Occupational Welfare in Poland: a semi-peripheral feature of a semi-peripheral economy

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Introduction

Occupational Welfare (OW) is a peripheral phenomenon in Poland. Following the collapse of state socialism in 1989, the 'welfare-providing workplace' – a workplace whose responsibilities included welfare provision to employees – disappeared. From 1990 onwards, OW has been evolving in a largely decentralised and uncoordinated manner. As a result, there is hardly any uniform system of OW observable in Poland. The world of OW is, rather, split into three essentially separate areas, each comprising different types of employers: the first is mostly confined to the public sector (including state-controlled enterprises), extending to some post-state-owned enterprises (hereinafter: public); the second is dominated by companies with foreign capital, including multinationals (some domestic corporations emulate their OW practices, hereinafter: foreign); the third is populated by domestic private companies, the vast majority of which are microenterprises (with fewer than 10 persons employed, hereinafter: private domestics)[1].

In each of these sub-worlds, the structure of OW has very distinct features. In the public sector, there are employment-related rights and entitlements which could be deemed residual (stemming from the pre-1989 era), but the extent of OW has decreased recently, due to public austerity measures and market pressure to reduce operational costs. In the foreign companies' sector, there is a wide spectrum of OW arrangements, implemented either unilaterally by employers or in cooperation with employee representatives, provided such exist. It is certainly not the prevailing scenario in domestic small and medium enterprises (SMEs), which offer very little or no OW.

Prior to 1989, the extent and volume of OW were generous in Poland. The significance of OW at the time was determined by the specific form of the socialist (communist) welfare state, the cornerstones of which were a policy of full employment and an ideological preference for collective over individual consumption. For this reason, the workplace was an important channel for welfare provision, with trade unions deeply involved in the distribution of benefits.

1. In Poland, microenterprises account for nearly 96% of all companies, and employ almost 40% of the workforce.

Nowadays, the most significant type of OW are company social funds (*zakładowe fundusze świadczeń socjalnych,* ZFŚS), which must be established by most employers with at least 20 persons on the payroll. Private employers bound by the regulation are able to bypass that specific OW arrangement with relative ease. It can be safely estimated that almost half of all people in employment[2] do not have statutory access to company social funds.

The shrinking of OW mirrored the process of welfare state transformation. Poland's welfare state is a 'hybrid' characterised by weak de-familisation. A typical example of this trend are pensions. The Polish pension system has been a field of turbulent and non-linear changes for several years. First, the 1999 reform introduced the three-pillar system, combining mandatory public (pillar I) and private (pillar II) pensions with supplementary private pensions, the latter centred around employee pension plans, which, until now, have barely developed. Second, between 2011 and 2014 the three-pillar system was rebuilt, dismantling a large part of pillar II (in two steps: first by reducing contributions, followed by a transfer of most second-pillar assets to pillar I, in a quasi-nationalisation move). Finally, an increase in the retirement age to 67 for both sexes (mainly affecting women, for whom previously the threshold was 60, as opposed to 65 for men) was forced through by the government despite strong social resistance (trade unions took the lead in the protest campaign) in 2013, but is very likely to be called off.

Paradoxically, even though the campaign against increasing the retirement age was a breath of fresh air, reinvigorating Polish trade unions, their weak position and the advanced fragmentation of industrial relations are the main factors explaining the current state of Occupational Welfare. Trade unions represent only a small share of employees (17%), and this is coupled with an equally limited coverage for employer organisations. Furthermore, collective bargaining is marginal, with sector-level agreements almost non-existent. For these reasons, OW in Poland is modest and engineered often in a one-sided and paternalistic way by employers (unions have little or no bargaining power), as well as being quite chaotic (due to a lack of coordination, with multi-employer bargaining virtually absent, and OW issues neglected by the tripartite bodies).

1. Occupational Welfare in the post-socialist context and its key determinants

Prior to 1989, the extent and volume of OW were quite significant in Poland, and the workplace played a vital role as an institutional non-market channel for distributing a wide variety of goods and services, otherwise hardly available. The benefits included housing (workers' dormitories but also company-owned flats), supplies of scarce

2. Micro and small enterprises combined (1- 49 staff) employ roughly 52% of the workforce, so the number of those working in companies with up to 20 staff can be quite safely estimated as in that region.

commodities (e.g. cigarettes) and durable goods (e.g. household appliances, vouchers for cars) as well as the provision of health, leisure, sports and culture services (own clinics, holiday resorts, gyms or libraries). Official trade unions were devoid of any power to represent genuine employee interests (in line with the logic of 'Leninist' unionism, under which they were to serve as a conveyer belt transmitting decisions taken at upper levels of party-state administration to the shop floor). Yet they played an important role as welfare agents at the workplace level, entrusted with responsibilities for the delivery of various benefits. Not surprisingly, union-controlled benefits would attract workers in high numbers to these organisations. At the onset of the transformation (1989-1990), with rapid institutional change applied in an 'imperative and revolutionary' manner (Morawski 1998), state-owned enterprises found themselves under enormous economic pressure. Struggling to stay afloat, they offloaded their non-core activities, and welfare provision (apart from enterprise-affiliated vocational schools) was the first to be jettisoned. That was the end of a coherent socialist national-scale system of Occupational Welfare in Poland, and the beginning of a decline in Occupational Welfare, which, ever since, has been reduced to rudimentary forms provided in a rather disordered manner.

Residual privileges are still enjoyed by select occupational groups such as miners, railway employees and teachers (under the 'Teachers' Charter', with special legislation serving as a substitute for a sectoral collective agreement) or by public service employees, with special emphasis on the uniformed services, which are still covered. Specific benefits provided by the 'Teachers' Charter' include the promise of municipal housing, guaranteed to teachers employed in rural areas or in a city of up to 5,000 inhabitants, and those in rural areas also have a right to a small piece of farmland. Health benefits under the Charter include the right to a one-year sabbatical on health grounds, provided the teacher has been employed full-time for at least seven years.

Yet the volume of these entitlements has been shrinking under pressure from the market (post-state-owned enterprises) or under the impact of home-grown austerity measures implemented by the government in an attempt to balance public finances (public sector).

To understand the marginal position of Occupational Welfare in the Polish case, it must be viewed in a broader institutional context. We will begin by describing briefly the current model of capitalism which has emerged in Poland over the past quarter of a century. We will then give an account of the Polish welfare state which, prior to the fall of authoritarian state socialism, considerably diverged from the general formula (and specific variations) established in the West and underwent a profound transformation in the 1990s and early 2000s. Finally, the national industrial relations system will be discussed, allowing the (under)development of Occupational Welfare to be explained by the role of collective players (social partners) and the impact of certain processes, in particular collective bargaining and social dialogue.

