



mesmer+

Mapping European Social Economy:
Employment, Social Dialogue
and the European Pillar of Social Rights

Country report

POLAND

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Introduction

The MESMER+ project aims to create a better and up-to-date critical description and understanding of the representation and participation of the social economy in the social dialogue institutions as organised in one candidate country and eight member states, including Poland.

The aim of the Polish study, interviews and the policy lab was to respond to the following research questions:

- ✦ **RQ1** *How inclusive are social dialogue institutions towards social economy players?*
- ✦ **RQ2** *How do social economy players make their voice heard within national industrial relations systems?*

All information presented in this report is based on desk research and four individual in-depth interviews conducted with representatives of the public institutions, employers' organisations, trade unions and the social economy sector. All recommendations and postulates for change presented were developed during a policy lab on 11 September 2023, attended by 11 experts, representatives of: trade unions, employers' organisations, social economy centres, NGO umbrella organisations, associations of social cooperatives and the Social Dialogue Council.

1.1 OVERVIEW

Social dialogue in Poland

The history of social dialogue in Poland dates back to the beginning of the transformation of the economy from a communist to a liberal system in the 1990s. Representatives of the government, employees and employers agreed on the conditions and procedures for the privatisation of state-owned companies, and on 22 February 1993 signed the Pact on State-Owned Enterprises under Transformation. The pact provided for the establishment of a Tripartite Commission for Social and Economic Affairs. This was envisaged as a forum for social dialogue in which projects of the state's socio-economic policy would be discussed and common positions of the government, trade unions and employers would be worked out. From 1993 until 2001 the Commission operated on the basis of resolutions of the Council of Ministers.

It was not until July 2001 that Parliament adopted the Act on the Tripartite Commission for Social and Economic Affairs and Regional Social Dialogue Commissions, which granted the commission a legal existence. The act was co-authored by all social dialogue partners. The need for an act was recognised from the outset, and relevant provisions had been included in the Pact on State-Owned Enterprises under Transformation. They had also been called for by trade unions and

employers' organisations for many years. Giving the commission a statutory mandate became advisable in 1997 with the introduction of the principle in the new constitution that dialogue and cooperation of social partners is the basis of Poland's economic system. This provision in the constitution became the final motivation for developing the act.

The Social Dialogue Council, which is still active today, was established in 2015 because, in the view of the social partners, the Tripartite Commission no longer fulfilled its function. The most striking manifestation of the social dialogue crisis in the last years of the Commission's existence was the unanimous suspension of participation in its work by the workers' side in January 2012. The trade union centres accused the government side of violating the act by failing to convene commission meetings at the frequency stipulated in the act. Due to the absence of the workers' side in the institutional social dialogue, the need for reform of the commission was increasingly raised (Duda, Potocki, & Klingenburg, 2021).

In December 2013, six representative employers' and employees' organisations developed a draft law on the Social Dialogue Council as a replacement for the Tripartite Commission. The relevant act entered into force on 11 September 2015 and has regulated social dialogue in Poland until today.

At the same time, since 2015, the governments of Beata Szydło and then Mateusz Morawiecki have marginalised the social dialogue and the Council. Currently, in practice, social dialogue is limited to bilateral agreements between employers and trade

unions on issues that do not require government involvement.

Social economy

The social economy sector, which accounts for 2.94% of Polish GDP (Goś-Wójcicka, et al., 2021), is not recognised by dialogue partners. Neither the employers' organisations nor the trade unions see common interests with the sector. The government, on the other hand, only involves social economy actors in legislative processes directly affecting the sector.

The sector itself, the vast majority of which is represented by cooperatives and NGOs conducting business activities, has difficulty in positioning itself on either side of the social dialogue. It rarely perceives its activities in terms of industrial relations. Social enterprises also do not consider themselves as workplaces. Bipartite dialogue processes therefore rarely take place there.

In addition, unfavourable legal conditions for the contracting out of public tasks put social economy entities in a weak financial position. Many of them are struggling to survive. They therefore do not have the resources to engage in social dialogue processes.

/02

Industrial relations: national context

2.1 CONTEXT OF THE INDUSTRIAL RELATIONS SYSTEM

Employers' organisations and trade unions can be identified as the main actors in industrial relations in Poland. However, both types of organisations only bring together a minority of employees and entrepreneurs, while the majority remain unaffiliated and do not organise. The low representativeness of trade unions in Poland is the result of the policy of weakening trade unions during the transition period. The low propensity to associate at all may be related to the fact that Poland has one of the lowest social trust indicators not only in Europe but also in the world (IPSOS, 2022).

