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Summary

The objective of this report is to assess new modes of governance associated with social dialogue in three new EU member states – Poland, Lithuania and Estonia. The starting point of the study was a comparison of two state models – administrative and network. The outcome of the study shows "path dependency" in Eastern European countries. Pursuant to the socialist legacy, an administrative state model continues to dominate. It is reinforced by the innate political culture and persistent administrative patterns. This reflects on the manner in which new modes of governance associated with social dialogue are implemented in the practice of state administration. Rather than transforming the existing administrative model into the network one, they are absorbed by it.

An important conclusion of the study lies in the integrity between the state model, the political and administrative culture of the given country, and institutionalization of social dialogue. Consequently, weak institutionalization of social dialogue in new member states is neither accidental but systemic. It is not solely the product of an incorrect or insufficient implementation of western institutions, but is associated with the dominant administrative state model and local political culture. Consequently, a reform of social dialogue in these countries would require not only an improvement of institutions but also an introduction of solutions that would at the same time contribute to changing political culture and the state model.

In new member states, Europeanization of state administration with respect of social dialogue is superficial. The study shows that such situation results not only from the specificity of transformations in CEE countries but also from the weakness and internal differentiation between social dialogue models borrowed from Western Europe. In addition, the study shows an inconsistency, even a contradiction, in the application of governance methods transferred to the examined countries from the European Union. This relates particularly to the contradiction between "hard" modes of governance associated with a unilateral transfer of legal regulations and introduction of "soft" modes of governance that include social dialogue.

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Objectives and scope of the study

The period of systemic transformations and the process of European integration in CEE countries is linked to thorough changes in public administration. One of the elements of these changes consisted in the introduction of new methods of managing public tasks, borrowed from the practice of western democracies. Important among them were methods associated with democratization of administrative activities for the purpose of opening the administration to public scrutiny and increasing social partners' participation in the development and implementation of public policies[1].

This report sums up a study conducted by the Institute of Public Affairs (IPA) in three new EU member states – Poland, Lithuania and Estonia[2]. It was conducted in 2004-2005 within the framework of the *New Modes of Governance* consortium. The report is a part of a project entitled *Democratization, Capture of the State and New Forms of Governance in CEE Countries*. The study's objective was to analyse the functioning of *new modes of governance*[3] associated with social dialogue under the peculiar conditions of Central and Eastern Europe.

There exist three fundamental factors that affect the functioning of administration (including implementation of new modes of governance) in new EU member states located in that part of Europe: (1) systemic transformations from real socialism to capitalism and democracy; (2) strong socialist tradition that accompanies the execution of public policies; (3) process of integration with the European Union, including the application of novel methods of managing public policies borrowed from "old" EU member states.

Consequently, this report attempts essentially to specify the impact of these three factors on the shaping of social-dialogue institutions as a method of a social participation in development and pursuit of public policies. It analyses the influence of social dialogue on the effectiveness of the execution of public policies. It also examine the stimulus of social and civic dialogue on legitimization of public policies, administrative authorities and their social partners. It assesses the quality of the institutionalization of social dialogue as a new mode of governance. It also analyses the impact of social-dialogue institutions on the strength or weakness of the state.

National reports that constitute the basis of this analysis were based on a study of social dialogue pursued at the central level. Social dialogue was understood in the study as broad public consultations conducted along various institutional formulae. In the European Union, the term "social dialogue" applies in particular to employer/employee relations, also called industrial relations. A particular form of social negotiations analysed within the framework of the IPA project consists in tripartite institutions. Next to employer and employee organizations, they

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[1]   Comp. T. G. Grosse (2005): *Democratization, Capture of the State and New Forms of Governance in CEE countries, Inception Report*; Project no. CIT1-CT-2004-506392, NEWGOV.

[2]   Comp. M. Fałkowski (2005): *Tripartite Commission, Effectiveness, Legitimacy and Pathologies of Weak State, Case study Report Poland*; R. Stafejeva (2005): *Tripartite Commission, Effectiveness, Legitimacy and Pathologies of Weak State, Case study Report Lithuania*; E. Sootla (2005): *Tripartite Commission, Effectiveness, Legitimacy and Pathologies of Weak State, Case study Report Estonia*; Project no. CIT1-CT-2004-506392, NEWGOV.

[3]   Comp. T. G. Grosse (2005): *Democratization…, ibid.*; T. A Börzel, S. Guttenbrunner and S. Seper (2004): *Conceptualizing New Modes of Governance in EU Enlargement*, Reference number: 12/D1, New Modes of Governance; O. Treib, H. Bähr and G. Falkner (2005): *Modes of Governance: A Note Towards Conceptual Clarification*, Eurogov – European Governance Papers no. N-05-02, http://www.connex-network.org/eurogov/. In Polish literature on this subject, see T. G. Grosse (2005): *Nowe metody zarządzania zadaniami publicznymi w Unii Europejskiej i w Polsce, Studia Polityczne,* Vol. 17.

also encompass state representatives. They are sometimes called <u>corporatist institutions</u>[4]. Two examples of debates conducted between 2001 and 2005 were selected in each analysed country. They stood out by the interest they evoked in the society and because they were associated with systemic reforms. They concerned issues such as changes in the labour code, introduction of minimum wage, reform of public finances with respect to the social insurance system, etc. The study was complemented by an analysis of <u>civic dialogue</u>[5] that took place in Poland during public consultations of the draft of the National Development Plan (NDP) for the years 2007-2013[6].

The three countries featured in the study were selected because of the differences observed with respect to social dialogue. Firstly, with respect to the institutionalization of social dialogue. For example, in Estonia, one would be hard pressed to find a regularly operating and legally anchored tripartite institution at the central level. In Poland and Lithuania, regulations governing the operation of the tripartite institution are quite elaborate. Secondly, the three countries differ as to the direction of their economic reforms. It is most liberal in Estonia, followed by Poland, where a number of neo-liberal reforms was being put in place and where the existing trade union structures and their influence on political parties in power mitigated liberalization (particularly in economic sectors dominated by state enterprises). The least liberal direction of reforms was taken in Lithuania, where Scandinavian country models served as a significant reference in choosing the direction of economic transformations. One also observed a different political and administrative culture in each of the studied countries; for example, a strong politicization of social dialogue in Poland and relatively low level of the impact of political parties on social dialogue in Lithuania. In Estonia, there is a strong domination by democratic (majoritarian) institutions over those of social dialogue, which marginalizes a civic debate pursued away from the main stream of public deliberations, i.e. between governing and opposition parties. The level of effectiveness of tripartite institutions measured by the number of agreements reached by participants in the dialogue also varies between the three countries. It seems that effectiveness of tripartite institutions can be explained through the three factors mentioned above: (1) method of institutionalization of social and civic dialogue, (2) direction of economic transformations, (3) political and administrative culture of the given country.

I have arranged this report as follows: At the beginning, I present two state models constructed in accordance with Max Weber's ideal-type methodology[7]. The model approach makes it possible to isolate most important systemic features of the functioning of state administration and social partners as they relate to social dialogue and new modes of governance. It also makes it possible to compare the functioning of these modes in selected new EU member states and compare their experiences with the practice of "old" member states. In the

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[4]   For *corporatism* to exist there must be a functioning long-term system of centralized societal negotiations conducted with participation of public authorities as well as strong national trade-union organizations and other national-level social organizations. Comp. Lijphart A. (1999): *Patterns of Democracy: Government forms and performance in the thirty-six countries*, Yale University Press, New Haven, London; Schmitter P. C. (1974): *Still the Century of Corporatism*? Review of Politics, No. 36.

[5]   *Civic dialogue* refers to a very wide spectrum of issues preoccupying public institutions. Next to employer and employee organizations, it also groups other social partners, mainly non-governmental organizations.

[6]   Comp. O. Napiontek, M. Fałkowski (2005)*: Civic Dialogue in Poland. Consultations of the Draft of the National Development Plan 2007–2013*, No. 17/D06, Project No. CIT1-CT-2004-506392, NEWGOV, 2006.

[7]   M. Weber (1985): *Obiektywność poznania w naukach społecznych,* in *Problemy socjologii wiedzy*, Warsaw, PWN, pp. 76-100; English version: M. Weber (1949): *The Objectivity of the Sociological and Social-Political Knowledge*, in: M. Weber, On The Methodology Of The Social Sciences, Free Press, New York.

subsequent section, I examine an expert debate on social dialogue in Western European countries and at the EU community level. The said experiences were compiled for the purpose of analysing their influence on the shaping of social-dialogue institutions in new member states. Subsequently I analyse the legacy of the socialist tradition as concerns shaping social dialogue in CEE countries. In successive sections, I present main conclusions relative to the situation in the examined countries.

Two state models and dialogue with society

The starting point for a further analysis is the differentiation between two state models that apply to relations between state administration and civic society. The first is an underline administrative state, the second – network state. In the first case, we are dealing with a model of a state reduced primarily to the dimension of state administration structures directly engaged in the performance of particular social-area activities. In the second model, the state is treated as a network of institutions within the framework of which state administration is one of several subjects co-participating in the performance of public policies. Administration is limited to formulating the "rules of the game" and guiding social partners in a given direction. Public policies in this model are a result of interactions within the network of social co-operation and to a large degree constitute a product of the activity of the civic society. The proposed categorization has its roots in the despotic or infrastructural state power first introduced by Michael Mann. *Despotic power* denotes an arbitrary and practically unlimited power of administration over society, whereas *infrastructural power* establishes an infrastructural (e.g. legal) framework for social activity, introduces incentives for specific social behaviour and conducts a dialogue (negotiations) relative to public policies[8].

These two models assume a different meaning of the notion of state capacity. The term state capacity can be defined as the ability (potential) of the state to pursue public policies. That means a skilful application of appropriate state resources and modes of governance which ensure the achievement of public policy objectives[9]. An important dimension of state capacity is the ability to function in a changing international and domestic environment[10]: providing for the proper performance of fundamental state functions in relation to the political and economic system operating in the given country, particularly during a period of systemic transformations. It also relates to ensuring political and economic steerability in the face of challenges associated with globalization and European integration[11].

The *administrative state model* is most often associated with a wide range of administrative competencies and direct state involvement in provision of public services. Building the power of such state primarily means reinforcing administrative structures and improving civil servant qualifications. A great deal of significance to the effectiveness of this model is played by administration management techniques (e.g. new public management). The *network state model* is most often associated with a lesser range of administrative competencies and a role

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[8] Comp. M. Mann (1993): *The Sources of Social Power. The Rise of Classes and Nation States 1760-1914*, Cambridge University Press, Cambridge.

[9] Comp. F. Fukuyama (2005): *Budowanie państwa. Władza i ład międzynarodowy w XXI wieku* (), Dom Wydawniczy Rebis, Poznań, p. 22; English version: F. Fukuyama (2004): *State-Building: Governance and World Order in the 21st Century*, Cornell University Press, Ithaca - London.