1.1 Poland's capitalism

The Polish economic and productive system has some peculiar traits. As we see in the following section, these include the role of foreign direct investment together with a substantial domestic industrial system and demand, implementation of the neo-liberal paradigm since the fall of the Communist regime, and a fragmented production system.

In the 1990s, Eyal, Szelenyi and Townsley (1998) put forward their influential thesis on building 'capitalism without capitalists' in the post-socialist world. The message they conveyed was that in the absence of a domestic bourgeoisie, with a lack of internal capital reserves and with the state having to define its economic responsibilities, a new (following the bankruptcy of the 'central command economy') economic regime subject to the principles of political democracy and the market economy, foreign direct investment (FDI) would become the main engine for economic development. Several years later, Nölke and Vliegenthart (2009) coined the term 'dependent market economy' (DME), denoting a specific model of capitalism which has developed in the Visegrád countries (Czech Republic, Hungary, Poland and Slovakia). 'Dependence', the key characteristic of the model, is due to the dominance of foreign capital, represented chiefly by transnational enterprises (Nölke and Vliegenthart 2009: 680). The latter proposition attracts criticism in Poland. Jasiecki (2013) claims that Poland with its substantial industrial output and domestic consumption relies less on an influx of FDI or exports than other countries in the region.

Myant and Drahokoupil (2010) also see the Visegrad nations (they extend the cluster to Slovenia) as a separate type of economy – different from the rest of the former Eastern Bloc – called an 'FDI-based (second-rank) market economy'. Bohle and Greskovits (2012) see Poland as also part of the Visegrad cluster, calling its type of market economy 'embedded neoliberalism', where a struggle continues between marketisation and social protection (Bohle and Greskovits 2012: 138-181). In line with the varieties of capitalism (VoC) approach, Mykhenenko (2007) pictures Poland as an example of a mixed market economy (MME) flawed by 'weak coordination', while displaying the qualities of both a liberal market economy (LME) and a coordinated market economy (CME).

Reviewing the diagnoses of the nature of recently re-created capitalism in Poland (as well as in the remaining post-socialist states in Europe and beyond), we can conclude that the Capitalist order in the former Soviet bloc – despite its heterogeneity – is a hybrid and dynamic one, cf. Iankova (2002). Lane (2013), using a misleading reference to Wallerstein's terminology, brands the Central and Eastern Europe (CEE) countries as 'semi-peripheries'.

Polish capitalism is also characterised by a fragmented production system with a large number of SMEs. Multinationals and the public or post-public sector form two other significant segments of the economy and labour market. As will be elaborated in the following parts of the chapter, this is combined with a 'light' welfare state (low levels of spending and rudimentary schemes), consistent with a competitiveness strategy based on lowering production costs. This model is possibly also the result of weak industrial relations and very fragmented social partner structures. All these aspects hinder the development of proper OW.

1.2 The Polish welfare state

Poland's welfare state is variously depicted as a 'hybrid' (de Frel 2009), 'post-communist European-type' (Fenger 2007), 'conservative' or 'Christian Democratic' welfare regime (Aspalter *et al.* 2009). The picture is vague, and international researchers are undecided as to where to place the largest of the EU's new Member States in the commonly used analytical frameworks. This is the result of an interfering post-communist legacy and post-1989 neo-liberal reforms, though the impact of the former is gradually diminishing. The Polish welfare state is characterised by 'weak de-familisation', as the family remains the major safety cushion for an individual.

The first layers of the welfare state in Polish territories were laid prior to the country's regaining independence in 1918, with the introduction of the Bismarckian pension reform in the 1880s. The real story, however, began in the inter-war period, with subsequent implementation of state unemployment benefits (1919)[3], health insurance for employees (1919) and a universal employee pensions scheme (1933). The latter was part of a major reform which finally brought together various institutional arrangements in the field of social insurance inherited from the partition era (when Polish territories were split between Austria, Germany and Russia). The reform extended pension coverage to industrial workers, and established (1935) the Social Security Institution (*Zakład Ubezpieczeń Społecznych,* ZUS). The system relied on capital pensions. Numerous occupational groups in the public sector were covered by separate pension schemes financed directly by the state. Poland's pre-war welfare state is viewed as surprisingly advanced, considering the low level of economic development (Inglot 2008-2010).

Following the imposition of socialist rule, the pre-war system was eventually replaced by an intergenerational solidarity-based pension system in 1958. The system was far from universal at first, as many occupational groups were excluded, while various others enjoyed coverage from special schemes financed directly by the state. The system would gradually expand to cover members of agricultural cooperatives (1962), the crafts (1965), artists and other creative professionals (1973), persons working on the basis of civil law contracts (1975), the clergy and the self-employed/entrepreneurs (1989). The important feature of the system was that while employee contributions were provided by the ZUS itself, others had to pay for themselves. Individual farmers became covered by a separate scheme called the Agricultural Social Security Institution

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3. From 1924, a voluntary unemployment insurance scheme was also in place. Initially the scheme covered manual workers, and in 1925 it was also applied to non-manual employees. The contributions paid by the insured were topped up by the state.

(*Kasa Rolniczego Ubezpieczenia Społecznego*, KRUS) in 1977. Occupational Welfare played an important part in the social safety net until 1989.

During the period of authoritarian state socialism, the official approach to the 'welfare state' was ambiguous. On the one hand, for ideological reasons it was treated as a 'foreign', capitalist concept (Zawadzki 1970), not applicable to the logic of the 'workers' state'. On the other hand, a multi-level welfare provision system did exist, becoming – as the above-mentioned case of the pension system indicates – increasingly complex over time, to the point of domestically earning the label of 'socialist welfare state' (Narojek 1991), a term closely related to Kornai's (1992) 'premature welfare state' notion, universally applied to all central command economies. Socialist (communist) welfare was based on three pillars: 'full employment, price controls combined with rationing, and universal accessibility to such services as education and healthcare, as well as pensions, sick pay, childcare benefits, maternity leave, etc.' (Kochanowicz 1997: 1478).

The wave of market reforms after 1989 resulted in an incremental reduction in the welfare state, with the most serious cuts suffered by labour and employment-related entitlements, Occupational Welfare included. Unemployment, previously unknown, would quickly grow into a steady feature of the Polish labour market. In 1990, unemployment benefit was restored, though no unemployment insurance was reinstated. Unemployment benefit is not earnings-related, and is available for a period of 6 to 12 months. However, the overwhelming majority of the unemployed (over 85%) are not eligible since their entitlement has expired[4]. Other forms of unemployment assistance (UA) include stipends (*stypendium*) of various types for the unemployed involved in training, internships or vocational preparation.