Some change was seen on the employer side during the lockdown period, during which industries felt the need to work together in relation to regulations restricting their activities. Organisations emerged in sectors that had not previously federated. Once the pandemic was over, these federations ceased. It is now estimated that employers associate to a similar extent as before the COVID-19 pandemic.

2.2 INDUSTRIAL RELATIONS ACTORS

Trade unions

According to Statistics Poland, which conducts detailed surveys once every four years, there were 12,500 trade union organisations operating at various levels in Poland in 2018. The largest share were company, sub-company and branch trade union organisations (78.1%), followed by inter-company trade union organisations (19.5%). In addition, there were also federations, confederations and their field or branch structures – a total of around 300 (i.e. 2.3%). Farmers' trade unions accounted for the smallest proportion – 0.1% . (Aruriga-Borówko, Fediuk, Goś-Wójcicka, & Sekuła, 2019). There exists a significant number of trade union organisations. However, the majority (approximately 85%) of union members are affiliated with the three main union bodies, namely NSZZ Solidarność, OPZZ, and the relatively smaller FZZ. In 2018, 82.6% of active trade unions were members of trade unions affiliated to one of these three trade unions representing workers in the Social Dialogue Council. (Aruriga-Borówko, Fediuk, Goś-Wójcicka, & Sekuła, 2019)

There are three main representative trade unions in Poland:

- ✦ *Independent Self-Governing Trade Union "Solidarity" (NSZZ "Solidarność"), which was established in September 1980 following an agreement between the Inter-Company Strike Committee and the communist authorities. De-legalised in 1982, during Martial Law, NSZZ "Solidarność" was re-registered in April 1989 following the Round Table talks. "Solidarity" estimates its membership at 900,000 people organised in nearly 12,000 works committees. The union is governed by the National Convention of Delegates, which meets for general assemblies at least once a year, the National Commission and the National Audit Commission;*
- ✦ *The All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych, OPZZ) was established in 1984 by the Assembly of Representatives of Sectoral Trade Unions. The highest authority in the OPZZ is the Congress, which meets once every four years. The union's main body is the Council, whose members are elected in 12 sectors comprising 99 national trade union organisations and 16 Regional Councils;*
- ✦ *The Trade Union Forum (Forum Związków Zawodowych, FZZ) was registered on 31 January 2002. Its first congress was held in Warsaw in 2002. The Forum is co-founded by 27 trade union organisations representing, among others, workers in various transport sectors, police officers, nurses and midwives. In total, the FZZ has approximately 400,000 members.*

In addition to the above-mentioned organisations, there are federations (around 300), nationwide trade union organisations (273) and local trade union

organisations in Poland. About 7,000 trade union organisations of an enterprise character operate independently, without links to a large trade union organisation and only at the local level (Ministry of Family and Social Policy, 2023).

Trade union members

More than 1.5 million people belonged to trade unions in 2018. Therefore trade union members accounted for fewer than 5% of Poland's adult population. More than half of trade union members were affiliated with company bodies (51%), followed by inter-company organisations (30.5%). The largest proportion of trade union members (23.2%) worked in education, followed by public administration and national defence (13.9%). Those employed in manufacturing (12.7%) and in health care and social services (12.4%) also had a considerable share of membership (Aruriga-Borówko, Fediuk, Goś-Wójcicka, & Sekuła, 2019).

In 2021, the Public Opinion Research Centre conducted a survey on trade unions in Poland. In the survey, nearly six in a hundred Poles (5.5%) declared membership of a trade union. Membership in trade unions was declared to a greater extent than average by those employed in public institutions and state-owned enterprises, working as technicians and other middle-ranking staff (e.g. nurses, police officers). Employees of companies and institutions employing at least 50 people were also more likely to belong to this type of organisation than smaller enterprises. In addition, women (13%) were minimally more likely to belong to unions than men (9%). Trade union membership was slightly more often declared by older workers than younger ones – the average age

of trade unionists was 43, while that of non-unionised worker was 40. It is worth adding that in 2021 trade unions were assessed rather positively. Almost half of those surveyed (46%) perceived trade union activity as beneficial for the country. In addition, a third (32%) claimed that trade unions effectively defend workers' interests. However, 37% held the opposite view (Feliksiak, 2021).

Employers' organisations

In 2018, 400 employers' organisations were active in Poland, of which 29.8% had their representatives on the Social Dialogue Council. These organisations included 19,100 employers, both corporate bodies and sole entrepreneurs. Among members, corporations predominated, accounting for 69.9% of the membership base. Nearly one in five employer organisations declared that their members' main industry was health care and social services (18.5%). Employer organisations' members were also frequently active in such sectors as manufacturing (10.3%), services (9.8%) and trade (9.2%) (Aruriga-Borówko, Fediuk, Goś-Wójcicka, & Sekuła, 2019).