[10] See definition of *state capacity* in relation to changing global conditions in: K. E. Brødsgaard (2000): *State capacity in East Asia Japan, Taiwan, China, and Vietnam,* Oxford University Press, Oxford-New York.

[11] More on this in T. G. Grosse (2005): *Principal meanings of the term state capacity and experience of Central and East European countries*, paper presented on cluster conference in Berlin, 10.12.2005.

of umpire and regulator of societal behaviour. Consequently, it imposes on the administration the ability to shape regulatory conditions for the purpose of properly directing societal activity.

The reinforcement of the network state capacity must not be limited to the dimension of public administration. It should also strengthen mutual cooperation between administration and public and private institutions that work together in applying specific public policies. Social and civic dialogue institutions constitute important forums of that cooperation. Therefore, state capacity in the network state model requires strong and autonomous non-governmental organizations and effective institutions tasked with bridging administration and social partners. In the situation of European integration, the support provided to domestic organizations should encompass their capable incorporation in the international cooperation system, particularly into lobbying efforts conducted in Brussels. A great deal of importance for the effectiveness of this model rests in co-governing abilities and techniques (e.g. new modes of governance).

It can be said that in the administrative state model the public debate is subordinate to the government's information policy and treated instrumentally from the perspective of the objectives of administration. In the network model, the state uses the debate process not only to promote and enrich its own ideas, but also to reinforce social partners, the culture of dialogue and institutions serving public deliberations. In the administrative model, social partners tend to be passive and geared primarily toward receiving information from administration. This is a result of a clear asymmetry between the parties to dialogue, in which government decision-makers hold the dominant position. In conditions of such imbalance, essential decisions are made by administration, whereas social partners are "accustomed" to having little influence on decision-makers, which further encourages their passivity. Therefore, any potential societal activeness is executed outside the official dialogue structure, for example in the form of informal contacts with the authorities or in active opposition thereto. This encourages the trend to treat social dialogue instrumentally, set its participants against one another and circumvent official dialogue institutions. In the network model, dialogue partners become actively involved in the process of deliberations and subsequently co-participate in the execution of public policies. At the same time, joining the policy planning process at an early stage not only allows them to better secure their interests but also to participate in the implementation of public policies more effectively.

In a situation where the government is politically weak, for example when policies of individual ministries are not coordinated or when there is no strong parliamentary support for government initiatives, the network state capacity can be reinforced by the knowledge and involvement of social partners. Thus the strategic directions of public policies can be maintained. When the government capacity is weakened in the administrative model, the state cannot rely much on the capability of social partners because that capability is feeble, whereas social dialogue institutions are as a rule not autonomous but dependent on political authorities.

In the *administrative state model*, the role of political leadership is key to the strength of the state and maintenance of the steerability of economic and social processes. Waning leadership over administration and, moreover, reduction of control and ability to coordinate various aspects of administration by politicians is a symptom of a weak state. In the case of a democratic administrative state, the position of majoritarian institutions, constituted in the political process of democratic elections, with respect to social and civic dialogue institutions is clearly superior. This is associated with a lower number of institutions that function as *veto players* vis-a-vis the executive branch of government chosen in general elections, such as non-

governmental regulatory agencies and corporatist institutions. This is why, in the administrative state model, legitimacy acquired via elections (*input* legitimacy) is more important than legitimacy resulting from agreements reached on particular public policies through social consultations, public deliberations or via the civic dialogue process (*output* legitimacy)[12]. In the *network state model*, the role of politicians is limited to that of umpire and mediator between various interest groups. Concurrently, the rank of majoritarian institutions in the network state ruling system decreases, whereas the role of social partners and corporatist institutions, grows.

An effective adaptation to changing external and internal conditions demands strong leadership and appropriate administrative support. It is difficult to maintain the role of umpire and mediator between various interests in a situation where the absence of strong state leadership only exacerbates the crisis. Therefore, it is safe to say that countries undergoing systemic transformations need, at least at the initial stage of these changes, a strong leadership and traditional modes of administration management, characteristic to an administrative state. The introduction of new modes of governance, particularly "soft" ones that involve social dialogue, is a good example of difficulties accompanying the reform of a weak state. More often than not, the effectiveness of these governance modes is low. What is more, the outcome of their introduction may be contrary to what is expected and can end up in an increased number of pathologies in administration.

Social dialogue experience in Western Europe[13]

The main factor influencing changes in the practice of social dialogue in EU member states is the global liberalization of economic relations as well as construction of a common market and introduction of the Euro. With low mobility on the labour market and limited financial transfers from the EU budget, softening labour regulations and improving productivity are main tools of economic adaptation, i.e. of the improvement of corporate competitiveness in Euro zone countries. Social dialogue institutions are precisely the channel for that adaptation[14].

The social dialogue decentralization process[15], which has been going on for at least 20 years, is furthered by employers, particularly large corporations. They believe that a lower level of negotiations benefits them more. An important argument in favour of decentralizing agreements in Germany was the absorption of eastern *lands*. Peculiar circumstances of eastern

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[12]   Comp. F. W. Scharpf (2003): *Problem-Solving Effectiveness and Democratic Accountability in the EU*, MPIfG Working Paper 03/1.

[13]   Comp. T. G. Grosse (2006): *Dialog społeczny i obywatelski w Unii Europejskiej*, Trzeci Sektor, No. 5.

[14]   Boyer R. (2000): *The Unanticipated Fallout of European Monetary Union: The Political and Institutional Deficits of the Euro* w: Crouch C. (ed.): *After the Euro: Shaping Institutions for Governance in the Wake of the European Monetary Union*, Oxford University Press, Oxford; Dølvik J. E. (2005): *Industrial relations in EMU: are renationalization and Europeanization two sides of the same coin*? in Martin A., Ross G. (2005): *Euros and Europeans. Monetary integration and the European Model of Society*, Cambridge University Press, Cambridge.

[15]   Comp. Traxler, F. (1995): *Farewell to Labour Market Associations? Organised versus Disorganised Decentralization as a Map for Industrial Relations*, in C. Crouch and F. Traxler (ed.): *Organized Industrial Relations in Europe: What Future*?, Aldershot: Avebury. More on this in Traxler, F., Blaschke S., Kittel B. (2001): *National Industrial Relations in Internationalized Markets. A Comparative Study of Institutions, Change, and Performance*. Oxford University Press, Oxford - New York; Marginson P., Sisson K. (2002): *European Integration and Industrial Relations: a Case of Convergence and Divergence*?, Journal of Common Market Studies, vol. 40, No. 4.

Germany combined with its less propitious economic situation forced decentralization on one hand while, on the other hand, promoted adoption of solutions more advantageous to enterprise owners[16]. This is precisely why West European unionists associate the eastward enlargement of the European Union with lowering employee protection standards and social dumping[17]. However, it is worth noting that, according to experts[18], company-level agreements are becoming predominant in the decentralized social dialogue system, whereas sectoral agreements increasingly often serve only to adapt their terms to those negotiated at the level of the workplace.

The diversity of capitalist models constitutes a significant aspect of industrial relations and evolution of social dialogue institutions in EU countries. Two basic forms make up the capitalist typology[19]. The first one is liberal (or "Anglo-Saxon") market capitalism, predominant in the United States. In Europe, that model is most popular in the United Kingdom. The second model is called coordinated (or "continental") market capitalism, represented mainly by countries such as Germany and Austria[20]. In continental countries, corporatist institutions are strong and highly developed. Contrary to the situation that exists in Anglo-Saxon countries, a significant role in this system is played by national institutions, particularly bilateral and sector-wide. In countries which adopted the coordinated model, collective bargaining has a much wider employee coverage[21]. The company-level dialogue, including that conducted by trade union company locals, is also better developed[22]. In coordinated-model countries, trade union membership is usually higher, whereas in some Scandinavian countries there is no trend toward decreased trade union membership that is present elsewhere in Europe[23]. In the Anglo-Saxon model on the other hand the institutionalization of social dialogue is rather weak, whereas the practice of employer/employee negotiations is limited.

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[16] Comp. Marginson P., Sisson K., Arrowsmith J. (2003): *Between Decentralization and Europeanization: Sectoral Bargaining in Four Countries and Two Sectors*, European Journal of Industrial Relations, vol.9, no.2.

[17] From the perspective of the Western European trade union movement, the principal threat resides in low pay and employee protection right standards in CEE countries. Unionists fear that this situation may result in social dumping and a mass-scale transfer of jobs to new member states. Comp. *ETUC adopts resolution on coordination of collective bargaining*, EIROnline, European Foundation for the Improvement of Living and Working Conditions 2005, http://www.eiro.eurofound.ie.

[18] Marginson P., Sisson K., Arrowsmith J. (2003): *Ibid.*

[19] Comp. Hall P., Soskice D. (ed.) (2001): *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*, Oxford University Press, Oxford – New York, pp. 1-44; T. G. Grosse (2005): *Debata nad modelami kapitalizmu w Unii Europejskiej*, Polska w Europie, No. 1 (48).

[20] Other forms of capitalism also exist in Europe. There is social-democratic (or Nordic) capitalism in Scandinavian countries and South European (or Mediterranean) capitalism in countries such as Greece, Portugal or Italy. Some scholars include them in the coordinated model. Finally, there is state capitalism, related to the Asian developmental state model. In Europe, that model is best represented in France. Comp. Amable B. (2003): *The Diversity of Modern Capitalism*, Oxford University Press, Oxford – New York, pp. 103-114, 176; Schmidt V. A. (2002): *The Futures of European Capitalism*, Oxford University Press, Oxford – New York.

[21] *Industrial relations in Europe 2004*, European Commission, Brussels 2004, pp. 26-31.

[22] *Ibid.*, p. 20. More on the capitalist model and industrial relations in Crouch, C. (1993): *Industrial Relations and State Traditions*. Oxford: Clarendon.

[23] In Finland and Sweden, for example, there has been a significant increase in the past 40 years in the number of unionized employees in proportion to the overall employment in national economy; a similar trend (albeit weaker) has been visible also in the 1990s. Comp. Checchi D., Lucifora C. (2002): *Unions and labour market institutions in Europe*, Economic Policy, October.

It is also accepted that the level of decomposition of social-dialogue institutions and liberalization of industrial relations in Europe are linked to a particular capitalist model. In countries which have adopted the coordinated model, the strength of social-dialogue institutions, rich tradition of negotiations and societal expectations curb the pressure to change the current system[24]. Meanwhile, in the case of countries that apply market capitalism, changes can take place more rapidly since institutional tradition (*path dependency*) is not there. In Anglo-Saxon countries, the level of trade-union membership falls faster and the extent of collective agreements binding in the economy also decreases at a higher pace[25]. In addition, *disorganized decentralization* of social-dialogue institutions takes place more often in market-model countries[26].