In 1990 a means-tested system of social assistance was introduced. Eligibility for social assistance is not linked to labour market status. As the main qualifying conditions are income-related (social minimum), both employed and unemployed persons can qualify for this assistance. The category of those eligible has been shrinking steadily in recent years. This is because income thresholds, used as the key benchmark (and major eligibility criterion) for assuming the right to benefit, have been effectively 'frozen', due to austerity measures applied by the Polish government since the outbreak of the global economic crisis (although Poland has never been subject to external pressure, aside from the EU New Economic Governance).

The public healthcare system in Poland is centralised and in principle closely resembles the British system. The right of access to public healthcare is defined by the *Act on Healthcare Services Financed with Public Means* of 2004 and only those who are insured with the public system (have their contributions duly paid) have a right to access. The healthcare contributions to the National Health Fund (*Narodowy Fundusz*

4. Even if the right to collect unemployment benefit has expired, there is an incentive to stay on the register, as this is required to maintain the right to public health insurance. The regular rate of unemployment benefit is 831.10 PLN (around 200 EUR) for the first three months, and 652.60 PLN (approximately 156 EUR) a month in the remaining period.

Zdrowia, NFZ) are paid either by the employer (the self-employed pay for themselves and on their own behalf) or the labour administration (in case of the unemployed).

Table 1 The Polish unemployment system

	Benefits	Main qualifying conditions	Funding
Unemployment Insurance (UI)	–	–	–
Unemployment Assistance (UA)	'Unemployment benefit' (UB) (*zasiłek dla bezrobotnych*)	Eligibility for UB depends on meeting the following conditions: having worked at least 365 days within the 18 months preceding official registration as unemployed with the labour administration, having collected at least the national minimum wage, having had their social security (including Labour Fund dues) and health insurance contributions duly paid. UB **is not earnings-related**. The reduced rate (80%) applies to unemployed people with an employment history of less than five years. The increased rate of 120% applies to unemployed people with an employment history of at least 20 years. UB is available for a period of **six to 12 months**	The Labour Fund (*Fundusz Pracy*), relies mostly on mandatory contributions paid by employers for their employees, supplemented with minor state subsidies (national budget).
Social Assistance (SA)	'Social benefits' (*świadczenia pomocy społecznej*)	SA benefits **are not related to the labour market status** of the beneficiary/applicant, as the major criteria defined by the Social Assistance Act are **income-related** (social minimum).	Taxes

Source: own elaboration, the table uses the Eurofound methodology; see: Eurofound (2013).

But it is the pensions system (seen in a broad perspective, i.e. covering not only old-age benefits, but also various early retirement schemes and disability benefits) that has arguably been the field of most profound and turbulent changes of all welfare state areas since 1989. In the initial phase of the transformation, social policy focused on alleviating the social impact of unemployment – a phenomenon previously unknown in the central command economy with its principle of full employment. This manifested itself in a broad range of deactivation measures aimed at compensating for the fall in individual (and household) income entailed by loss of work (and mainly targeting people over 45), such as:

— disability pensions (converted into incapacity-for-work pensions in 1996-1998),
— early retirement,
— pre-retirement benefits and allowances (introduced in 1995),
— survivors' benefits.

As a result, the number of recipients of such social transfers grew rapidly in the first half of the 1990s. In particular, disability pensions became a popular 'safe exit' from the labour market, with the volume of beneficiaries reaching 3.2 million (150 disability pensioners per 1,000 persons) in 1995, whereas in 1990 the figures were 2.6 million and 120, respectively (Zielona Księga 2003: 52). Throughout the 1990s a number of significant changes were made to the system, including the introduction of pre-retirement benefits and allowances (1995), CPI indexation of benefits (1997), and most importantly the replacement of disability pensions with incapacity-for-work pensions (1996-1998). The latter meant imposing stricter eligibility conditions, which has translated into a steep drop in the number of new benefits granted since 1998. As a result, the volume of disability pensioners dropped below the 1 million level in 2015.

Two developments might be considered as milestones in the post-1989 history of the Polish welfare regime. First, there was the pensions system reform of 1999, which replaced the former system based solely on the 'intergenerational solidarity principle' by a mixed system combining the former and a 'defined contribution' arrangement. The new system was intended to be based on two main pillars, the Social Security Institution (*Zakład Ubezpieczeń Społecznych*, ZUS) and Open Pension Funds (*Otwarte Fundusze Emerytalne*, OFEs). Those born in 1968 and after were obliged to join the two-tier system, while older citizens were given the right to choose whether to remain in the ZUS or to share their contribution between the two. Furthermore, the reform opened the way to creating the 'third pillar', i.e. individual private pensions (see Table 2). This possibility remained largely unexplored in the subsequent years. The reform had been prepared since 1996, and upon its completion was branded a 'radical rewriting of the social contract' (Guardiancich 2013).

The other crucial development occurred around 2011-2014, when the government first put forward a proposal for a pension system reform which would extract a large share of the funds from the second pillar and redirect them to the state-controlled ZUS. In 2012 it was decided to raise the retirement age to 67 for both sexes. From 1 January 2013, the retirement age started to increase by three months a year, with a view to reaching a retirement age of 67 for men in 2020, and for women in 2040. This move was pushed through despite widespread social discontent and massive resistance led by trade unions. The final step in dismantling the pensions system was taken in 2013. Following up the 2011 reform, more far-reaching changes to the system were voted in a law which forced through another reform of the pensions system, giving all those insured in the two-tier pensions system the right to choose whether to continue their pension strategy or to agree to a transfer to the ZUS, including a transfer of the contributions paid thus far to OFEs. By the end of January 2014, open pension funds had to transfer 51.5% of their assets to the ZUS (some 153 billion New Polish Zloty (PLN) or approximately 36 billion EUR). Only some 2.5 million persons decided to remain in OFEs, i.e. 18% of the 14 million eligible for the second pillar.