In Poland, the activities of employers' organisations are regulated by the act of 23 May 1991 on Employers' Organisations. An employers' association is a legal person and is established by a resolution on its establishment adopted at a founding assembly by at least 10 employers. The assembly then adopts the statutes and elects a founding committee of at least three persons. The employers' association is subject to registration in the National Court Register.

/03

Social dialogue

3.1 CURRENT LEGAL FRAMEWORK

Social dialogue in Poland is regulated by the Act on the Council for Social Dialogue and Other Institutions of Social Dialogue of 24 July 2015 (Journal of Laws of 2018, item 2232, as amended), which sets out the principles of institutional cooperation between the government, trade unions and employers' organisations. On the basis of the act, the Social Dialogue Council was established in 2015. The Council was intended to be an advisory and consultative body involved in legislation at an early stage.

At the regional level, the act establishes Regional Social Dialogue Councils, which constitute a four-party forum for the social dialogue and, in addition to representatives of the employees', employers and the central government side, they include representatives of the local government. The Regional Councils also have a consultative role. The leader of the executive board of the region (*Marszałek*) is obliged to present to the employees' and the employers' side for their opinion drafts of regional development strategies and programmes, as well as reports on their implementation.

3.2 SOCIAL PARTNERS, RECOGNITION AND CRITERIA FOR REPRESENTATIVENESS

The council gathered the most significant organisations representing the employees and employers, as well as the government:

- ✦ *three trade union centres representing the employees' side: the All-Poland Alliance of Trade Unions (OPZZ), the Independent and Self-Governing Trade Union Solidarność and Trade Union Forum (Forum Związków Zawodowych);*
- ✦ *six organisations representing the employers' side: Employers of the Republic of Poland (Pracodawcy Rzeczypospolitej Polskiej), Confederation Lewiatan, Business Centre Club, Polish Craft Association (Związek Rzemiosła Polskiego), Union of Entrepreneurs and Employers, Federation of Polish Entrepreneurs (Federacja Przedsiębiorców Polskich);*
- ✦ *representatives of the Council of Ministers, designated by the Prime Minister.*

According to the act, the Social Dialogue Council may include:

- ✦ *trade union organisations which:*
 - *have more than 300;000 members*
 - *operate in entities of the national economy whose basic type of activity is defined in more than half of the sections of the Polish Classification of Activities (PKD)*

- ✦ *employer organisations which:*
 - *bring together employers employing a total of at least 300,000 persons*
 - *bring together employers who carry out their main economic activity in at least half of the sections of the Polish Classification of Activities (PKD) have regional/supra-sectoral employer organisations*
 - *among their members, with seats in at least half of the regions*
 - ✦ *the impact of the tax changes on the situation of employees and entrepreneurs*
 - ✦ *the situation on the labour market*
 - ✦ *the situation of education and education workers in light of the reforms being implemented, and the need to include large groups of migrants in the educational system*
 - ✦ *the revision of the Polish tax system*
 - ✦ *the energy transition in Poland*
 - ✦ *the Multiannual Financial Plan and macroeconomic indicators*
 - ✦ *the report on the implementation of the state budget for the period from 1 January to 31 December 2021*
 - ✦ *information from the government on the status of implementation of the National Reconstruction Plan and other European programmes*
 - ✦ *the assumptions of the draft state budget and the proposed average annual rates of growth of remuneration in the state budget sphere for 2023, as well as proposals for the increase of the minimum wage and the minimum hourly rate in 2023*
 - ✦ *energy policy in Poland*
 - ✦ *the future of social dialogue in Poland (Social Dialogue Council, 2022)*
- According to information obtained during the research, trade unions, which are closest to the social economy and within which workplace committees are established in NGOs, do not have a sufficient number of members to be represented in the Council. On the employee side, the social economy is therefore not represented in the Council.
- On the other hand, the representativeness criteria for employers' organisations are easier to meet and the Council also includes relatively small and weak associations with a narrow area of activity, regarded as unrepresentative. As in the case of trade unions, also none of the employer organisations in the Council represents the interests of the social economy.