It is noteworthy that, despite a visible trend toward decentralization, national-level corporatist institutions continue to be maintained in most European countries, although not in all countries do they play an important function from the viewpoint of public policy[27]. In the 1990s, in some countries, the state would initiate the process of centralized social dialogue aimed at concluding a <u>social pact</u>[28] involving various social partners and, often, also a wide spectrum of political parties. Interestingly, those were countries where social dialogue was not strongly institutionalized and some of them can be even counted among market-model states[29].

The most frequent pretext for initiating a centralized public debate was a difficult national economic situation or the need to adapt to EU regulations, as when the country was joining the Economic and Monetary Union[30]. Outside pressure forced the introduction of difficult reforms aimed, for example, at reducing public spending, curbing wage increases or softening labour regulations. Under such circumstances, social dialogue was meant to increase public legitimization of the direction of these changes. Still, it should be stressed that in most cases this type of political initiative did not lead to the construction of permanent national-level social dialogue structures and procedures, but was rather a one-off consultative and propaganda campaign serving the ends of government policy. It did not build any strong and durable corporatist institutions characteristic to countries that pursued the coordinated model. Moreover, social pacts did not as a rule introduce any restrictions for the business community and in the area of industrial relations left a great deal of room for company-level negotiations[31].

Both main forms of public consultations that were applied in the 1990s, i.e. *decentralization of social dialogue* and centrally initiated *social pacts*, served similar objectives[32]. They intro-

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[24] Regini M. (2000): *Between Deregulation and Social Pacts: The Responses of European Economies to Globalisation*, Politics and Society, No. 28 (1).

[25] *Industrial relation in Europe* 2004, *ibid.*, pp. 18, 31-32.

[26] Examples of countries with disorganized decentralization: Great Britain, Ireland, U.S.A., New Zealand; comp. Regini M. (2000): *ibid.*

[27] Comp. *Industrial relation in Europe 2004*, *ibid*, p. 54.

[28] Social pacts are treated as a new mode of governance. They are agreements between government representatives and social interest groups concluded most often in matters such as wage rates, employment terms, work regulations, taxation issues and state social policies. Comp. Rhodes M., Avdagic S., Visser J. (2004): *The Emergence and Evolution of Social Pacts: A provisional Framework for Comparative Analysis*, NEWGOV, 18/D04, Project No. CIT1-CT-2004-506392, http://www.connex-network.org.

[29] Examples of countries where the state has initiated centralized social pacts: Ireland, Portugal, Italy, Greece, Spain.

[30] Fajertag G., Pochet P. (ed.) (2000): *Social Pacts in Europe – New Dynamics*, ETUI Brussels.

[31] Regini M. (2000): *ibid.*

[32] W. Streeck (2001): *The Transformation of Corporate Organization in Europe: An Overview*, MPIfG Working Paper 01/8, December.

duced a greater liberalization of industrial relations, including fewer employee privileges and more flexible labour regulations relative to work time and conditions. There is no uniform assessment of these changes among political scientists. Some scholars believe that they serve the purpose of a gradual decomposition of the social-dialogue system and coordinated model in the economy[33]. Others think that it is only a necessary adjustment of the system, which guarantees its better adaptation to the conditions of European integration and globalization[34]. An important element of that adjustment lies in supplementing the national system by the European social-dialogue institution[35].

The European Treaty imposes on the European Commission the duty to support and facilitate the conduct of social dialogue in the EU. The European system of social-dialogue institutions was built on that basis. The most important such institution is the Tripartite Social Summit for Growth and Employment, established in 2003, which is composed mainly of European employer and trade union organizations[36], and also of European Commission representatives. After 1998[37], some 30 sectoral bilateral-dialogue institutions were also appointed at the EU level. They cover approximately 50% of the entire European economy. They have produced more than 40 joint documents relating to the entire economy and over 400 sectoral texts[38]. The prime charge against these documents is that they are too general and, consequently, difficult to implement[39].

There are a few reasons for the low level of effectiveness of European social dialogue. They are associated with the voluntary character of many arrangements and freedom as concerns their implementation. In EU member states, effectiveness of implementation depends to a large degree on the attitude of domestic trade-union organizations and employer federations. They, in turn, cannot be forced to comply with EU agreements, particularly in a situation where such compliance is not imposed by community law. In the case of some states, implementation difficulties also ensue from the weakness of the domestic social-dialogue system and frailty of local social organizations. Therefore, the European system does not contribute much to shaping member-state institutions of social dialogue[40]. What is more, its effective-

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[33] Schmitter P. W., Streeck W. (1992): *From National Corporatism to Transnational Pluralism: Organized Interests in the Single European Market* in Streeck W. (ed.): *Social Institutions and Economic Performance: Studies of Industrial Relations in Advanced Capitalist Economies*, Sage, London.

[34] Hamerijck A., Ferrera M. (2005): *Welfare reform in the shadow of EMU* in Martin A., Ross G. (2005): *Euros and Europeans. Monetary integration and the European Model of Society*, Cambridge University Press, Cambridge; Ferrera M., Hamerijck A., Rhodes M. (2000): *The Future of Social Europe*, Celta editora, Oeiras.

[35] Reberioux A. (2002): *European Style of Corporate Governance at the Crossroads: The Role of Worker Involvement*, Journal of Common Market Studies, vol. 40, no. 1.

[36] Most important are UNICE (Union of Industrial and Employers' Confederations of Europe), CEEP (European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest), ETUC (European Trade Union Confederation) and UEAPME (European Association of Craft, Small and Medium-Sized Enterprises).

[37] Sectoral committees were appointed at the EU level by a European Commission communication - *Adapting and promoting the social dialogue at Community level* COM(1998) 322 final, European Commission, Brussels 1998.

[38] Comp. *The sectoral social dialogue in Europe*, European Commission, Directorate-General for Employment and Social Affairs, Brussels 2002.

[39] *Partnership for Change in an enlarged Europe – Enhancing the contribution of European social dialogue*, Communication from the Commission, COM(2004) 557 final, Brussels 2004.

[40] "*Whereas in the 1970s the Union tried to impose on its member states and their citizens binding regulations stipulating common standards, today's social policy directives typically allow for wide discretion in their*

ness depends almost entirely on national institutional structures, including the capitalist model adopted in the given country. Finally, the European system of social dialogue is also weak by the absence of national government representatives therein. It turns out that effective implementation of partnership arrangements made at the EU level is highly dependant on the attitude of state administration toward that process.

The relatively low effectiveness of the functioning of social-dialogue institutions in the EU is linked to the peculiarity of European social policy, which is characterized by a low ability to spell out "hard" legal regulations imposed on market players and by essentially leaving it up to them which solutions they should adopt[41]. One cannot speak of harmonization of solutions associated with industrial relations in Europe but only of the existence of "soft" instruments that specify general standards and directions of activities of social partners and social-dialogue institutions in EU member states. Most of these instruments relate to the experience of the open method of coordination, which in the field of social policy turns out to be rather ineffective[42]. Consequently, European social dialogue should not be treated as an effective set of tools in European social policy but rather as a method of legitimizing European Union activities and maintaining societal acceptance of those changes in industrial relations that promote economic efficiency[43].

The practice of social dialogue in the EU indicates that its participants accept the supremacy of national regulations in the area of industrial relations and, in fact, consent to their systemic differentiation. That weakens the effective coordination of national systems within the framework of European industrial relations. To give an example, trade unions are not inclined to discuss joint negotiation positions with their counterparts in the neighbouring countries[44]. Workers from different EU member states (as well as sectors or individual enterprises) rarely coordinate their activities[45].

At the same time, neither employer organizations nor national government representatives promote the development of more effective methods of managing European social dialogue or social policy. For employers, it would mean higher business operating costs. For governments, it would mean lower competitiveness of the national economy and the ability of European corporatist institutions to have more say in the area of European policy. In addition, the

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implementation, with the Union increasingly restricting itself to issuing legally non-binding recommendations. This approach - which often involves European Directives being formulated in such a way that no changes are necessary in extant national legislation - has been described as "neo-voluntarism"." Comp. W. Streeck (1999): *Competitive Solidarity: Rethinking the "European Social Model*", MPIfG Working Paper 99/8, September.

[41] Comp. W. Streeck (1995): *Neo-Voluntarism: A New European Policy Regime*, European Law Journal, vol.1, no.1.

[42] L. W. Wedderburn (1997): *Consultation and Collective Bargaining in Europe: Success or Ideology*? Industrial Law Journal, Vol. 26, No. 1.

[43] Comp. Bieling H. J. (2001): *European Constitutionalism and Industrial Relations* in A. Bieler, A. D. Morton (ed.), *Social Forces in the Making of the New Europe. The Restructuring of European Social Relations in the Global Political Economy*, Palgrave Macmillan, Houndmills, Basingstoke.

[44] Comp. P. Marginson, K. Sisson, J. Arrowsmith (2003): *Between Decentralization and Europeanization: Sectoral Bargaining in Four Countries and Two Sectors*, European Journal of Industrial Relations, vol.9, no.2.

[45] Among documents adopted by the European Trade Union Confederation there is a great deal of information about insufficient cooperation between trade-union organizations in Europe. Comp. *ETUC adopts resolution on coordination of collective bargaining*, EIROnline, European Foundation for the Improvement of Living and Working Conditions 2005, http://www.eiro.eurofound.ie.

introduction of harmonization of European industrial relations could result in the need to increase spending of European fund resources. It would be associated with the need to equalize these standards in new member states and compensate employers' expenses.

According to experts, since trade union representatives have accepted the primacy of common-market principles, including the need to improve economic competitiveness and macro-economic stability, they participate in the process of <u>cooperative deregulation</u>[46]. It consists in using social-dialogue institutions for the purpose of a liberal adaptation of national economies to the conditions of global and European rivalry. The European social-dialogue system does not prevent the process of decomposition of national social-dialogue institutions. What is more, one of significant consequences of European dialogue is that it promotes the trend for decentralization of social dialogue inside EU member states. It does so by actually reinforcing the negotiating position of employers with respect to their workers. Company management boards have received a relatively large amount of freedom as concerns introducing EU regulations into the practice of social negotiations within their companies. It gives them a great deal of manoeuvring room in shaping individual, corporation-specific social dialogue and industrial relations[47]. Moreover, companies have increasingly large possibility to opt for the national law with respect to these matters. Thus the abandonment of harmonization of industrial relations on the European scale contributes to systemic rivalry between member states. This type of rivalry favours the trend toward lower standards of workers' rights and higher liberalization of industrial relations.

From the viewpoint of public administration, supporting the development of social and civic dialogue can in addition to substantive aims, i.e. those leading to a better content of public policies and optimization of applied instruments, play significant legitimizing and promotional functions. Participation of social partners in working out political decisions contributes to a greater societal acceptance of applied policies. For example, social partners are then more inclined to promote jointly developed solutions in the media. Although the European consultative system is considered not very effective and optional, it nevertheless serves the legitimization of the broadly meant European integration and individual European policies[48].