The 'capture of the second pillar' remains a controversial issue. On the one hand, there is a substantive body of evidence questioning the second pillar's efficiency (GUS 2012), thus the very need for OFEs in their current shape was disputed (Oręziak 2014). On the other hand, the government's radical moves triggered criticism, not only on the part of the neoliberal commentators and experts (objecting to the new reform in its entirety, e.g. Bardziłowski 2015) but also by those whose scepticism towards OFEs was counterbalanced by their distaste for the callous unilateralism of the government's decision, and doubts regarding the constitutionality of the new regulations. Interestingly, the social partners' perspectives on the government's plans did not fully reflect their position in industrial relations. Some of the trade unions (*Solidarity*) and employer organisations (Confederation *Lewiatan*) opposed the concept, while other representative trade unions (*Ogólnopolskie Porozumienie Związków Zawodowych*, OPZZ and *Forum Związków Zawodowych*, FZZ) and employer organisations (Business Centre Club, BCC) took a fairly positive view. In particular, the latter two trade unions questioned the efficiency of OFEs in terms of return on investment to future beneficiaries (GUS 2012). The whole operation resembled the 'de facto nationalization of the second pillar' (Drahokoupil and Domonkos 2012: 285) by the Hungarian government in 2010.

It is important to note that the official retirement age is still the focus of political debate. Following the victory of Andrzej Duda in the presidential elections in June 2015, the major opposition party, the social conservative Law and Justice party (*Prawo i Sprawiedliwość*, PiS) – of which President Duda was a member prior to taking office – won the parliamentary elections in October. Honouring his pledge made during the campaign, the President submitted draft legislation restoring the former retirement age (60 years for women and 65 years for men). The draft is currently (August 2016) subject to parliamentary debate.

In addition, Poland still maintains a separate pension system for farmers, managed by the Agricultural Social Security Institution (KRUS). This system relies primarily on public transfers from the state budget, which contributes above 90% of the KRUS revenue. As of 2016, the Polish old-age pension system provides for 9.5 million recipients, of whom approximately 81% are covered by the general system (managed by ZUS), while roughly 15% receive their pensions from KRUS. The remaining pensioners (4%) are covered by special schemes maintained for the uniformed services, judges and public prosecutors (GUS 2014).

There are now no provisions for early retirement in the general pension system. Persons born before 1949 were eligible for early retirement schemes. The privileged groups included teachers, miners, railway workers, people employed in special (hazardous) conditions and women.

In the context of a diminishing welfare state, it is interesting to note the widespread social support for a flat tax rate, observable throughout Central and Eastern Europe (see Domonkos 2015). This can be interpreted as an implicit manifestation of a general distrust in the state, and of citizens' preference to retain as much personal income as possible in their own hands, so they can manage their own welfare better than inefficient (as they are perceived) public institutions.

Table 2 **Polish pensions system since 1999**

1st pillar Mandatory Public	2nd pillar Mandatory Private	3rd pillar Optional Private	Special retirement schemes for …
– Social Insurance Fund (Fundusz Ubezpieczeń Społecznych, FUS), operated by the public Social Security Institution (Zakład Ubezpieczeń Społecznych, ZUS) – Agricultural Social Security Institution (Kasa Rolniczego Ubezpieczenia Społecznego, KRUS) - a separate pension scheme for farmers, mostly state-subsidised	– Open Pension Funds (Otwarte Fundusze Emerytalne, OFE), pension schemes operated by private entities, contributions invested in the market	– Employee pension programmes (PPE): employee pension funds (PFE); a contract requiring that the employer contribute to an investment fund on the employees' behalf; – A group life insurance and investment contract with an insurance institution; a contract on management of foreign assets – Individual pension accounts (IKE) and individual pension protection accounts (IKZE)	– Uniformed services (armed forces, police, fire service, Border Guard, penitentiary service, special services) – Judges and public prosecutors

Contributions to the 1st and 2nd pillar (% of gross earnings)		
ZUS and OFE	– Until 30 April 2011:	12.22% (ZUS) + 7.3% (OFE) =19.52%
	– From 1 May 2011 to 31 Dec. 2012:	17.22% (ZUS) + 2.3% (OFE) =19.52%
	– From 1 Jan. to 31 Dec. 2013:	16.72% (ZUS) + 2.8% (OFE) =19.52%
	– From 1 Jan. to 31 Dec. 2014:	16.42% (ZUS) + 3.1% (OFE) =19.52%
	– From 1 Jan. 2015 to 31 Dec. 2016:	16.22% (ZUS) + 3.3% (OFE) =19.52%
	– From 1 Jan. 2017:	16.02% (ZUS) + 3.5% (OFE) =19.52%
KRUS	Lump sum benefit, largely state-subsidised (around 90%)	

Note: the ZUS contribution includes a steady component of 12.22% and a decreasing component (from 5% to 3.8%) deposited in a special sub-account. The share subtracted from the latter is added to the OFE contribution.
Source: own elaboration.

1.3 Industrial relations in Poland

The industrial relations system is still – in a similar way to the market economy and welfare regime – a hybrid. The labels used to describe the regime include 'corporatism in the public sector, pluralism in the private sector' (Morawski 1995), 'illusory corporatism' (Ost 2000), 'pluralism' (Meardi 2002) or 'fake corporatism' (King 2007). According to Bechter *et al.* (2012) industrial relations differ in the public and private sectors. For this reason, Poland, along with other CEE countries, is dealt with as a 'mixed' or 'empty' case, 'due to the fact that collective bargaining coverage, the organisational density of social partners and their fragmentation is low or sometimes even non-existent, collective bargaining is also rather decentralised' (European Commission 2013: 47), yet in the public sector it is branded as 'state-centred'. The heterogeneity of industrial relations practices across the national economy appears to correlate with the capital-ownership factor. Polish industrial relations are divided into three largely separate dimensions: the public and 'post-state' sector, domestic private enterprises (with an overwhelming share of SMEs) and foreign-owned companies. The public sector and the sector dominated by foreign capital share similarities which distinguish them from the domestic private sector. These shared features include in particular the occurrence of trade unions[5] and presence of collective agreements (Czarzasty 2014). Whereas the private sector controlled by Polish capital resembles a desert in terms of trade union incidence, the private sector with foreign capital forms a more union-friendly environment, albeit not quite matching the level found in the public sector.

Employment relations display highly advanced individualisation, and the position of organised representation on both employee and employer sides is weak. Trade unions are highly decentralised and fragmented. Enterprise-level union organisations are dominant, and the upper-level organisational units (federations at branch levels and confederations at the central level) are relatively weak.

Union density is among the lowest in Europe, and remains in the region of 12-15%. This figure is based on survey data, as no administrative figures are available on the subject. However, the most recent module study conducted by the national statistics office reveals that unionisation might be higher than formerly assessed, with 17% of employees belonging to trade unions (GUS 2015). Union fragmentation is a consequence of the legal environment, which on the one hand sets low entry barriers for starting up a new union at workplace level (only 10 employees required), but on the other hand excludes substantial categories of people in employment (the self-employed, persons in non-standard employment) from union membership. Since small enterprises (with less than 10 employees) constitute 96% of all economic entities and employ around 40% of the workforce in Poland, they have, in practical terms, virtually no institutional employee representation.