3.3 MAIN PRACTICES AND RELATED OUTCOMES

The Social Dialogue Council undertakes its own activities in problem teams, as well as meeting with the government side at monthly meetings where it demands greater involvement in law-making. During the period from 1 January 2022 to 31 December 2022, the plenary meetings addressed among other things the following topics:

3.4 HOW HAS THE SOCIAL DIALOGUE EVOLVED OVER TIME TO DATE?

The Social Dialogue Council replaced the Tripartite Commission for Social and Economic Affairs, which had been operating since 1994. In the view of the social partners, the commission no longer fulfilled its function. The most prominent manifestation of the social dialogue crisis was the joint resignation of the workers' side in 2012. As a result of the absence from institutional social dialogue of the workers' side,

which accused the government of faking dialogue and failing to convene meetings on time, the need for reform of the commission was increasingly raised, to which the Act on the Council for Social Dialogue was supposed to be the answer. The Council reawakened hope for the reconstruction of tripartite dialogue. As work on the act proceeded without major disruptions, representatives of the social side were optimistic about the future of social dialogue. The first major crisis, which resembled the problems that affected the Tripartite Commission, occurred during the COVID-19 pandemic in 2020, when one of the trade union centres partially suspended its work within the Council. During the pandemic, voices began to ring out in favour of the need to reform the act thoroughly once again. At that time, attention was drawn, above all, to the fact that the introduction of socially and economically important acts by way of parliamentary initiative, i.e. without the opinion of the social partners, constituted a violation of the principle of good cooperation between the social partners.

At the beginning of 2020, the procedure of omitting the mode of social consultations on important draft acts, such as the draft Budget Act for 2021, was met with loud criticism. In the opinion of the social partners' side, this was a clear violation of the law by the government. In addition, the Act of 31 March 2020 amending the Act on Special Solutions Related to the Prevention and Combating of COVID-19, Other Infectious Diseases and Crisis Situations Caused by Them included a regulation empowering the Prime Minister to dismiss members of the Social Dialogue Council who are representatives of the employees' and employers' side with or without a request from

these organisations. The employees' and employers' side clearly interpreted this as a violation of the council's autonomy. In the end, due to the protest of all social partners, the controversial regulation was cancelled (Duda, Potocki, & Klingenburg, 2021).

Currently, the activities of the Social Dialogue Council are assessed negatively. Social dialogue is described as purely a façade. On specific issues, there is dialogue between employers and the trade union side. However, in practice the council does not pass tripartite resolutions other than those concerning formal matters such as the approval of reports, codes of conduct, etc. Instead, many bilateral resolutions are passed on minor issues. What is assessed positively in the council's activities are the problem teams (*zespoły problemowe*), whose work is described as "substantive".

There are currently eight permanent problem teams at the council, dedicated to:

- ✦ *budget, remuneration and social affairs*
- ✦ *labour law*
- ✦ *economic policy and labour market*
- ✦ *social security*
- ✦ *development of social dialogue*
- ✦ *European funds*
- ✦ *public services*
- ✦ *international affairs*

The teams include representatives from all sides of the social dialogue, with the vast majority of members coming from the workers' and employers' organisations.

The tasks of the teams include:

- ✦ *providing opinions and preparing draft legislation*
- ✦ *working out proposals for, inter alia, the level of salaries in the national economy, the minimum wage, increases in social benefits*
- ✦ *analysing and evaluating issues related to the subject matter of the team's work*
- ✦ *analysing the functioning of public institutions*
- ✦ *carrying out analyses and assessments of sectoral dialogue functioning*
- ✦ *cooperation with regional social dialogue councils and other bodies*
- ✦ *analysis of experiences from other countries*
- ✦ *dissemination of good practices to the field*

At present, not only the council's activities, but law-making processes in general are assessed as problematic in Poland. The government views social dialogue as a necessary evil. Both the Social Dialogue Council and the Parliament have lost their law-making character. The government has taken over these institutions and reduced their roles. The approach to dialogue on both sides is now that everyone is trying to get their own way. This is particularly evident in the case of individual agreements made between the government and the pro-government trade union "Solidarność" outside the council framework, which are seen as torpedoing the activities of the Social Dialogue Council. The downgrading of the quality of dialogue by the government side leads to a situation where partners begin to take actions in their own narrow interests that further weaken the already weak council and a vicious circle develops.

3.5 LEVELS OF SOCIAL DIALOGUE AND BODIES

In the framework of tripartite dialogue in Poland, in addition to the Social Dialogue Council, there are consultative bodies which aim to shape the labour market at central, regional and local levels.

Labour Market Councils

The Labour Market Council at central level is a consultative and advisory body of the minister responsible for labour. At the regional and local levels, the councils work with the voivod (who is the representative of the Council of Ministers in the region and the head of the combined government administration in the region) and the starost (chairman of the poviats board, representative of the local government) respectively.