Impact of the European Union and systemic transformations on the development of social dialogue in new member states

In summing up the discussion of social dialogue in the European Union it is possible to state that, despite its treaty foundation, it is characterized by a relatively weak institutionalization. This is why European social dialogue is not a very effective instrument; it does little to assist decision-makers in solving the dilemmas of public policy caused by competing societal interests. Additionally, areas that are subject to social dialogue are essentially within the range of competency of national governments. There exists a wide variation between social-dialogue standards at the national level and many different forms of social-dialogue organization.

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[46] *"European trade unions have agreed to a new "competitive bargain", which is strongly asymmetrical. They are principally willing to approve the basic neo-liberal goals – market deregulation and monetary stability – in exchange for involvement in negotiations about their concrete realisation and political framing. In this sense, trade unions are an active force in the current multi-level structure of "cooperative deregulation"."* Comp. H. J. Bieling (2001): *ibid.,* p. 107.

[47] W. Streeck (2001): *ibid.*

[48] Comp. B. Eberlein, D. Kerwer (2004): *New Governance in the European Union: A Theoretical Perspective*, Journal of Common Market Studies, Vol. 42, Nr 1; T. G. Grosse (2005): *Problemy legitymizacji Unii Europejskiej*, Polska w Europie, vol. 48, nr 2.

The weakness of European social-dialogue institutions diminishes the impact of European integration on the development of tripartite institutions in new member states. There is no requirement to adopt the *acquis communautaire* with respect to the organizational structure of social-dialogue institutions. However, during the study, respondents often pointed out the need to introduce these institutions and the custom of consulting state policies with social partners as a standard binding in the EU. Governments often treated statements advocating the transposition of that standard to the domestic practice instrumentally, i.e. as a mean to justify and accelerate the introduction of a specific government-proposed organizational formula of social dialogue.

At the same time, the application of that standard in social practice was very inconsistent. On one hand, the "soft" pressure of European integration promoted the introduction and reinforcement of tripartite institutions. On the other hand, frequent incidents of circumventing these institutions by public administration even though it was required to consult them related directly to legislation that introduced EU regulations[49]. Those circumventions were justified by the need to quickly proceed with implementation of the *acquis communautaire* so as to complete the process before accession. They were also meant as a way of protecting the government from a never-ending public debate and from the possibility of social partners submitting proposals modifying these regulations. Therefore, it is worth noting that the *asymmetry of membership negotiations*[50] between the European Union and candidate countries, which resulted in a unilateral adaptation to EU regulations by the latter, hindered the public debate for two essential reasons. Firstly, the import of EU laws did not leave any room for adapting new institutions to social conditions existing in new member states. Secondly, the gigantic volume of that transposition in a relatively short time practically precluded initiation of social consultations.

Consequently, an important feature of new modes of governing social dialogue introduced in new member states lies in the weakness or absence of institutional blueprints. Also visible was inconsistency, and even contradiction, in the application of "hard" modes of governance associated with a unilateral transfer of legal regulations and implementation of "soft" methods of governance relating in part to social dialogue. In addition, new modes of governance did not aim at replacing the administrative state model dominant in this part of Europe with the network model. They were meant to support the process of democratization in these countries and, to a lesser degree, facilitate management of public policies. No wonder, therefore, that the implementation of these modes in conditions of an administrative state and strong socialist culture brought about weak institutionalization of social dialogue. Dialogue institutions are usually created *pro forma*, are marginalized and are not very effective in terms of the execution of public policies. The work on the National Action Plan for Employment in Estonia is a good example of this type of public consultations[51]. Participation by social partners in the

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[49]   R. Stafejeva (2005): *ibid.*

[50]   For a discussion of the asymmetry in negotiation positions and terms between the EU and new member states, see, for example, A. Wiener (2003): *Finality vs. enlargement: constitutive practices and opposing rationales in the reconstruction of Europe* in J. H. H. Weiler, M. Wind (ed.) - *European Constitutionalism beyond the State*, Cambridge University Press, Cambridge; F. Schimmelfennig, U. Sedelmeier (2002): *Theorizing EU enlargement: research focus, hypotheses, and the state of research*, Journal of European Public Policy, Vol. 9, No. 4, August; A. Scott (2004): *The political economy of enlargement* in F. Cameron (ed.) - *The Future of Europe. Integration and enlargement*, Routledge, London – New York; A. Moravvcsik (1993): *Preferences and power in the European Community: a liberal intergovernmentalist approach*, Journal of Common Market Studies, Vol. 31, No. 4.

[51]   E. Sootla (2005): *ibid.*

elaboration of that document was minimal. The tripartite dialogue associated with assessing the plan was treated as a formal fulfilment of European standard requirements rather than an authentic public debate. Also, the impact of that plan on government policy was moderate, no administrative of financial instruments were provided to implement, monitor or evaluate it. In addition, there is now no political will to include social partners in the implementation of the plan.

Social dialogue is also subject to peculiar processes associated with systemic transformations. In Poland, dialogue between the authorities and opposition groups was an important mechanism making the initiation of transformations possible. Because the country has become a democracy, public consultations are used on a relatively broad scale as a method of public administration work. This is associated with the influence of European models, but also with models advanced by the World Bank[52] and OECD[53]. On the other hand, the specificity of transformations makes the conduct of such dialogue more difficult. This, in turn, is associated with the many-sidedness of reforms, contradictions in certain objectives that guide the reformers, and the need for a quick and maximally effective implementation of reforms. This is why public consultations in Poland have been treated instrumentally to the supreme objectives of public administration and without proper attention given to the opinions of social partners[54]. These difficulties are reminiscent of the limitations in social dialogue associated with the European Union integration process.

Socialist legacy of social dialogue

The tradition of state, the organizational culture of administration and political culture is totally different in CEE countries than in the western part of the European continent[55]. It is associated with the absence of democracy during the socialist period (1945-1989) and strong geopolitical dominance of the USSR over the CEE region. As a result, state structures in CEE

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[52] Most important World Bank publications on management of the public sector are: World Bank (1991) *The Reform of Public Sector Management. Lessons from Experience*, Washington, DC: The World Bank; World Bank (1997) *The State in a Changing World*, World Development Report 1997, Oxford: Oxford University Press; World Bank (2000) *Reforming Public Institutions and Strengthening Governance. A World Bank Strategy November 2000*, Washington, DC: The World Bank.

[53] Comp. selected OECD publications on the improvement of public sector management: OECD (1995) *Governance in Transition. Public Management Reforms in OECD Countries*, Paris: OECD; OECD (2001) *Governance in the 21st Century*, Paris: OECD; OECD/Sigma Papers No. 23 (1998a) *Preparing Public Administrations for the European Administrative Space*, Paris: OECD (CCNM/SIGMA/PUMA(98)39); OECD/Sigma Papers No. 26 (1998b) *Sustainable Institutions for European Membership*, Paris: OECD (CCNM/SIGMA/PUMA(98)57); OECD/Sigma Papers No. 27 (1999) *European Principles for Public Administration*, Paris: OECD (CCNM/SIGMA/PUMA(99)44/REV1.

[54] B. Gąciarz, W. Pańków (2000): *Dialog społeczny po polsku – fikcja czy szansa?*, Institute of Public Affairs, Warsaw, pp. 32-33.

[55] For definitions of political culture see: M. R. Somers (1995): *What's political or cultural about political culture and the public sphere? Toward an historical sociology of concept formation*, Sociological Theory, vol. 13, no. 2; G. A. Almond, S. Verba (1963): The Civic Culture: Political Attitudes and Democracy in Five Nations, Princeton University Press, Princeton; P. Sztompka (2002): *Socjologia*, Znak Publishers, Krakow; E. Wnuk-Lipiński (2005): *Społeczeństwo obywatelskie i kultura polityczna nowej Polski*, a manuscript prepared for the conference on Polish/Austrian relations, Vienna- Haindorf, October 2005; for the application of this term in social sciences see W. Markiewicz (1976): *Kultura polityczna, jako przedmiot badań naukowych*, Kultura i Społeczeństwo No. 4; for an analysis of administrative culture in Poland and its historical conditioning see: T. G. Grosse (2001): *Służba cywilna w Polsce u progu XXI wieku, Studia Polityczne,* Vol. 12.

countries functioned within the framework of a strongly centralized model, the significant feature of which was the control of administration by the communist party and transposition thereto of management rules characteristic to military institutions[56]. The functioning of such state approximated that of the administrative state model. The practice of "social dialogue" under that political system consisted in restricting societal activities independent from the state and subjugating that dialogue to political and ideological objectives of the communist state.

An analysis of "social dialogue" under real socialism provides its following characteristic features:

- An overall <u>weakness of dialogue institutions</u>. In step with the broader legacy of a socialist state, dialogue was based on arbitrary political decisions rather than on legal norms or permanent institutional solutions. That was associated with a relatively low authority of procedures and weakness of formal institutions compared to the potency of arbitrary political decisions and personal authority of decision-makers[57]. In a situation of weak institutions, the effectiveness of political actions is based to a large degree on <u>personal characteristics of the leader</u> of the given organization and his political position in the power structure. When the given administrative organization had a weak leader, its role was usually marginalized.

- Dialogue served the purpose of legitimizing the authoritarian power but did nothing to modify decisions made by superior authority. Therefore, it was subservient and <u>instrumental</u> vis-à-vis decisions made by the political leadership. The nature of public consultations was strongly <u>propagandistic</u> – they were heralded in state-owned media for the purpose of swaying the population toward decisions made by state authorities.

- Moreover, "social dialogue" had a strongly <u>ideological and political</u> character. It referred more to the ideology of a socialist state than to social reality and its problems. It reinforced ideological foundations of the system by referring, i.e., to the dogma of the superiority of the working class.

- "Social dialogue", as the entire political power system, was strongly <u>centralized</u>, which means that it was primarily conducted on the central level. On the rare occasion of being conducted "in the field", it was closely controlled by central state organs (including the police). At the same time, a strong position in this type of dialogue was held by <u>industrial branch structures</u>, particularly the most influential of all – central trade-union bureaus. In Poland, central trade-union bureaus of the heavy industry (mines, steelworks, etc.) were especially powerful.

- The nature of "social dialogue" was <u>oligarchic</u>[58]. It was reserved for a group of activists loyal to the political power, who constituted the backbone of the socialist system, an elite

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[56] Or to the category of total institutions; see E. Goffman (1975): *Charakterystyka instytucji totalnych* in *Elementy teorii socjologicznych.* W. Derczyński, A. Jasińska-Kania, J. Szacki (ed.), Warsaw. English version: E. Goffman (1961): *On the Characteristics of Total Institutions* in E. Goffman *Asylums. Essays on the social situation of mental patients and other inmates*, first published New York: Doubleday Anchor, pp. 1-123.