Table 3 **Trade union density in Poland (%): survey data**

Year	1987	1991	2000	2002	2007	2008	2010	2013	2014
Trade union density	38%	28%	20%	18%	14%	16%	15%	10%	12%

Source: Wenzel (2009: 540) based on the Public Opinion Research Centre (CBOS) Report. Data on 2002, 2007, 2010, 2013 and 2014 based on the CBOS reports No.BS/55/2003; BS/21/2008, BS/109/2010, BS/62/2013, 106/2014.

As of 2016 there are three representative trade union organisations at the central level:

— The Independent Self-Governing Trade Union 'Solidarity' (*Niezależny Samorządny Związek Zawodowy Solidarność*, NSZZ *Solidarność*);
— The All-Poland Alliance of Trade Unions (OPZZ);
— Trade Unions Forum (FZZ).

5. In a national-scale survey, working Poles 2007 (using a representative sample of economically active adults), the response rate confirming union incidence at workplace level was: 60.9% (public), 8.2% (domestic private) and 32.7% (foreign private).

Political divisions tearing the Polish union movement apart during the transformation period, combined with the relative ease of founding new organisations, produced the phenomenon of 'competitive pluralism' (Gardawski 2003) which seriously hampered unions' capacity to cooperate. The political entanglement of the two major unions enrooted in the pre-democratic era (*Solidarność* and OPZZ) contributed to the establishment in 2001 of the Trade Union Forum (FZZ), a confederation formed by independent unions and a number of organisations which used to belong to the OPZZ.

Nowadays, the strategic orientations of Polish unions vary: 'business unionism' is arguably the most popular model but other approaches – such as 'social movement unionism' or the 'organising model' – can also be found. 'Business unionism' is hereafter defined as a 'multi-task servicing implied by a commitment [...] to represent the 'narrow' economic interests of workers (Ost 2002: 34). It is contrary not only to 'social movement unionism', an approach based on broad mobilisation overcoming specific group interest differences and class divisions, exemplified in the Polish context by the Solidarność rising in 1980-1981 (see Touraine *et al.* 1984) but also to the 'organising model', i.e. a grassroots strategy focused on actively seeking and empowering new members (e.g. Simms *et al.* 2012). The business unionism model provides a potentially fertile ground for building up an 'Occupational Welfare agenda', first at company level, and concurrently, in a bottom-up manner, also on the upper levels of the industrial relations system. However, this potential remains largely unexplored[6], although social dialogue is pointed to as a possible lever (Petelczyc 2015).

Employer organisations have not made substantial progress in terms of coverage. According to *Industrial Relations in Europe in 2014* (European Commission 2015) the density of employer organisations was approximately 20%. The collective bargaining capacity of these organisations is also highly insufficient.

As of 2016, there are four representative employer organisations at the central level:

— Employers of Poland (*Pracodawcy*, RP);
— Confederation 'Lewiatan' (*Konfederacja 'Lewiatan'*, Lewiatan);
— Polish Crafts Union (*Związek Rzemiosła Polskiego*, ZRP);
— Business Centre Club (BCC).

The inconsistency of OW arrangements and schemes in Poland, contributing to the lack of any integrated national-scale system, is also determined by the state of and trends in collective bargaining. Collective bargaining is very decentralised, with single-employer agreements predominant. The most striking feature of the system is the absence of sector-level bargaining. In 2013, there were only 87 multi-employer

6. The range of services offered by unions is narrow, usually limited to Christmas gift packages and short-term loans. A more sophisticated idea is the *Grosik* ('penny') discount card available nationwide to all 'Solidarity' union members. The cardholder is entitled to purchase goods and services offered by partner companies at discount prices. Enrolment in the programme is free of charge, and the cost of issuing the card is borne by the organisation. Since the summer of 2015, almost 160,000 union members have signed up for the programme, and over 2,800 outlets across the country honour the card.

collective agreements, covering some 390,000 employees, i.e. some 2.7% of employees, mostly from the public sector, according to the Ministry of Labour. Collective bargaining coverage is very low at 15% (ICTWSS database, ver. 50). Collective agreements are rare in Polish private enterprises, and more frequent in public (and post-state-owned) and foreign private companies (Czarzasty 2014)[7]. The deterioration of collective bargaining has to some extent been compensated by tripartite social dialogue. Following a two-year deadlock (2013-2015), tripartism was relaunched last year with the adoption of a new law, replacing the the Tripartite Commission for Social and Economic Affairs (*Trójstronna Komisja do spraw Społeczno-Gospodarczych*) by the Social Dialogue Council (*Rada Dialogu Społecznego*, RDS), furnished with broader prerogatives than its predecessor.

There is a dual system of collective interest representation, as, since 2006, works councils have been recognised in Poland as a formal institution of representation. From 2008 onwards, employers with at least 50 employees have had to allow the establishment of a works council. Thus far, the experiment of introducing works councils to Poland appears to be a failure. According to official statistics, only 567 works councils have been re-elected for a second term (compared with 3,401 established for a first term). Works councils are ill-equipped by the law and have narrow prerogatives.

2. Occupational pensions: still in an embryonic state

The basic legal foundation for occupational pensions was created as part of the 1999 pension system reform. The original *Act on Employee Pension Funds* or *pracownicze programy emerytalne* (PPE) attributed sole responsibility for contributions to employees. By virtue of the 2001 amendments to the Act, this was shifted to employers. The regulation was criticised, its main weaknesses being a lack of appropriate tax incentives, overcomplicated procedures for establishing funds, and no legal means for a temporary suspension of operations or closure of funds by employers due to a difficult financial situation (Petelczyc 2015). Thus in 2004 the original regulation was replaced with a brand-new *Act on Employee Pension Funds*. The new regulation created a more relaxed regime for creating and managing PPEs. In particular, the legislator allowed for a reduction in the amount of the basic premium paid by the employer, gave social partners (employer and employee representatives) more freedom in negotiating agreements (thereby reducing the financial burden of employers in relation to a PPE), and introduced a legal option to temporarily suspend or close a fund due to an employer's difficult financial situation. The new Act also provided financial incentives for employers, allowing PPE contributions for their employees to be deducted from the basic amount used for calculating compulsory social security dues. In 2004, pillar III of the pensions system was expanded with a new measure called an individual pension account (*indywidualne konto emerytalne*,

7. In the *Working Poles 2007* survey, the response rate confirming existence of a collective agreement at workplace level in unionized companies was: 51.5% (public), 45.2% (domestic private) and 59.5% (foreign private).