The main objective of the Labour Market Councils is the development of employment and human resources. Their tasks include giving opinions on draft legislation concerning the labour market, education and training. They include representatives of the trade union and employers' sides. The effectiveness of the councils varies greatly. Some of them are an effective support to the authorities in developing and implementing labour market strategies. Some, on the other hand, are purely formal.

Council for People with Disabilities

The Council for People with Disabilities, which includes all cross-sectoral employers' organisations represented on the Social Dialogue Council, trade unions represented on the Social Dialogue Council, as well as NGOs working for people with disabilities, also operates in areas around which social dialogue is

focused. At the central level, the Council is located at the Government Plenipotentiary for Disabled Persons' Affairs. The Council has a consultative and advisory character. Its tasks include presenting proposals for undertakings aimed at the integration of persons with disabilities, formulating solutions for satisfying the needs of persons with disabilities, and giving opinions on documents with an impact on persons with disabilities. At the regional and local levels, the councils are organised by local governments.

Works councils

In the framework of the bipartite dialogue, at the workplace level there are works councils. They were introduced into the Polish legal system in 2006 following the influence of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community. Works councils were supposed to play an advisory and consultative role in companies (Act of 7 April 2006 on Informing and Consulting Employees). The councils are established on a mandatory basis at companies that employ more than 50 people. From the beginning, the idea of works councils aroused resistance from both employers, who feared additional costs, and trade unions. Trade unions perceived them as competition while employers were reluctant to share information with employees about the situation of their companies, and thus gave incomplete answers to the councils' questions. Ten years after the implementation of the act, the activities of the councils were assessed rather negatively (Ciompa, Górski, Jankowska, Skóra, & Wratny, 2016).

3.6 COLLECTIVE BARGAINING

One of the instruments regulating the dialogue between employers and employees in Poland is collective bargaining agreements defining the terms and conditions of the employment relationship, in particular wages, and the mutual obligations of the employer and employee. The Labour Code also allows the establishment of a supra-company collective labour agreement, which is a bilateral agreement between a supra-company trade union organisation (the employees' side) and an employers' organisation. Currently, in the register of supra-company collective bargaining agreements at the Ministry of Family and Social Policy, there are 64 registered agreements in force. The collective bargaining coverage is low. According to NSZZ Solidarność estimates, only one in 10 employees in Poland is covered by a company or supra-company collective agreement. It is also worth mentioning that the Act on the Social Dialogue Council gives the employees' and employers' sides the possibility to conclude supra-company collective agreements. So far, this regulation has not been used even once, which may be interpreted as an example of the collapse of collective bargaining in Poland (Duda, Potocki, & Klingenburg, 2021).

/04

Social economy

4.1 BRIEF (RECENT) HISTORY

The road to the enactment of the Social Economy Act (2022) was long. The genesis of the act can be sought as early as 2005, when, under the influence of the EQUAL Community Initiative, aimed at tackling discrimination and disadvantage in the labour market (European Commission, 2023), the concept of social enterprise began to be used in Poland. The need for a law was recognised both by the government and by the social economy sector. In 2015, a parliamentary bill on social enterprise and support for social economy entities was drafted, the work on which was interrupted by the end of the parliamentary term. The next government proposed a preliminary draft outline of the Act on Social and Solidarity Economy in April 2017.

The first draft of the current act, however, was presented in May 2019 and public consultations started from that moment. Work on the act accelerated greatly in 2021, as the adoption of a legal framework for the social economy was one of the milestones of the National Plan for Reconstruction and Resilience, which forms the basis for Poland's application for funds from the EU's Recovery and Resilience Facility (RRF). During the work, parliamentarians made it clear that they wanted to adopt the law as soon as possible, also immediately indicating that they were opening discussion on its possible amendment (Gorczyński, 2022).

The Social Economy Act was finally adopted on 5 August 2022 and has faced criticism from the outset. The manner in which the act was drafted and its content were criticised by the NGO and social economy sector. NGOs feared that local authorities would outsource public tasks to social enterprises and that organisations without this social enterprise status would be financially weakened (Bendyk, 2021). On the other hand, representatives of the social economy sector criticised the narrowing of the concept of social enterprise to reintegration (Koczanowicz-Chondzyńska, 2022).

The act provides a definition of social economy and regulates the activity of social economy entities and social economy centres. According to the act, social economy is "the activity of social economy entities for the benefit of the local community in terms of social and professional reintegration, creation of jobs for people at risk of social exclusion and provision of social services, implemented in the form of economic activity, public benefit activity and other paid activity". Thus, the act practically narrows the definition of social economy to social integration.