[57] For more on political culture in Poland see J. Staniszkis – *Szanse Polski. Nasze możliwości rozwoju w obecnym świecie*, an interview by A. Zybała, Rectus Publishers, Warsaw 2005, p. 75.

[58] The notion of oligarchization of social organizations refers to R. Michels' theory; comp. S. M. Lipset (1968): *Robert Michels and the "Iron Law of Oligarchy"* in *Revolution and Counterrevolution: Change and Persistence in Social Structures*, Basic Books, New York.

group (nomenclature) vitally interested in its perpetuation. It did not include activists involved in organizations that were not sanctioned by the state, such as political opposition or religious groups, or other social organizations that grouped "regular citizens". In Poland, the only exception were talks conducted by the state with activists of the opposition Solidarity Trade Union in 1980/1981 and just before the fall of the system (so-called "round-table" negotiations).

Institutionalization of social dialogue in three new EU member states

Social-dialogue institutions in the countries covered by the study, although relatively numerous and attached to many state institutions, are generally weak. For example, in Poland, there are some 100 consultative institutions attached to central administrative bodies[59]. However, with a few exceptions, their practical significance is minute. In all three countries, a large portion of these institutions has a purely formal character, e.g. associated with commitments made to the International Labour Organization[60]. Many institutions are limited to routine activities, not associated with making any binding decisions or conducting regular and thorough public debates.

The level to which the national tripartite institution is formalized differs from one country to another. In Poland and Lithuania, these institutions are permanent and have many years of experience. The Lithuanian Tripartite Council operates on a permanent basis. The Polish Tripartite Commission, although older (established in 1994), ceases to operate from time to time for political reasons. It also seems to be much less effective in terms of the potential to reach agreements than the Lithuanian Tripartite Council. In Estonia, there is essentially no permanent tripartite institution[61]. Negotiations are conducted *ad hoc* at the request of one of the parties, outside existent consultative structures. Therefore, we deal here more with cyclical tripartite negotiations organized around specific public issues than with a permanent social-dialogue institution.

The frailty of tripartite institutions in the three countries covered by the study ensues primarily from faulty or deficient legislation. It does not provide for a methodical conduct of the dialogue. In Estonia, for example, participation in consultations is optional and depends solely on the good will of the government and social partners. There were times that this situation allowed the government and employer organizations to block negotiations initiated by trade unions[62]. In addition, the government is not required by law to submit legislative proposals concerning industrial relations or social issues for discussion at the forum of these institutions. This is why in all three countries the practice of circumventing the public consultation process was perceivable, even when administration was statutorily obligated to conduct such consultations, as is the case in Poland and Lithuania. Relevant laws are imprecise, which allows the strongest party to negotiations, i.e. the government, to interpret them in its favour. At the same time, agreements do not have the power of formal decisions but only have an advisory and consultative character. There are no mechanisms for enforcement of agreements reached at the forum of tripartite institutions or for monitoring their enforcement. This visibly lowers

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[59]   D. Długosz, J. J. Wygnański (2005): *Obywatele współdecydują. Przewodnik po partycypacji społecznej*, Stowarzyszenie na rzecz Forum Inicjatyw Pozarządowych, Warsaw.

[60]   This is the case of the Estonian Social and Economic Council; comp. E. Sootla (2005): *ibid.*

[61]   Not counting the Social and Economic Council, which has no real influence on the legislative process; comp. *ibid.*

[62]   *Ibid.*

the credibility of the government and accountability of dialogue institutions in the eyes of so-cial partners. However, it is worth noting that agreements on legislative proposals worked out on the forum of tripartite-dialogue institutions have been usually better accepted by national parliaments.

The frailty of the tripartite dialogue in the examined countries also ensues from the internal weakness of the government and social partners. In case of the government, it is associated primarily with the absence of coordination between activities pursued by individual ministers. In some cases, tripartite institutions were a site of rivalry between ministers or a place where social partners played out their influence in one government sector against another. A particu-lar manifestation of government frailty is the presence of the complex of branch connections – a coalition of interests of trade unionists, employers or state-owned company directors, politi-cians and civil servants closely linked to the interests of a particular branch of the industry. In the case of traditionally strong branches, such as the heavy industry, such complex of interests was often able to effectively jam a policy pursued by the entire government as well as the possibility to achieve an agreement on the forum of a tripartite institution - especially when that agreement threatened traditional privileges of that branch.

In the case of social partners, their societal representativity level is low and falling in all three countries. Trade union membership has been systematically dropping for years[63]. The frailty of social organizations is also decided by the absence of sufficient financial resources and know-how support, as well as inexperience of their activists. Other factors causing frailty of these organizations lies in internal divisions, rivalry for members and political influence, and reluctance to rise above issues that separate them for the purpose of presenting a joint posi-tion. A good example of the weakness of employee organizations comes from Estonia, where trade-union activists are considered heirs of socialist-period organizations dominated by the influence of the communist party and ideology[64]. In Poland, trade unions enjoy an opposite reputation. The Solidarity Trade Union is a heir of the movement that fought the socialist state, even though the prestige of Solidarity has suffered somewhat as a result of its entangle-ment in current politics and active support of the right-wing government in 1997-2001.

When analysing social dialogue during the period of transformations it is interesting to exam-ine the dynamics of changes in mutual relations and negotiating power of each participant in the dialogue. At the initial stage of systemic transformations in Poland, trade unions held a relatively strong political position and a great deal of potential influence on shaping the eco-nomic system and industrial relations. This was a result of the fall of communist system caused to a large degree by the Solidarity Trade Union and opposition politicians associated therewith. Later, many among these politicians exerted an enormous influence on government decisions and directions of the process of systemic transformations. As time went on, the po-litical position of trade unions gradually weakened, particularly after the mentioned unsuc-cessful attempt at close cooperation between the ruling party (Solidarity Electoral Action) and Solidarity Trade Union. Whereas the influence of business organizations on the shaping of industrial relations in the countries under examination has been systematically growing. This was associated with several factors, one of which was the increasingly strong role played by multinationals in the economy of these countries. It also resulted from the rising pace of pri-vatization (or liquidation) of state enterprises, which in the past had been a natural trade-union breeding ground. In addition, the trade-union negotiating position is weakened by the high

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[63]   Comp. *Industrial relation in Europe 2004*, European Commission, Brussels 2004, p. 19.

[64]   E. Sootla (2005): *ibid.*

level of structural unemployment and the liberal direction of systemic changes introduced after 1989, particularly in Estonia and Poland.

Social organizations apply various methods to reinforce their position in the tripartite dialogue. First and foremost, participation in that dialogue gives them the opportunity to improve their image. In addition, they try to create broader trade-union federations, or the opposite - engage in an aggressive rivalry for members with competing trade unions. The Estonian Association of Employers and Industry, which groups both employers and worker organizations, is an atypical example of a trend toward consolidation[65]. This may be associated with the low opinion of trade unions dating back to socialist period which is prevalent in Estonia and an attempt at improving the chances of realizing trade-union interests through cooperation with business organizations. Lithuanian trade unions become stronger and have a greater impact on public policy by being very active on the forum of the Tripartite Council and by using assistance of Scandinavian experts to their full potential.

Another way that social organizations try to make up for their weakness is by engaging in direct contacts with the government or political parties. Business organizations seem to establish close contacts with politicians and high-ranking state officials more often. In Estonia and Poland, they exert strong influence, particularly of the informal type, on decision-makers. Participation of business organizations in the work of the Polish Tripartite Commission seems to be motivated precisely by their will to achieve a better access to politicians and information about government activities, attempt at reinforcing the public image of the given organization and the possibility to prevent unfavourable legislation from being passed on the Commission forum[66].

Institutionalization and effectiveness of social dialogue

The frailty of dialogue institutions causes their overall ineffectiveness, particularly when it comes to agreements concluded between the parties thereto. However, there exist serious differences as concerns these matters between the three examined countries. The Lithuanian Tripartite Council seems to be the most effective institution. This is determined by important cultural and institutional factors. Lithuanian trade unions, despite their varied sympathies and political affiliations, as well as rivalry for members, are able to come to joint positions prior to Council meetings. Business organizations represented in the Council have signed an agreement on consulting their joint positions and on refraining from submission of mutually opposing motions on the Council forum. Employee organizations have signed a similar memorandum. Council organizational rules also encourage reaching compromise solutions. Employer and worker representatives are obligated to consult their positions before Council meetings. Document drafts must be submitted at least 10 days in advance, whereas the meeting agenda is consulted with social partners appropriately ahead of time. An agreement is deemed concluded when all three parties consent to it, even though some represented organizations may oppose it[67]. A different situation exists in Poland. Here, a dissenting voice of one of seven represented organizations suffices to kill an agreement. This rule largely prevents an effective operation of the Tripartite Commission.

Other factors that secure the effectiveness of the Lithuanian Tripartite Council are a well developed system of internal communication within social organizations and the custom of

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[65]   E. Sootla (2005): *ibid.*

[66]   M. Fałkowski (2005): *ibid.*

[67]   Comp. R. Stafejeva (2005): *ibid.*

broad consultations with organization members prior to Council meetings. The great deal of experience characterizing social activists and a high level of involvement by trade unions represented in the Council are also beneficial. Employee organizations amplify pressure by disseminating their postulates in the media and conducting information campaigns among politicians (picketing, mailing information brochures, etc.). Trade unionists also use their contacts with politicians in the parliament and government to the common benefit of the employee side in the Council. In this manner, they go beyond the framework of the tripartite institution and reach for maximum support of their postulates. They are much more active in this respect than business organizations, which was demonstrated particularly on the occasion of the victorious debate over the Labour Code[68].

Consequently, the shape of institutions that organize social-dialogue activities has a direct impact on the effectiveness of concluded agreements. Certain solutions have the purpose of channelling discussions at the forum of the tripartite institution for the purpose of encouraging the parties to search for an agreement within its framework. An exemplary solution is offered by strong coordinating competencies of the secretariat of the Lithuanian Tripartite Council, which in addition to mediating preliminary decisions relative to Council proceedings is also responsible for the flow of information between the government and social partners. They are not allowed to solicit documents they need to work in the Council directly from individual ministers[69].

Institutions that organize social-dialogue activities can also hinder conclusion of agreements and cause an "ejection" of social partners outside the tripartite convention. Indeed, an ineffective functioning of tripartite dialogue promotes the search for other ways of influencing the government, most often informal ones. This may take the shape of politicization of social organizations, search for a direct contact with government decision-makers, etc. Examples of these phenomena are present both in Poland and in Estonia, where tripartite dialogue structures are relatively the weakest.