IKE), and, in 2012, with yet another individual pension protection account (*indywidualne konto zabezpieczenia emerytalnego*, IKZE). These additions, however, are of a strictly individual nature. Aside from the above-mentioned group and individual measures, there are also several other arrangements, though their incidence is marginal.

The third pillar of the pensions system currently (2016) includes the following schemes:

— employee pension programmes (PPE) – the annual cap for financial resources deposited in IKZE is currently 17,815.50 PLN;
— employee pension funds (PFE) – a special variant of PPE, the contributions to which are invested on the financial market, typically via specialised investment funds. There are only five such funds currently in operation.
— a contract stipulating that the employer contributes to an investment fund on the employees' behalf;
— a group life insurance and investment contract with an insurance institution;
— a contract for the management of foreign assets;
— an individual pension account (IKE) and individual pension protection accounts (IKZE):
    a. IKE – an account established by anyone aged at least 16, with a bank, life insurance company, stockbroking entity, investment fund or a voluntary pension fund; an IKE holder can also participate in a PPE. The annual cap for the financial resources deposited in IKE is 300% of the average monthly pay in Poland (since 2009; prior to that, it was 150%); the minimum period of saving is five years. Accumulated capital can only be withdrawn after the holder reaches the age of 60 or 55, provided they also acquire the right to retire. IKE is inheritable, and no inheritance tax applies to the immediate family.
    b. IKZE – introduced in 2012, IKZE is an account to be established with a bank, life insurance company, stockbroking entity, investment fund or a voluntary pension fund. IKZE holders can also participate in a PPE. The annual cap for the financial resources deposited in IKZE is 120% of average monthly pay in Poland; the minimum period of saving is five years. Accumulated capital can only be withdrawn after the holder reaches the age of 65. IKZE is inheritable; regardless of who withdraws the accumulated capital (the holder or the heirs), a 10% tax rate applies.

As the statistics available from the Polish Financial Supervision Authority (*Komisja Nadzoru Finansowego* or KNF, the national regulatory body of the entire financial sector) indicate, the extent of pillar III arrangements is limited. On the one hand, this might seem surprising, since the combined replacement rates envisaged for pillars I and II will be very low: 35% for women, and 58% for men (Herbich 2010). On the other hand, the reluctance to join the 3rd pillar is understandable, considering the low level of incentives to take out additional pension coverage. In the case of the Polish 3rd pillar, until 2012 there was a 'reverse tax scheme' in place, which meant that the contributions were subject to taxation, while the benefit was not. This negatively affects the entire system: it is not only illogical, but also discourages those on lower incomes from entering the third pillar (Szumlicz 2010). Introducing IKZE only partially removed this obstacle.

Table 4 **Number of individual pension accounts (IKE) and individual pension protection accounts (IKZE),** participants in employee pension programmes (PPE) and employee pension funds (PFE), number of PPE/PFE

Year	2005	2010	2011	2012	2013	2014
Number of account (IKE/IKZE) holders	425,272	792,466	814,449	813,292	817,651	824,485
Number of insured in PPEs/PFEs	260,300	342,500	344,600	358,100	375,000	381,000
Number of PPEs/PFEs	906	1,113	1,116	1,094	1,070	1,064

Source: Komisja Nadzoru Finansowego (KNF) data (2006-2015).

The number of IKEs and IKZEs has been growing steadily, yet is still relatively low: in 2014 (the latest data available) slightly more than 800,000 people were covered by this type of voluntary pension protection, i.e. 5.1% of the working population. As for the employee pension plans, the number of plans has been falling since 2011, yet the number of people insured by such schemes has been on the rise, reaching 381,000 in 2014. This however represents a mere 2.3% of the working population.

The most popular form of employee pension takes the form of an agreement to join an investment fund set up by the employer and financed through employee contributions. In 2014 a total of 219,000 participants (57% of all workers in the firms involved) were members of such a supplementary employer-funded pension scheme.

Employee pension funds (PFE) have been introduced by very large companies: multinationals (e.g. Orange Polska or Unilever) or state-controlled (the State being a shareholder) companies (e.g. PZU, the insurance company). The biggest one is operated by Orange, with approximately 32,000 participants. The remaining funds have between two and seven thousand participants.

3. Other Occupational Welfare schemes: company pension funds and minor benefits

As pointed out above, there are no occupational unemployment insurance schemes currently active in Poland. This section thus refers to other occupational schemes that have proved to be important in the country.

A key aspect of OW in Poland are the company social funds. A company social fund (*Zakładowy Fundusz Świadczeń Socjalnych*, ZFŚS) is a special fund serving social purposes, mandatory for a specific category of employers (the major condition concerns the volume of employment: 20 full-time equivalent employees, FTEs). The ZFŚS is dedicated to the aims named by the *Company Social Fund Act* of 1994, financed by an annual deduction (37.5% of the gross average pay per employee), and accumulated in a separate bank account. A ZFŚS operates on the basis of internal rules, called a ZFŚS regulation (*regulamin ZFŚS*). The structure of Poland's' economy – as far as the enterprise sector is concerned – is also a key reason for the underdevelopment of social funds. Microenterprises (with up to 9 staff) account for nearly 96% of all companies, and their share in the total volume of employment is almost 40%. These companies are not bound by the legal requirement to operate a company social fund.

The law stipulates that only specific categories of employers are obliged to establish such funds:

— Employers with at least 20 employees (full-time equivalent, FTE) on the payroll, as of 1 January in a given year;
— Employers holding the legal status of national budgetary units and local budgetary units (public entities which are neither enterprises nor parts of the administration), regardless of how many they employ.

However, there are legal 'ways out' for employers wishing to avoid the burden of a ZFŚS. First and foremost, in non-unionized workplaces, the employer may rule out or eliminate – through a special clause included in the 'pay regulation' (an internal workplace regulation) – the possibility of a ZFŚS. Unionised workplaces may be exempted from a ZFŚS through a special clause included in the collective agreement or, in the absence of such an agreement, with the consent of workplace-level trade unions. If there is a ZFŚS and no trade union, the employer needs to secure the consent of the 'employee representative appointed in a way usual for the employer' (a figure employed widely in labour law regulations in Poland, yet never specifically defined, which leaves a lot of room for interpretation). Employers who do not meet any of the abovementioned conditions may freely decide whether or not to establish a ZFŚS.