The act introduces the concept of a social enterprise, i.e. a social economy entity which conducts economic or

paid public benefit activity, employs and professionally activates vulnerable groups, does not privatise profit or balance surplus and is managed in a participatory manner. Non-governmental organisations, social cooperatives, work cooperatives and reintegration units can apply for social enterprise status. The status of a social enterprise is granted by an administrative decision issued by the voivod. Placing this decision with the voivod (rather than the leader of the region's executive board (marszałek), who is the representative of the local government) has been widely criticised because it gives the central authority the power to decide who gets social enterprise status and therefore is considered less democratic.

Entities that have been granted the status of a social enterprise can obtain financial support related to the employment of persons at risk of social exclusion and persons with disabilities, facilitation of public procurement procedures and corporate income tax exemption. They can also participate in competitions for social enterprises, in which it is possible to obtain funding for, among other things, hiring an employee, costs of accounting, legal services, promotion, maintenance and equipment of an office or covering the costs of utility bills.

The act does not give the possibility to apply for the status of a social enterprise to large cooperatives established during the communist era in Poland, such as dairy or housing cooperatives. These organisations are usually managed in a non-democratic manner. However, they represent a large branch of the market and taking them out from under the social economy umbrella has weakened the sector.

The act provides for the operation of advisory and consultative bodies at the national and regional levels, which, in addition to central and regional administration, are to include representatives of social economy entities, cooperative unions, trade unions, employer organisations and universities. The Social Economy Act of 5 August 2022 came into force on 30 October 2022. At the time of the study, it was not possible to assess the activities of these committees. After October 2022, the committees were established but their activities were focused on the formation of working groups. It is noteworthy that the current strategy of the government focuses on direct consultation with SEEs and attempts to reach out to individual social enterprises rather than social economy centres.

There is a debate concerning the "experience requirement" set out in the operating standards for social economy centres. These centres receive grants from the government via a competition to support the social economy in a specific area. Social economy centres already in operation aim to make the experience of working with social enterprises and community animation required by the competition procedures as long as possible (today at least two years of experience is required but centres want it to be longer). On the one hand, such a requirement can ensure the professionalism of the centres. On the other, it does not allow new organisations into the financing system. An additional problem is the fact that almost only social economy centres have enough resources to participate in dialogue processes. Social enterprises struggle to survive on the market and find it difficult to engage in dialogue.

4.2 BRIEF MAPPING

At the end of October 2023, 785 entities had SEE status under the Social Economy Act (Rejestr Jednostek Pomocy Społecznej, 2023). In 2019 (prior to the entry into force of the act) Statistics Poland conducted a comprehensive survey of social economy entities. At that time, 1,400 cooperatives and 88,600 non-profit organisations were actively operating. The total number of SEEs was 90,000. The majority of cooperatives was made up of social cooperatives (65.7%), followed by workers' cooperatives (26.3%) and, in the smallest part, cooperatives of persons with disabilities and the visually impaired (8%) (Karolina Goś-Wójcicka, 2021, p. 25). In the group of non-profit organisations, on the other hand, associations and similar social organisations accounted for the largest share (78.9%), followed by foundations (17.3%). A much lower share was accounted for by religious entities (2%) and local and agricultural circles (1.9%). Most of them conducted only unpaid statutory activities (68.8%). The others were more likely to additionally carry out paid statutory activities (23.1%) than business activities (5.1%). (Karolina Goś-Wójcicka, 2021, p. 69).

At the end of 2019, 199,100 people were employed on the basis of an employment contract in social economy entities (NGOs, cooperatives and reintegration units). In comparison, 13,190,000 people were employed as salaried employees in the fourth quarter of 2019. This means that an estimated 1.5% of all employed persons in Poland worked in social economy entities. The largest proportion of people worked in associations and social organisations (44%, 874,000), religious organisations (20.6%, 410,000) and foundations (17.8%, 354,000). On the other hand, the number

of memberships in cooperatives at the end of 2019 was 262,000, the vast majority of which were private individuals (Karolina Goś-Wójcicka, 2021, p. 21).

According to the Polish Classification of Activities, the section within which cooperatives most often conducted their main economic activity in 2019 was manufacturing (21.9%). There was also a significant share of cooperatives engaged in administration services (17.6%) and accommodation and food services (12.5%). Cooperatives were also active in health care and social assistance (11.2%) and trade (7.4%) (Karolina Goś-Wójcicka, 2021, p. 31).