The frailty of dialogue institutions also causes a vicious circle that weakens dialogue. Instead of searching for solutions that correct and reinforce these institutions, decision-makers try to circumvent them and look for agreements with social partners outside tripartite institutions, or create other forms of dialogue, more functional from the perspective of their interests. Poland is an example of such behaviour. Here, the only agreement between social partners and the government reached in recent years, which led to legislative changes passed in the parliament, was concluded outside the Tripartite Commission (the Labour Code agreement of 2002). At the same time, when the government decided that the Commission no longer met its expectations, it created totally new *ad hoc* consultation mechanisms or introduced "new arena" of civic dialogue[70]. This type of conduct promotes marginalization of tripartite institutions, periodic "suspension" of their activities and restriction of their functioning to routine tasks that have no real impact on systemic decisions.

From the viewpoint of state decision-makers, participation in social dialogue is associated with the issue of choosing between democratization and effectiveness of public policies[71].

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[68]   *Ibid.*

[69]   *Ibid.*

[70]   M. Fałkowski (2005): *ibid*, O. Napiontek, et. all (2005): *ibid.*

[71]   The dilemma of choosing between the effectiveness of policies and political institutions and their popularity has been the subject of many publications. For example, comp. R. A. Dahl (1994): *A democratic dilemma: system effectiveness versus citizen participation*, Political Science Quarterly No. 109 (1); B. Barry (1991): *Is*

This choice is anchored in two reference points. The first one relates to shaping political activities and the social-dialogue process. Should public policies be pursued in a discretionary but effective fashion or should they be publicly consulted at the risk of slowing down the decision-making process or hindering making decisions that are unpopular or difficult due to the conflict of interests between social partners? The second point in the dilemma relates to the method of shaping public institutions. Should public institutions be open to a societal verdict expressed by way of democratic election (majoritarian institutions) or should they be specially isolated from voters and political campaigns (e.g. via an agency system)? This is associated with the discussion of the way by which the society gives its stamp of approval to public policies, i.e. the dilemma between *input legitimacy* ("government by the people") and *output legitimacy* ("government for the people")[72].

The study has often come across the problem of deciding between the effectiveness of pursuing public policies and tripartite dialogue. The initiation of consultations, particularly on socially sensitive issues, was associated with the risk of slowing down legislative processes or having to largely change government proposals. In addition, in a situation of a sharp confrontation between proposals submitted by administration and the position presented by social partners (or when the dialogue became politicized), this could lead to a blockage of government policy. It was also associated with a possible deterioration of government's popular support, particularly if the government was trying to force through solutions opposed by social partners and if the conflict was publicized by the media.

Dialogue institutions also co-create customs surrounding that dialogue and its informal standards. For example, the requirement of consultations between social partners in Lithuania prior to Tripartite Council sessions causes an increased number of meetings and informal contacts between social activists, and promotes the culture of collaboration. On the other hand, institutions that impede reaching agreements promote stressing the particularity of one's own position by individual organizations. They encourage organizations to block agreements ostentatiously rather than search for compromises. That conduct is more rational for the sake of the public image of an organization than a painstaking strive to reach a very difficult agreement.

Impact of culture on the effectiveness of social dialogue

Consequently, the culture and tradition of conducting social dialogue in the given country has an enormous deal of influence on the effectiveness of tripartite institutions. Undoubtedly, strong politicization of that dialogue (its submission to the influence of political parties) renders agreement reaching possibilities more difficult. Strong *complexes of branch connections* are another factor. The common feature of the situation in Poland and Estonia is the presence of sectoral connections mentioned earlier as well as a strong position of branch-specific trade unions. In Lithuania, the influence of these structures is weaker, which has a positive impact on the effectiveness of tripartite dialogue[73]. On the other hand, a constructive factor contributing to that dialogue lies in the tradition of bilateral agreements (between employers and workers) and well developed bipartite dialogue institutions. The development of social dialogue may be also impeded by the administrative tradition. It is manifested by the aversion of public

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Democracy Special? *Democracy and Power*, Oxford: Oxford University Press, pp. 24-60; Ch. R. Beitz (1989): *Political Equality*. Princeton, N.J.: Princeton University Press.

[72]   Comp. F. W. Scharpf (2003): *ibid.*

[73]   R. Stafejeva (2005): *ibid.*

consultations among civil servants, absence of administrative transparency[74] and tendency toward an instrumental treatment of social organizations – primarily as a tool promoting or reinforcing public support of government policies. A strong politicization of the civil service strengthens these tendencies.

Effective activities of tripartite institutions are also strongly impeded by the universalization of the culture of protest and negation of government proposals, and aversion toward any kind of compromise. I call the entirety of these phenomena the <u>culture of negative dialogue</u>. It is based on the conviction that concessions leading to an agreement are a manifestation of weakness or betrayal of organization interests. Whereas strength is associated with tenacity, assertiveness and a spectacular social protest that causes government decision-makers to back down. The culture of negative dialogue reinforces the rivalry between social partners for recognition in the society and for members of their organizations. Publicizing social dialogue in such cultural conditions reduces the possibility of reaching agreements as it promotes expression of the diversity of particular positions. This is precisely why social activists strive to limit the publicness of that mode of governance[75].

For example, the culture of negative dialogue exists in Poland. It is reinforced by the tradition of protest against a hostile and foreign state preserved since at least the 18th century. It should be remembered that in Poland there exists a tradition of building a civic society not in symbiosis and cooperation with public administration but in opposition to the state[76]. Also present is the phenomenon of social alienation from public issues and retreat into the realm of private life[77]. As a result, (1) there is no respect for the rule of law; (2) the culture of negative dialogue is widespread; (3) mechanisms controlling the state and its politicians are weak. To sum it up, one can say that political culture in Poland promotes the development of the *administrative state model* and a tendency to replace social activeness by public authority. It also increases the probability of the occurrence of pathologies in administration. It seems that the *culture of negative dialogue* induces tripartite institutions to deal with social protests. As a result, social dialogue tends to be reduced to "putting out" social protests and searching for emergency solutions rather than solutions associated with a systemic reconstruction of the state.

Political culture and social dialogue

Strong politicization of social dialogue is a significant problem in the countries covered by the study. At least two types of phenomena are observable here. One is the influence exerted on social dialogue by political parties, i.e. a transposition of parliamentary and electoral competition into the realm of tripartite institutions. It is accompanied by a strong political affiliation of social partners. This situation was visible in the Polish Tripartite Commission, where trade union organizations strongly identified with ruling or opposition political parties. Conflicts that occurred as a result of this situation were ruinous to the possibility of conducting constructive negotiations[78].

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[74]   Comp. E. Sootla (2005): *ibid.*

[75]   M. Fałkowski (2005): *ibid.*

[76]   J. J. Linz, A. Stepan (1996): *Problems of Democratic Transition and Consolidation. Southern Europe, South America, and Post-Communist Europe*, The Johns Hopkins University Press, Baltimore-London.

[77]   Comp. E. Wnuk-Lipiński (2005): *Socjologia życia publicznego,* Wyd. Scholar, Warszawa, p. 176-177.

[78]   Comp. J. Gardawski (2004): *Między negocjacjami a dialogiem społecznym* in P. Żuk (ed.), *Demokracja spektaklu*?, Scholar Scientific Publishers, Warsaw. More on this topic also in K. Frieske (1999): *Dialog*

The second phenomenon lies in the attempt by political groups or government officials to use social-dialogue institutions for *ad hoc* or instrumental ends. An example of this form of politicization can be found in the attempts to use public consultations as means to improve the image of the government or politicians prior to a forthcoming election. In Poland, it was not possible to depoliticise the consultations of the National Development Plan (NDP) draft despite preceding declarations to this effect. Parliamentary and presidential elections were approaching and both the opposition and government accused each other of using these consultations as a canvassing opportunity. It was hard to reject such interpretation in a situation where the deputy premier responsible for the civic dialogue process became the leader of a newly established political group and the leader of an employer organization active in these consultations was a candidate in the forthcoming presidential election[79].

In all three examined countries, social organizations, particularly trade unions, had more or less visible political preferences. Not everywhere, however, did it have a harmful effect on the tripartite dialogue. In Lithuania, for example, political sympathies of social partners had little impact on the outcome of Tripartite Council activities. The <u>culture of consensus</u> is an important factor influencing the functioning of that institution. Under *culture of consensus* I understand the inclination toward reaching a compromise despite political divisions and rivalry for members between brotherly organizations. It is the opposite of the *culture of negative dialogue*, which in conditions of strong politicization is particularly destructive to corporatist institutions. A frequent phenomenon present in such conditions is the absence of the possibility to negotiate an agreement or a periodic "suspension" of meetings of the tripartite institution. Moreover, politicization of the tripartite dialogue has a destabilizing effect on the possibility of pursuing specific public policies after elections, including the newly elected government's possibility to respect agreements concluded with social partners in the past. In Poland, for example, the NDP draft had been subject to broad public consultations by one government, but was then rejected by the new government for political reasons. This happened despite the fact that "depoliticization" of that document and creation of conditions that would allow continuation of its development after elections was precisely the stated objective of those consultations[80]. From this perspective, the application of the new mode of governance of civic dialogue turned out to be completely ineffective, and the principal reason for that was political culture dominant in Poland.

In all three countries, the political factor essentially dominates the tripartite dialogue. The above-mentioned tendency to politicize social dialogue conducted even in matters which seem to be distant from mainstream political dispute is a good example of that phenomenon. That tendency is also expressed in social activists' inclination to look for ways of informally influencing government decision-makers. In Poland, for example, participation in tripartite institutions is an opportunity to establish this type of contacts and exert pressure on politicians. Political sympathies and contacts with politicians constitute under these conditions a <u>political lever</u> enabling the given organization to better realize its interests, often by circumventing a debate on the forum of the tripartite institution. In Estonia, in turn, the dominance of political logic impedes the development of social-dialogue institutions, which are treated as a hurtle to politicians' power[81]. This results in the weakest institutionalization of social dia-

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społeczny: zasady, procedury i instytucje w odniesieniu do podstawowych kwestii społecznych, Instytut Pracy i Spraw Socjalnych, Warsaw; M. Fałkowski (2005): *ibid.*

[79] O. Napiontek, et. all (2005): *ibid.*

[80] *Ibid.*

[81] E. Sootla (2005): *ibid.*

logue among all three examined countries and reluctance by decision-makers to use that mode of governance in the execution of public policies. In all three examined countries, social acceptance expressed in general elections dominated social legitimization provided via public consultations. This is precisely why the outcome of public consultations can be quite easily erased by a newly elected government. All phenomena described above fit into the *administrative state model*.

A strong politicization of social dialogue increases the bias of public administration toward social partners. Combined with political ideology dominant in the given country, it can have long-term implications on the attitude of the authorities toward specific organizations. In Estonia, there is the example of the liberal direction of economic and social reforms favoured by political elites. This largely restricts the trade-union impact on public policies. Free-market ideology serves to oppose the socialist legacy of trade unions and their servile attitude toward the communist system[82]. This also weakens the importance of social dialogue in the public life of that country. In Lithuania, the lower popularity of the neo-liberal doctrine and frequent reference made to the experience of Scandinavian countries results in a higher culture of social dialogue, its better institutionalization and the government's less biased attitude toward social partners in the Tripartite Council. The experience of these two countries also indicates the influence of the capitalist model on the development of tripartite dialogue. Systemic transformations in Estonia brought about a clear preference among the elites for market-capitalism institutions, whereas in Lithuania there are visible references to the coordinated model.