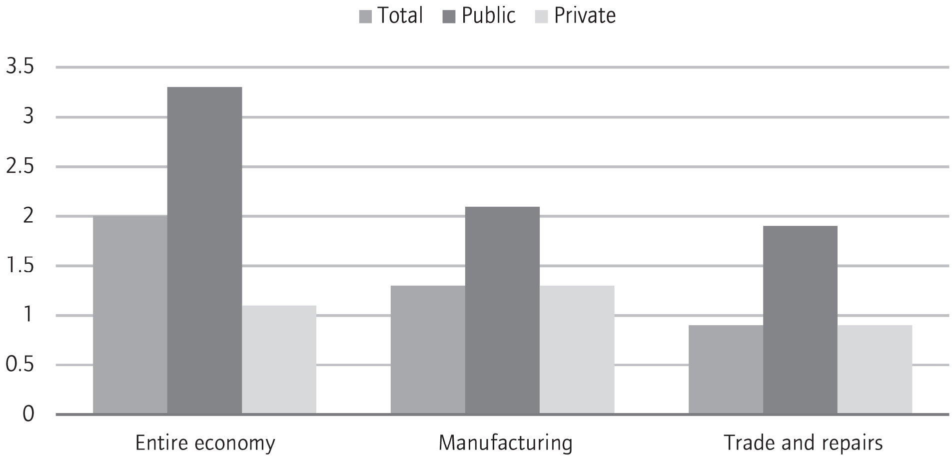
Financial reserves accumulated by the ZFŚS can be used for the following purposes:

1. Covering social expenses of the eligible persons (leisure; cultural and educational activities; sports and recreation activities; financial and material aid; housing loans)

2. Co-financing the costs of workplace social facilities – furnishing workplace gyms, office recreational areas, etc.

3. Covering the costs of establishing and operating pre-school childcare facilities (nurseries, kindergartens).

Figure 1 **Company-level social funds as a component of labour costs**



Source: Koszty pracy w gospodarce narodowej w 2012 r., GUS (2013).

Eligibility for ZFŚS-financed benefits is restricted to:

— Employees and their families;
— Former employees (retired or recipients of disability pensions) and their families;
— Other persons not belonging to any of the two afore-mentioned categories, who are explicitly recognised by the ZFŚS Regulation as eligible.

By virtue of the Supreme Court ruling of 20 August 2001 (PKN 579/00, OSNP 2003/14/331), financial aid from the ZFŚS should be primarily used for levelling up the living standards of eligible recipients; therefore, it is implicitly recognised as a social welfare instrument.

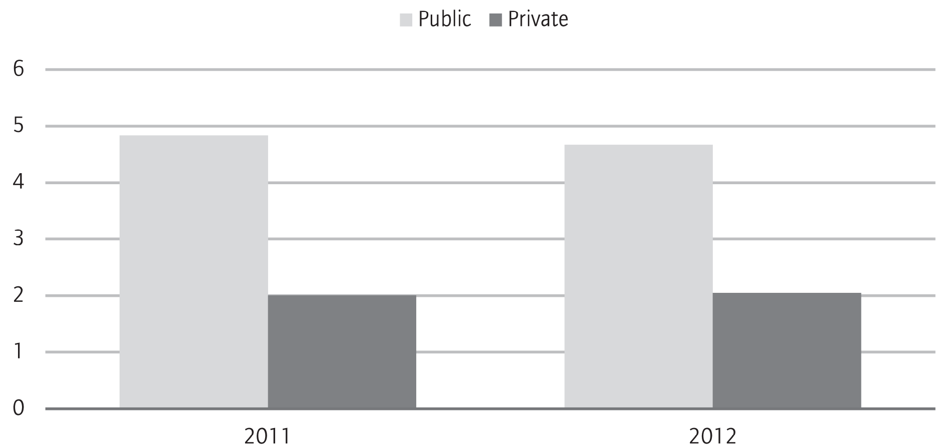
Benefits from the ZFŚS do not constitute a substantial share of labour costs: in 2012, for the entire economy (all sectors), ZFŚS allocation amounted to 2% of total labour costs (3.3% in the public sector, 1.1% in the private sector), in manufacturing the figures were 1.3%, 2.1% and 1.3%, respectively, and in trade and repairs 0.9%, 1.9% and 0.9% (Figure 1).

It is significant that in unionised workplaces trade unions have legal authority over the ZFŚS, i.e. the expenditure plan for the coming year needs to be discussed with company-level trade unions and to receive a seal of approval from the 'social committee', a joint body including employer representatives: the decision is bilateral, but needs to be taken unanimously.

3.1 Private healthcare and casualty insurance

Private healthcare is an area of Occupational Welfare which has been growing steadily. As such, health services are not named by the *Act on Company Social Funds* as a benefit to be financed from the ZFŚS: it is the employer that covers the cost of implementing and operating such an arrangement.

Figure 2 **Healthcare expenditure in Poland, % of GDP**



Source: Zdrowie i ochrona zdrowia w 2013 r., Health and healthcare in 2013 Statistical information and tables, GUS (2014).

According to public statistics, healthcare expenditure expressed as a % of GDP amounted to 4.83% (public spending) and 2.01 (private expenditure) in 2011, while in 2012 the figures were 4.67%, and 2.05%, respectively (Figure 2).

Although there is very little empirical data measuring the actual extent of employer-funded private healthcare, it is estimated that approximately every fifth employee is covered by some type of medical assistance (Workplace Health around the World 2015). This usually takes the form of either pre-paid healthcare cards (which entitle the holder to a defined number of specific services provided by private medical companies) or health insurance policies. The former are reportedly (although no precise figures are available) more popular than the latter, reflecting deficiencies in public healthcare (Altkom Consulting report 2013). Nevertheless, the same source states that two-thirds of ‘products’ in the portfolio of private health insurance providers are unprofitable. Furthermore, the expansion of pre-paid medical aid is also questioned following the 2014 Constitutional Court ruling (as a result of a motion filed by the Confederation *Lewiatan*), according to which all free-of-charge employee benefits are subject to taxation.

Another common feature of company-level Occupational Welfare in Poland is group casualty insurance. This is not usually financed by employers, but the terms and conditions are more favourable than in the case of individually purchased insurance policies.