Between March and August 2020, due to the COVID-19 outbreak, 6.4% of the total number of cooperatives decided to lay off employees for whom they were the main place of work (both those having an employment relationship and those employed under civil law contracts). A total of 300 people were made redundant during this period. Among the cooperatives that made workers redundant as a result of the COVID-19 outbreak, the majority were social cooperatives (81.6%), where a decision was taken to make 200 workers redundant (Karolina Goś-Wójcicka, 2021, p. 64).

4.3 ACTORS

Social economy entities in Poland, in the most general terms, can be divided into cooperatives and non-governmental organisations conducting economic activity. The objectives of the two types of entities are different and they operate under different laws. Cooperatives focus on employment of persons at risk of social exclusion and work integration. NGOs, on the other hand, carry out educational, advocacy,

watchdog, cultural and sporting activities and act for local development. NGOs often do not identify themselves as social economy entities, although they carry out economic activities. They define their actions in terms of civic rather than economic activity. However, it should be remembered that the division between cooperatives and NGOs in the sector is blurred. Sometimes NGOs that act for social inclusion set up a social enterprise to better respond to the needs of their audience.

The legal frameworks for the economic activities of NGOs and cooperatives are also different. NGOs mainly operate on the basis of the Law on Public Benefit Activity and Volunteerism, which specifies in detail the rules for commissioning public tasks to NGOs by the government and local authorities. Cooperatives are also covered by this law, but often compete with regular business in tenders based on the Public Procurement Law.

As the interests of NGOs and cooperatives are different, they also choose to join different organisations. In 2019, 34.6% of the 1,400 active cooperatives declared that they were members of at least one formal structure, informal agreement or network. The cooperatives surveyed were most often members of audit/lustration associations (26.8% in 2019). 5.3% belonged to other formal national structures, while 4.1% were part of informal agreements or networks. The lowest number of entities were active in formal international structures – 1.2% (Statistics Poland 2021). However, according to experts, there is no single organisation representing the interests of cooperatives in the social dialogue.

There is a Social Economy Conference, but it is based on the cooperation of a group of people, and has no formal status. The Conference on the Social Economy is a voluntary, multi-stakeholder agreement open to organisations and individuals representing the social economy sector. Its main objective is to work together to develop and promote the social economy model in Poland. The conference operating model is based on holding a debate on issues of importance to the sector. It is not a formalised body.

The role of representing the interests of the social economy is taken on by cooperative unions such as the Cooperative Lustration Union and the National Audit Association for Social Cooperatives, and short-lived initiatives appear from time to time (Karolina Goś-Wójcicka, 2021).

NGOs, on the other hand, are represented by the National Federation of Polish NGOs (OFOP), which brings together 136 Polish organisations. Over 1 million people are active in OFOP-affiliated organisations. The federation is made up of both small, locally active associations and foundations, as well as regional federations and national organisations. OFOP brings together scouting, watchdog, environmental, health, charity, education, cultural and local development NGOs and actively engages in social dialogue on sectoral issues (OFOP, 2023).

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Social dialogue and the social economy

5.1 SOCIAL DIALOGUE IN THE SOCIAL ECONOMY

Bipartite dialogue in social economy entities rarely takes place. The reasons for this can be found in the external factors and legal conditions. Some hope was brought by the change introduced in 2015 to the Act of 23 May 1991 on Trade Unions which made it possible for persons not employed under an employment contract (self-employed persons, persons employed under civil law contracts, volunteers, interns and other persons who provide personal work without remuneration) to join trade unions. The amendment of the law was dictated by a 2015 Constitutional Tribunal judgement, which held that it was unconstitutional to restrict the freedom of association of non-employees. Thus, in Poland, trade unions of NGO employees have started to emerge in recent years, mainly in the context of problems present in organisations such as bullying, excessive working hours, unpaid overtime or very low salaries. There is also a Commission of NGO Workers at the All-Poland Trade Union Workers' Initiative (*Inicjatywa Pracownicza*).

However, there are still only a small number of trade unions in the social economy, the reason for which is the lack of resources on the employees' side. Due to the rules for the outsourcing of social services set by

the local governments, workers are often employed on temporary contracts, with low salaries which do not allow them to set aside savings that would give them the security and confidence needed to negotiate better terms of employment with the employer. There are also awareness barriers. Only 15% of NGOs employ full-time staff (Karolina Goś-Wójcicka, 2021). Besides, NGOs rarely perceive themselves in terms of workplaces. Rather their activities are seen as a social mission, which may not only be poorly remunerated, but may also fall short of the standards one would expect in a workplace. Another reason for the absence of bipartite dialogue in the sector is the individualisation of the problem of poor working conditions. In recent years, there has been growing debate in Poland about professional burnout, which people working in SEEs try to deal with individually or during workshops or supervision. Burnout is perceived more as a problem of the employee than of the workplace and the organisational culture there. As a result, dialogue between employees and employers is rarely undertaken.