Legitimizing function of social dialogue

For all parties to tripartite dialogue participation therein is an opportunity to increase their social legitimization. The low level of representativity characteristic to these organizations makes them treat their presence in tripartite institutions as a sort of ennobling and heightened status. This is subsequently used to popularize the image of the organization in the media and during membership-promoting campaigns. The government also takes advantage of these negotiations to increase its social legitimization. When the government is politically weak, public negotiations can serve the purpose of ensuring political support for its proposals submitted to parliament. Another example of this occurrence is the attempt to use tripartite negotiations as a way to improve the chance of winning forthcoming elections. For example, the Lithuanian government initiated a bill establishing minimum wage, which was favourable to trade unions. This action was associated with the government's attempt at using the Tripartite Council for the purpose of raising government popularity among the electorate[83]. The fact that Council activities are largely open to the public promoted that objective.

Therefore, the search for wider social legitimization by way of active participation in the work of tripartite institutions is directly associated with the weakness of social organizations or government. It is also often linked to an instrumental approach toward that mode of governance. At the same time, strong politicization of social dialogue and its instrumental treatment, particularly by the government, constitute factors that lower its legitimizing function. Both adversely affect the credibility of social partners and, consequently, lower the societal trust of the outcome of the consultation process.

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[82] *Ibid.*

[83] R. Stafejeva (2005): *ibid.*

Instrumentalization of social dialogue

The instrumental approach to tripartite dialogue has assumed two principal forms. The first one is the instrumental circumvention of dialogue associated with the government's reluctance to protract or complicate legislative work. It is also caused by the fear of excessive criticism of government proposals, which is detrimental to the image and popularity of the parties in power. Examples of such conduct were found in all three examined countries. For instance, there is a higher probability that the Lithuanian Tripartite Council will be "circumvented" by sectoral ministers than by the Minister of Social Security and Labour, which chairs the Council[84].

The tendency to *decentralize dialogue*, which approximates the *instrumental circumvention of dialogue*, is visible in Estonia and Poland. It is clearly borrowed from Western European countries. The process of decentralizing social-dialogue institutions lowers the political responsibility of the state for changes in industrial relations. It seems that it is easier to separate the state from this type of negotiations when they are systemically decentralized. Any potential trouble and social protest can be then easier moved outside the field of administration's interests. That tendency is also dictated by the desire to limit potential financial burdens on the state budget associated with the outcome of the negotiation process (e.g. financial compensation paid by the state in exchange for poorer working conditions).

The second form is the instrumental shaping of dialogue manifested by exerting pressure on the outcome of the work or shape of social-dialogue institutions in a way making them commensurate with government's political objectives. When the Polish Tripartite Commission turned out to be an ineffective tool in the attempt to raise the legitimacy of government policies, the government launched an *ad hoc* public debate involving a larger group of organizations and experts[85]. The debate provided the government with more flexibility in terms of defining negotiation conditions and selecting social partners. At the same time, it gave the government total freedom to shape the final outcome of the negotiation process in step with its own programme of reforms.

Creating a new "arena" of social dialogue and "jumping" from one dialogue institution to another can serve as an example of an *instrumental shaping of dialogue* depending on current objectives of the political team that directs government work. The same role is played by setting one organization against another, as in the case of curbing the influence of sectoral trade unions by way of adding non-government organizations and territorial self-governments to the number of consulted partners. The Polish government used that tactic during the process of consultations of the NDP[86]. Another example is found in broadcasting consultation results favourable to the government in the media, even though they were reached without participation of key social organizations or, worse yet, outside the tripartite institution[87].

The *instrumental shaping of dialogue* may under certain circumstances approximate the phenomenon known as the capture of state[88]. This happens when an interest group tries to "take

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[84] *Ibid.*

[85] M. Fałkowski (2005): *ibid.*

[86] O. Napiontek, et. all (2005): *ibid.*

[87] M. Fałkowski (2005): *ibid.*

[88] Comp. J. S. Hellman (1998): *Winners Take All: The Politics of Partial Reforms in Post-Communist Transitions*, World Politics, no. 50, January; J. S. Hellman, G. Jones, D. Kaufmann (2000): *Seize the State, Seize the Day. State capture, Corruption, and Influence in Transition*, Policy Research Working Paper, no. 2444, The World Bank, September; J. S. Hellman, D. Kaufmann (2001): *Confronting the Challenge of State Cap-*

over" a particular public institution associated with social dialogue and use it to its own ends. A dominant role played by the *complex of branch connections* in such institutions or the act of subjugating dialogue results to the interests of a political party or group are good examples of such occurrence. This situation is, of course, an extreme example of instrumental attitude toward social dialogue. Our study did not detect presence of such phenomenon in the examined countries.

In all three countries, the government played a dominant role in tripartite negotiations. At the same time, it rarely used that dominance to reinforce dialogue institutions and create strong social partners co-responsible for shaping and executing public policies. When these institutions were seen as an obstacle to government activities, the government would circumvent them rather than try to reform them in a way improving their effectiveness. Therefore, new modes of governance in the area of social dialogue did not serve the purpose of building the *network state model* but rather to instrumentally reinforce the tradition and function of the *administrative stae model*. This is visible in Estonia, where decision-makers reject the possibility of reinforcing tripartite institutions as contrary to the role of the government in conditions of liberal market economy. For example, Estonian government politicians manifested their aversion toward social dialogue by rejecting the outcome of a bipartite minimum-wage agreement concluded by social partners in 2001. It was only by a court decision that the government was compelled to institute that agreement[89]. Even though the Polish government established a mechanism for broad public consultations of the NDP draft, it was more a one-off attempt at taking advantage of this mode of governance than an effort to build permanent civic-dialogue institutions.

This is why government activities can be often interpreted as biased with respect to social partners. For example, in Estonia, the excessive influence of trade unions is treated as an obstacle to government policies[90]. In Poland, trade-union activities at the forum of the Tripartite Commission were viewed as uncooperative, anti-reform and at odds with the needs of the country's development[91]. Only in Lithuania can we speak of a more neutral attitude of the government and its role of umpire and mediator between various social interests. During negotiations of the Labour Code, the government favoured the postulates of business organizations. Despite that, the compromise worked out in the Tripartite Council, favourable to trade unions, was not blocked by the government either in the Council or later during legislative work in parliament[92].

Accountability of dialogue institutions

Participation in the work of a tripartite institution increases the legitimization of social organizations and shapes a <u>positive experience</u> of their activists. It encourages their active attitude with respect to social dialogue, which undoubtedly reinforces social-dialogue institutions as time goes on. When the government plays a dominant role in the tripartite dialogue, the development of a positive experience is conditioned by its credibility and *accountability of the dialogue institution*. For example, in Lithuania, the activeness of social partners in the

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    ture in Transition Economies, Finance & Development, vol. 38, no. 3, International Monetary Fund, September.

[89]   E. Sootla (2005): *ibid.*

[90]   *Ibid.*

[91]   M. Fałkowski (2005): *ibid.*

[92]   R. Stafejeva (2005): *ibid.*

Tripartite Council was directly linked to high government credibility. State administration's participation in social dialogue was treated as an additional guarantee of the enforcement of concluded agreements[93]. On the other hand, the contemptuous attitude of the Estonian government toward agreements reached by social partners lowered both government credibility and *dialogue institution accountability*.

Consequently, there was also a negative phenomenon present in the examined countries which can be called a <u>negative experience</u>. It manifested itself in the futility of social partners' efforts, which were arbitrarily rejected by political decision-makers. The erasure of the outcome of civic dialogue in Poland after the new government came to power[94] was undoubtedly a *negative experience* which discouraged an active attitude toward public consultations. Such situation compels social organizations to assume a passive attitude toward the government and await information from the decision-makers rather than co-create public policies. Such attitude among social partners is in step with the assumptions of the *administrative state model*.

Role of socialist legacy and weak-state pathologies

The study proved the persistent presence of the administrative and political tradition dating back to the socialist period. It is manifested in various forms, and is somewhat different in each country, depending on its cultural specificity and administrative system. The fundamental feature of social dialogue compatible with the socialist legacy is its weak institutionalization. There is also the supremacy of the personal factor and informal rules over the significance of procedures and formal institutions. In tripartite dialogue, an important role is played by political government leaders and leaders of social organizations. For example, social partners in Poland paid a great deal of attention to the fact that the Tripartite Commission was chaired by an influential politician who also held the post of deputy premier for economic and social affairs[95]. However, basing dialogue on the personal authority of its participants does not sufficiently guarantee the effectiveness of tripartite institutions. On the contrary, it entails the risk of personal conflicts which can paralyse social dialogue. At the same time, reducing the rank of government representatives in tripartite institutions, in a situation where their institutionalization is weak, usually means that these institutions are being marginalized and that social dialogue is entering the phase of routine activities.

The politicization of social dialogue, visible particularly in Poland and Estonia, is an important element of the socialist legacy. Dialogue institutions are often used instrumentally to advance political goals of the government, political parties or individual politicians. In such situation, public consultations play a propaganda role, are broadcasted and used for political ends. Political ideology is an important element that impedes the development of social dialogue. The best example of that is the role played by the neo-liberal doctrine in Estonia. Another manifestation of the socialist tradition in some countries is the relatively significant role played in the tripartite dialogue by sectoral structures as well as the presence of *complexes of branch connections*. Politicization of social activists or their creation of informal links with government politicians based on commonality of interests is a manifestation of the oligarchization of social organizations. In such situation, activists count on political benefits of their close cooperation with the ruling elite and cease to identify with the interests of their commu-

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[93]   *Ibid.*

[94]   O. Napiontek, et. all (2005): *ibid.*

[95]   M. Fałkowski (2005): *ibid.*

nity. The phenomenon of *negative dialogue* is specific to the Polish historical conditioning – the tradition of opposition movements dating back to the socialist period and construction of a civic society not in cooperation with the state but in opposition thereto.

Another remnant of the socialist period is the persistent presence of the *administrative state model* in the examined countries. Instead of changing that model, new modes of governance absorb it. This is accompanied by several phenomena that are at odds with the initial assumptions of new modes of governance, that lower the effectiveness of their application and that deepen <u>weak-state pathologies</u>. This happens because new dialogue institutions are not well rooted in the society and are used in accordance with the socialist culture and administrative state model. A good example of such tendency is found: (1) in the attempt to reduce the openness of social dialogue, (2) purposefully curbing the involvement of social partners – particularly those whom the government finds "inconvenient" – or (3) using tripartite institutions by social activists to exert informal pressure on politicians outside the tripartite structure.