3.2 Social plans

Social plans (sometimes also referred to as 'social packages', a more literal translation of *pakiet socjalny* in Polish) are, in essence, protective schemes introduced to address cases of ownership change (privatisation, takeovers, mergers) or major restructuring measures, which result in job cuts through voluntary exit programmes (*program dobrowolnych odejść*, PDO) or involuntary redundancies[8]. Social plans are implemented on a voluntary basis, either unilaterally by the employer or in consultation and agreement with trade unions, provided these are present and possess enough bargaining power to exercise effective pressure. There are no specific guidelines, not to mention any binding regulations concerning the structure and content of social plans. As an *ad hoc* Occupational Welfare measure, social plans are an issue usually not dealt with in collective agreements (and could be determined *ex post*, based on the big restructuring cases where social plans were adopted).

Social plans are a popular form of Occupational Welfare in the public sector and so-called post-state-owned enterprises (that underwent either privatisation or so-called commercialization, i.e. legal transformation into a corporation with the state retaining capital control) – in particular PDOs, by means of which employees choose to terminate their employment contract in exchange for a redundancy package. PDOs were frequently used in the period of massive industrial restructuring of state-owned enterprises in the late 1990s and early 2000s. They were financed either directly by the state (e.g. Gilejko 2006), or, in the case of direct privatisation (usually through acquisition by foreign capital), outsourced to the purchasing party. Presently, PDOs are still implemented in the public and post-state-owned sector as a means of consensual downsizing.

3.3 Other employee benefits

Apart from frequently observed company social funds, incidental social plans and marginal occupational pension plans, there are other, minor regular benefits available to employees. The limited statistical data accessible on the subject reinforces the claim that companies with foreign capital are more inclined to provide welfare measures than their domestic counterparts. In 2015 only 60% of staff in Polish companies confirmed that they received any workplace benefits, while the figure for those employed in foreign-owned enterprises was 88%. There is also a clear correlation between company size and access to benefits: being hired by a large company makes it relatively likely for the employee to receive some benefits, whereas working for a microfirm will probably result in getting nothing. The spectrum of benefits appears

8. As for compulsory measures envisaged by law, the Collective Redundancies Act stipulates that, in cases of redundancy, any employee affected (losing their job) is entitled to redundancy pay (regardless of whether any social plan is engineered) equal to: 1) one month's wages, if the employee has been working for the company for less than two years; 2) two months' wages, if the employee has been working for the company between two and eight years; 3) three months' wages, if the employee has been working for the company for more than eight years.

complex at first glance, but a closer look at the data reveals that there is a relatively narrow range of popular benefits actually in use, whilst others are seldom provided. Key benefit categories include: company cars, cell phones, training and development, medical services, social support measures, sports and leisure benefits, long-term benefits (pension plans included). The most frequently mentioned types of benefits include: basic healthcare (48%), membership of sports and fitness centres (46%), and specialized healthcare (45%). For approximately half of the beneficiaries, the value of goods and services received amounts to up to 200 PLN (less than 50 EUR). The number of employees reporting workplace benefits is falling: from 73% in 2013 to 68% in 2015. This process is coupled with a growing readiness on the part of employees to contribute to (co-finance) the costs of benefits *Świadczenia dodatkowe w oczach pracowników* (2014, 2015).

Conclusions

The history of Occupational Welfare corrosion following the shift from the 'immature welfare state' of socialist times to the amorphous welfare state of the capitalist era provides an illuminating illustration of institutional discontinuity, omnipresent in Poland. Occupational Welfare in today's Poland is as much a hybrid as the country's market economy, welfare state and industrial relations, all of which were examined in this chapter. It is an amalgamation of the socialist legacy, the impact of which has been weakening as time goes by, post-1989 market reforms, and, to a lesser extent, a more recent string of events, such as EU accession, and a post-2008 series of crises prompting the introduction of home-grown austerity policies. The internal divisions within the field of Occupational Welfare in Poland mirror the divisions in the world of industrial relations. Industrial relations in the public sector (extended to cover post-state-owned companies) differ from those in large private enterprises dominated by foreign capital or in domestic SMEs, and as such is reflected in the Occupational Welfare schemes present in these three sub-worlds. In the public sector, there are still traces of the late 'socialist welfare', while in the FDI-driven sector of large firms there is a myriad of arrangements. There are, however, hardly any regular patterns observable, and while it is not difficult to identify generous employers, it is equally easy to spot those who are reluctant to provide welfare to their employees. Moreover, it needs to be highlighted that the Occupational Welfare policies of such employers are usually shaped unilaterally. Last but not least, Occupational Welfare is rare in domestic SMEs and virtually non-existent in microfirms. The chaotic picture of Occupational Welfare in Poland could be explained in terms of weak autonomous regulation of industrial relations and by the peculiarities of the Polish economy: the social partners cover minor parts of their respective constituencies, and collective bargaining is marginal, especially at a multi-employer (sectoral) level. That is why it is impossible to name any supra-enterprise schemes/regimes, apart from in the 'public sector' (as we call it) where we find such arrangements (cf. special pension schemes or entitlements guaranteed to teachers or coal miners). These, however, are usually facilitated by law (with rare yet well-known exceptions such as coal mining, where they are secured in collective agreements).

In the public sector (including post-state-owned enterprises), the extent of Occupational Welfare has been decreasing, due to austerity measures and market pressure to reduce operational costs. In the private sector, Occupational Welfare has developed in a largely uncoordinated manner. Some instruments have gained popularity, especially private healthcare, widely seen as an investment allowing employees to by-pass inefficient public healthcare, and thus save time and emotional distress.

Voluntary private pensions (pillar III of the pensions system) remain a marginal phenomenon, probably due to the lack of institutional incentives for employers or employees. In particular, the 'reverse tax scheme' is a factor discouraging prospective members from making additional financial commitments. The area of unemployment benefits is completely neglected. The only scheme in place is the state-operated and financed system of transfers, which takes a very rudimentary form and de facto pushes the long-term unemployed into the shadow economy. In addition, the unemployment picture is distorted by the fact that individuals must retain their unemployed status (even after the right to collect benefits has expired) if they do not wish to lose state health insurance.

The social partners' position *vis-à-vis* Occupational Welfare varies. Employer organisations are largely indifferent to the issue, although recently, as the possibility of restoring the former retirement age (60 years for women, and 65 for men) at the initiative of the President of Poland emerged, their involvement has intensified (IGTE 2016). The case of the trade unions is more complicated, given the historic role of unions as 'welfare agencies' in the period of state socialism. At present, unions are simply no longer capable of fulfilling such tasks, especially in the private sector. Cases of multinationals pursuing their own Occupational Welfare policies, which often involve worker representations, are exceptions. At the end of the day, the 'company social fund' remains the only instrument giving unions substantive influence over welfare at workplace level.

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