increases – is of particular relevance here as it illustrates well the 'belt-tightening' logic followed in central and eastern Europe throughout the transition process and presented by politicians and employers as a prerequisite for FDI attraction and 'catching-up' with western European levels of development. This narrative of restraining welfare in the name of future benefits came under pressure already during the EU accession process, 'tied from the outset to hopes of better, "European" living standards' (Šćepanović 2015: 191), but was nevertheless sustained during the post-enlargement economic boom. With the outbreak of the economic crisis in the late 2000s, however, it became clear that, despite far-reaching sacrifices, the long awaited 'upward convergence' with western European social norms would not materialise in the foreseeable future. With this realisation, it seems that central and eastern European societies reached the limits of their collective patience; consequently, voices stipulating a change of the neoliberal policy paradigm became more pronounced not only in Poland, but also in other new EU member states (see Bernaciak 2015).

5. PiS electoral victory and the promise of a 'good change'⁷

The 2015 presidential and parliamentary elections significantly reshaped the Polish political scene. After the eight-year rule of the liberally-oriented Civic Platform (PO), the Poles gave power to representatives of the conservative-right Law and Justice (PiS)

7. 'Good change' was Law and Justice's electoral slogan.

led by Jarosław Kaczyński. Whereas PiS presidential candidate Andrzej Duda⁸ beat the incumbent president Bronisław Komorowski only by a small margin, the party's victory in the October parliamentary elections was overwhelming. With 37.58 per cent of all votes cast, it received the highest support across all age and education groups, in villages and cities alike (Danielewski 2015). At the same time, it is notable that not a single left-wing party representative made it to the parliament: neither the old 'reformed' Democratic Left Alliance (SLD) nor the newly created movement Together (Razem) passed the required electoral thresholds.

Law and Justice's electoral success – especially when compared with the poor results of the left – can be attributed partly to the fact that, on top of its ideological conservatism, the party has adopted many elements of traditional left-wing rhetoric. Already in 2005, Kaczyński counterpoised 'solidarity-based' Poland, which PiS allegedly represented, with the 'liberal' one symbolised by PO. In 2015, party representatives repeatedly expressed their adherence to social principles. PiS presidential candidate Duda promised to act towards the reduction of the retirement age, the elimination of 'junk' contracts and an increase of the minimum wage to 50 per cent of the average wage. He also called for the intensification of social dialogue and additional family support. Referring to Solidarność's heritage, future prime minister Beata Szydło similarly argued that the union's demands 'concerning work and social issues' would be fulfilled 'if the Poles [...] gave power to PiS' (Polskie Radio 2015). She also outlined the party's National Employment Plan, which foresaw the creation of 1.2 million jobs for the young and promised to raise wages in the public sector.

PiS political promises closely corresponded to demands voiced by unions during the second, protest-intensive period of the crisis. This raised hopes among labour organisations that their goals could be achieved by political means and renewed their interest in political alliances. Solidarność, whose conservative-Catholic ethos was closest to that of PiS, went the furthest and in May 2015, it officially supported the party's presidential candidate. This was a risky move given that 49 per cent of respondents and 56 per cent of those declaring Solidarność membership had stated in 2010 that it was 'not appropriate' for the union to provide such backing to Jarosław Kaczyński (CBOS 2010). Perhaps in fear of a membership backlash, the union refrained from officially favouring PiS during the autumn 2015 parliamentary elections. OPZZ, which in the past sided with the left, adopted a 'wait and see' stance. Following PiS's victory, however, the organisation's deputy chair Radzikowski acknowledged that 'the direction of reforms' chosen by Kaczyński's party was 'congruent with OPZZ demands' and declared that if the new government proved 'thorough, professional and determined' in fulfilling its social promises, 'nobody [in other words, OPZZ] would be interested in obstructing the good changes' (Prokop 2015). Only FZZ Forum used the government change as an opportunity to highlight its apolitical character. In an interview conducted a few months after the elections, FZZ chair Gardias argued that 'the [political] silence' of her organisation was its biggest asset (Rozwadowska 2016).

8. It is a coincidence that the Solidarność chair and the state president have the same surname.

New prime minister Szydło indeed came up with some socially-oriented proposals, such as the introduction of a minimum hourly wage rate of 12 PLN (approximately 3 euros) for task-specific contracts and an additional 125 euros support for every second child in the family. At the same time, there were also some disagreements between the new government and the trade unions. In January 2016, Solidarność's chair, who also acted as president of the Social Dialogue Council (RDS) – a new tripartite body created in the second half of 2015 – sent a letter to the prime minister criticising the unilateral manner in which a new tax on commercial entities had been introduced. He also demanded that in future the Council be consulted on legislative proposals that had socioeconomic implications (Karbowski 2016). All three confederations were also disappointed with the government's stance on the European Commission's proposal to equalise remuneration of workers temporarily posted to another EU member state with that of their host-country counterparts. Siding with employers' associations, the cabinet criticised the equal wage rule, arguing that it would threaten Poland's economic interests and disrupt the market-based process of intra-EU wage convergence (IMP 2016). In March 2016, together with ten other national parliaments, Polish MPs held that the Commission's proposal breached the EU's subsidiarity principle, which set in motion the so-called yellow card procedure obliging the Commission to reassess its original proposal. Finally, both trade unions and employer organisations were taken by surprise by changes in the trade union law proposed by the government in March 2016. It had been expected that the modifications would ensure the law's compliance with the 2015 Constitutional Court ruling and extend trade union membership rights to those working on civil-law contracts. However, the government's proposal included an additional criterion concerning the duration of such contracts, as well as over 100 other amendments to the original law that had not been agreed with the social partners.