Conclusions

The main conclusion of the conducted analysis is the correlation between the state model, political/administrative culture of the given country and quality of institutionalization of social dialogue. The administrative state model dominates in the studied countries, although in the case of Lithuania there is a trend toward moving away from it toward the network state model. The weak institutionalization of dialogue in new member states, particularly in comparison to some West European states, is not accidental but systemic. It is not only a result of an incorrect or insufficient implementation of western institutions, but is associated with the dominant administrative state model and local political culture. Consequently, a reform of social dialogue in the three examined countries would need to be based not only on perfecting its institutions but also on introducing solutions that would at the same time change their political culture and state model.

Differences between Lithuanian social dialogue and the experiences of the other two countries lie in the following reasons: (1) different capitalist institutions introduced in those countries and preferred attitudes with respect to the directions of economic transformations; (2) different political and administrative culture; (3) different quality of institutional solutions that shape social dialogue. The analysis proves that the effectiveness of social dialogue measured by the number of reached and enforced agreements depends on these three intertwined factors.

The West European experience indicates that building *market capitalism* is less favourable to the effectiveness of dialogue institutions. More favourable are solutions relating to the *coordinated model*, as shown by the Lithuanian example. As in Western Europe, social dialogue in the examined countries serves mainly the cause of improving the competitiveness of national economies. It is also directly connected to the need to adapt to the conditions of European integration, including the growing rivalry in the common market. My study shows differences in political and administrative culture, which influence the effectiveness of dialogue institutions. For example, there exists in Poland a *culture of negative dialogue* which reinforces the rivalry between social partners and diminishes the possibility of making compromises. In Lithuania, the *culture of consensus* is an important factor influencing the functioning of these institutions. Also quite important is the influence exerted on social dialogue by politicians and electoral rivalry between political parties. A high level of social-dialogue politicization, including strong ties between social partners and political parties, reduces the effectiveness of dialogue, as confirmed by Polish examples. The dominance of the public debate associated

with party rivalry over other forms of public debate is also detrimental to social dialogue. It marginalizes its impact on the shaping of public policies and hinders its institutionalization. Such situation exists in Estonia. In Lithuania, on the other hand, the low level of social dialogue politicization promotes its institutionalization and effectiveness. Furthermore, the shape of institutions that organize social-dialogue activities has a direct impact on the effectiveness of concluded agreements. Certain solutions have the purpose of channelling discussions at the forum of the tripartite institution for the purpose of encouraging the parties to search for an agreement within its framework. Institutions can also hinder conclusion of agreements and cause an "ejection" of social partners outside the tripartite convention.

Table 1: Country comparison by independent and dependent variables

	Poland	Lithuania	Estonia
Independent Variables			
Dominant state model	*administrative state model*	*administrative state model* transforming toward *network model*	*administrative state model*
Capitalist institutions	hybrid institutions with tendency to *market capitalism*	*coordinated model* with *Nordic model* institutions	*market (liberal) model*
Political and administrative culture	*culture of negative dialogue,* strong politicization of social partners; politicization of social dialogue institutions	*culture of consensus,* lack of politicization of social dialogue institutions	Domination of political (*majoritarian*) institutions over social dialogue institutions
Institutionalization	institutions which hinder agreements, *vicious circle that weakens dialogue*	institutions which encourage agreements	institutions which hinder agreements
Dependent Variable			
Effectiveness	low	highest	low

EEC countries show a pattern of *path dependency*[96]. The *administrative state model* dominates in accordance with the socialist legacy. It is reinforced by domestic political culture and customs present in administration. It is very difficult to change that model despite a great deal of effort accompanying systemic transformations. The administrative state model favours old methods of governance and hierarchical management of public policies. *Path dependency* in administrative behaviour is consistent with earlier studies[97], which indicate persistence of tra-

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[96]   For a comparison of the definition of *path dependency* in social sciences see R. D. Putnam, R. Leonardi, R. Y. Nanetti (1993): *Making Democracy Work,* Princeton University Press, Princeton, pp. 179-181; P. Pierson (2004): *Politics in Time. History, Institutions, and Social Analysis*, Princeton University Press, Princeton and Oxford, pp. 17-53.

[97]   B. Kohler-Koch (2002): *European Networks and Ideas: Changing National Policies?* European Integration online Papers (EIoP), vol. 6, no. 6, http://eiop.or.at/eiop/texte/2002-006a.htm; R. Eising, B. Kohler-Koch

ditional modes of governance in European Union policies. This happens despite the attempts of the European Commission to introduce new paradigm of network governance in which the state becomes a mediator rather then a steering actor.

The application of Max Weber's ideal-type methodology to the analysis of social dialogue in new member countries has shown more than just persistence of old methods of management. It has demonstrated different concepts of *state capacity* in both models, diverse role of state administration and social partners, as well as different functionality of social dialogue institutions in relation to *strength/weakness of the state*. In the network model, strength of the state is based on the institutional quality and effectiveness of social dialogue. Consequently, state capacity in the network state model requires strong and autonomous non-governmental organizations and effective institutions tasked with bridging administration and social partners. In the administrative state model, social dialogue institutions are perceived as hindering an effective delivery of public policies, hence weakening state capacity. This is why the functionality of social dialogue in this model is concentrated on raising societal legitimacy extended to the government and its social partners and not, for example, on improving the quality of public policies or the effectiveness of their implementation. Social dialogue institutions are particularly vulnerable to being taken unfair advantage of by weak governments. For example, for the purpose of propping up a specific government position when government work is poorly coordinated, or to raise societal legitimization of government-proposed policies when the government cannot count on strong parliamentary support. Another example of misusing civic dialogue is when it is initiated on the eve of an election campaign simply to provide a promotional vehicle for government politicians.

The state model impacts the way by which new modes of governance involving social dialogue are implemented in practical activities of state administration in EEC countries. Instead of changing it toward the network model, they are absorbed by the administrative model. This is partly associated with the peculiar period in the transformation process which requires strong political and administrative leadership and, consequently, favours familiar solutions of the administrative model rather than experimentation with a new one. Therefore, a strong state which is efficient in using traditional (old) modes of governance conditions successful systemic transformations. This is particularly important when a country moves from socialist to capitalist economy and tries to successfully join the global economic system. However, does this rule also apply to democratization of the state and social participation in administrative works? As the analysis has shown, new modes of governance transferred from highly developed countries can function well in the network model but cannot offset the weaknesses of an administrative state model. This may mean that a successful application of new modes of governance involving social dialogue requires not only reinforcement of state capacity but also development and preservation of the network state paradigm.

A change of the state model toward the network one in CEE countries would conform to the paradigm of new modes of governance which have grown in matured democracies with well developed civic societies. However, systemic transformations require imposing quick, multifaceted and socially painful reforms. Meanwhile, European integration necessitates the adoption of a vast range of European legislation in a short time, essentially without any possibility of modifying it to fit local social conditions. This is why weakening social dialogue and using it instrumentally by politicians for the sake of achieving the goals of systemic transformations and European integration is more functional in the examined countries.

(1999): *Introduction: Network Governance in the European Union*, In *The Transformation of Governance in the European Union*; edited by R. Eising and B. Kohler-Koch. London: Routledge: 3-13.

Consequently, social-dialogue institutions are weak in the circumstances of new EU member states, whereas Europeanization of state administration with respect to social dialogue is superficial. The transfer of these institutions is poorly adapted to the conditions present in those countries. Its focus on the practical application of these new modes of governance in the improvement of the effectiveness of public policy execution is limited. It should be noted that this predicament is not only linked to the specificity of transformations in CEE countries but also to the weakness and internal differentiation of social dialogue blueprints borrowed from Western Europe. In addition, methods of governance transferred to the examined countries from the European Union were applied in an inconsistent, even contradictory, manner. This refers especially to the contradiction between "hard" modes of governance associated with a unilateral transfer of legal regulations and "soft" methods of governance involving, for example, social dialogue[98]. The import of EU laws did not essentially assume any possibility of adapting new institutions to social conditions present in new member states, and that rendered social dialogue meaningless. Moreover, the gigantic volume of that transposition in a relatively short time practically excluded initiation of public consultations.

The frailty of institutionalization of social dialogue in the examined countries is expressed, for example, by the dependency of dialogue institutions on political and personal factors, as well as influential interests. They are associated with *complexes of branch connections*. Consequently, the incompatibility of new modes of governance with the binding state model and political culture makes them functionally ineffective and causes them to be often executed in a manner distant from the objectives of their introduction. They can also perpetuate organizational pathologies of a weak state and contribute to its further weakening. This is also linked to the *vicious circle* mechanism of weakening social-dialogue institutions. Instead of searching for solutions that would correct and reinforce these institutions, decision-makers try to circumvent them or look for agreements outside tripartite negotiations. One of the avoidance methods (also known in Western Europe) lies in the tendency to decentralise the system of social dialogue. Another way is by creating more convenient forums of dialogue, for instance "jumping" to the arena of civic dialogue. Similarly to the experience of *social pacts* in western countries, this type of political initiative did not lead to the construction of permanent national-level civic dialogue structures and procedures, but was rather a one-off consultative and propaganda campaign serving the ends of government policy. The main aim of this practice was to render public policy-making more effective by avoiding institutional stalemate and deadlocks[99]. But in circumstances of an administrative state, the application of the new mode of governance of civic dialogue turned out to be completely ineffective, as Polish example has illustrated[100].

Under these conditions, the legitimizing function is the fundamental role reserved for social dialogue. It is parallel to the EU experience, where social and civic dialogues serve the legitimization of the European integration and individual European policies, compensating *democ-*

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[98]   More on "hard" and "soft" methods in European Union policies: D. M. Trubek, P. Cottrell, and M. Nance (2005): *"Soft Law," "Hard Law," and European Integration: Toward a Theory of Hybridity*, Jean Monnet Working Paper 02/05, NYU School of Law, New York.

[99]   Comp. A. Héritier (2003): *New Modes of Governance in Europe: Increasing political efficency and policy effectiveness.* In: Tanja A. Boerzel and Rachel Cichowski (eds.), *State of the European Union.* Oxford, Oxford University Press, 105-126.

[100]   O. Napiontek, et. all (2005): *ibid.*

ratic deficit of community institutions[101]. However, in EEC countries, dialogue institutions seem to be used less for the purpose of gaining societal acceptance of difficult systemic changes or public policies and more for the purpose of compensating for the weakness of the parties to dialogue. It is used by social partners and administration representatives, including politicians preparing for elections, to raise their standing in the society. This is associated with a strong dominance of *input legitimacy* over *output legitimacy*, which is a trait characteristic of the administrative state model.

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[101] Comp. V. A. Schmidt (2003): *The European Union Democratic Legitimacy in a Regional State*? Political Science Series no. 91, Institute for Advanced Studies, Vienna; B. Eberlein, D. Kerwer (2004): *ibid*; T. G. Grosse (2005): *Problemy legitymizacji Unii Europejskiej*, *ibid*.