Over time, it became clear that the PiS's approach to policy-making, if more socially progressive than that of its predecessor, was not oriented towards consultations with social partners; rather, it followed a neo-etatist, social conservative line, with the government 'knowing best' what is good for workers and citizens more generally. Out of the three main confederations, Solidarność emerged as the closest government ally. Despite occasional rifts, such as the one over specific rules governing shop closures on Sunday that was to be introduced progressively from March 2017 onwards, the union's leaders usually defended PiS's policies and pointed to the contrast between the party's social orientation and the liberal policies of its predecessors. This *rapprochement* between Solidarność and PiS negatively affected the union's relations with other confederations, which, as argued in the previous section, had become more cooperative in the second part of the economic crisis. For instance, during the 2017 liquidation of lower-secondary schools (*gimnazja*) that resulted in substantial layoffs in the sector, Solidarność refrained from criticising the reform and did not support protest actions led by ZNP, the teachers' union affiliated to OPZZ. It similarly ignored struggles for better working conditions launched by workers and smaller union organisations in the postal sector. All in all, it seems that the notion of solidarity within the Polish labour movement has been on the decline. This was evidenced in early 2018, when none of the large confederations openly condemned the government's proposals for new thresholds for union representativeness at the plant level that would effectively eliminate small unions from the workplace (Rozwadowska 2018).

On the other hand, (some) unions' growing dissatisfaction with PiS's neo-etatist approach may soon force them to openly contest the party's unilateral mode of policymaking. Returning to 2010–2015 strategic repertoires might prove difficult, however. With the coming to power of a party at least espousing social principles, the unions' role as contesters of the neoliberal policies applied in the last years of PO-PSL rule has lost its earlier salience. In this regard, by bringing social problems from the streets back to political cabinets PiS has 'disarmed' the unions and significantly lowered their mobilisation potential. The party's social policies are popular, which finds confirmation in its persistent lead in the polls and makes large-scale mobilisation on social issues rather unlikely.

Since the outset of PiS rule, the activities of opposition parties, individual citizens and the newly created social movement – such as the Committee for the Defence of Democracy (KOD), Obywatele RP and Akcja Demokracja – have been directed against the Kaczyński party's infringements of basic democratic principles, such as the rule of law, the independence of the judiciary and media freedom. It is notable that trade unions have been largely absent from these pro-democratic initiatives. Their lack of interest in the fate of the country's democratic institutions can be viewed as a matter of concern, not least as their very existence depends on the preservation of the democratic order. As Poland's largest civil society organisations, they might soon become a target of the government's anti-democratic policy course. It remains to be seen whether the unions will follow their own rich democratic traditions and take up their roles as 'products of and agents for democracy' (Wood 2006: 1), defending their rights and freedoms and the country's constitutional order more generally.

6. Conclusion

FDI attraction, flexible labour markets and welfare restraints professedly in the name of future convergence with western European levels of development have constituted the building blocks of Poland's post-transitional economic model. Throughout 1990s and 2000s, trade unions were largely on the defensive and found it difficult to regain structural, associational and discursive power under the changed socioeconomic circumstances. As a consequence, they long remained fragmented, politicised and trapped in a government-dominated social dialogue.

Following the outbreak of the financial and economic crisis and yet another failed attempt at tripartism, Polish labour organisations moved beyond futile negotiations. Capitalising on social discontent with neoliberal policy prescriptions, they mobilised against labour market flexibilisation, targeted new worker groups and brought up broader societal concerns. Even though it was perhaps too early to speak about revitalisation or a full-fledged shift in the unions' approach, between 2010 and 2015 trade unions in Poland moved beyond what Köhler and Calleja Jiménez (in this volume) call 'barriers of conservative inertia and risk-avoiding strategies'. Despite persisting weaknesses, they managed to overcome intra-organisational differences and experimented with innovative discourses, tools and target groups.

With the electoral victory of Law and Justice, however, union strategy came full circle: the party's promises to reverse some of the most neoliberal policies made labour organisations suspend large-scale protests and return to the negotiation table. As time passes, however, it is clear that the party is pursuing its own vision of social policy, without taking the unions' input into account and sometimes acting against workers and unions' interests. On the other hand, the high importance attached to attracting FDI and the parliament's objections to the revision of posting rules suggest that the country's socioeconomic policy paradigm will not be changed. By the same token, government decisions not to consult the social partners on important reform proposals signal that, despite the change of the institutional framework for social dialogue, the latter may remain ineffective.

All in all, it seems that Polish trade unions currently find themselves in limbo. Their initial trust in Law and Justice's social orientation has dwindled, but they do not have another ally on the political scene and their mobilisation capacity is lower than just a few years ago. It remains to be seen whether the organisations will continue to turn a blind eye to the party's infringement of democratic freedoms, or try to return to protest actions similar to those of 2010–2015, which in any case would have to be organised under potentially more difficult socio-political circumstances and in the absence of a unified union front.

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