The absence of bipartite dialogue can also be seen in social cooperatives. Here, in addition to the barriers mentioned above, there is a deepening imbalance

between workers (people who experience social exclusion in many areas) and employers (often professionals), making dialogue even more difficult.

5.2 SOCIAL ECONOMY IN THE SOCIAL DIALOGUE

Social economy actors are rarely present in tripartite dialogue processes. The public authorities only include the social economy in legislative processes that directly affect the sector: a recent example would be the work on the Social Economy Act. The social partners, on the other hand, do not recognise SEEs as significant players and know little about them. The reason for the absence of SE in social dialogue is the weakness of the sector in Poland. The source of this weakness is the lack of resources and structural aspects from which this lack results.

The social economy accounts for 2.94% of Polish GDP (Goś-Wójcicka, et al., 2021). Whether this percentage is high or low is debatable. Regardless of the sector's impact on the economy, the fact remains that social enterprises are in poor financial shape. Insufficient resources make it difficult for SEEs to engage responsibly in dialogue processes, which requires the engagement of qualified staff and additional administrative expenditure. These resources are mainly spent by social economy entities on day-to-day operations and struggling to survive in the market.

The system of outsourcing public tasks to SEEs under the Act on Public Benefit Activity and Volunteerism often works to their disadvantage. In competitions for the implementation of public tasks, local authorities require SEEs to provide their own financial contribution, which reduces the revenues of these entities in real

terms. Such an expectation is not applied to companies in other competition procedures. In addition, tasks are contracted within the horizon of one budget year, which forces SEEs to sign temporary contracts with their workers. The challenge for SEEs is therefore to maintain qualified, committed staff and ensure decent working conditions for them. Another difficulty for SEEs is the expenditure structure imposed in competitions for the provision of public tasks, which limits administration and management costs to a minimum. As a result, social economy entities have very limited possibilities to finance human resources and infrastructure, and thus also to create the base necessary for responsible engagement in dialogue.

The last reason for the weakness of the social economy is the low quality of employment in Poland. Social clauses in public procurement are insufficiently widespread, as a result of which SEEs in the market of service provision compete with companies. Without social clauses in competitions, especially those in which the bid is determined by price, social economy entities remain in the lost position. They are forced to cut costs and have no opportunity to make a profit, which they could allocate to advocacy and social dialogue. Moreover, in Poland, institutions such as the State Labour Inspectorate and labour courts are neither efficient nor effective. As a result, employment standards in the labour market are not enforced. Social economy entities, which often aim at professional integration of persons at risk of social exclusion, cannot, by definition, downgrade the quality of employment. Labour costs are therefore higher with them. This is obviously a problem for all employers, not only SEEs, and could be an area for cooperation between the SE and the social partners.

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Conclusion

In conclusion, the voice of the social economy is hardly heard in the social dialogue. Employers' organisations and trade unions do not recognise the social economy as a partner. They see it as a small, insignificant sector with which they have no common interests and which should not be represented in social dialogue bodies. In contrast, the public authorities only include the social economy in law-making processes concerning the interests of the sector.

Social economy actors themselves mostly do not find themselves on either side of the dialogue. They define their activities in terms of activism rather than work. Thus, they do not consider themselves as workplaces and their representatives do not perceive themselves as employers and employees. The social economy therefore lacks bipartite dialogue, which often results in poor working conditions in the sector.

Both bipartite and tripartite dialogue are relatively rare initiatives, but they are present. Trade unions of NGO employees are being formed. Umbrella organisations are also making attempts to get involved in social dialogue and law-making processes, not only directly concerning the sector. The research shows that the most important reason for lack of involvement in dialogue by both workers and organisations side is the lack of resources.

6.1 LIST OF RECOMMENDATIONS

To social economy actors

A sectoral forum for dialogue between employees and employers

In the context of the development of bipartite dialogue, it is first necessary to reclaim the concept of social dialogue in general and to recognise that, owing to the structure of employment as such, there is and will be a conflict of interest and power imbalance between employers and employees in each SEE as a workplace. Attention should therefore be paid in analyses and media discourse to ensure that the voice of SE workers is taken into account. SEE managers are not always willing to represent the interests of their employees in their statements and actions. Research on the sector should also include employee issues separately.

Representation of the social economy in tripartite dialogue

In the context of social economy involvement in tripartite dialogue, an entity representing social employers externally should be established to build alliances and partnerships, educate social partners about the social economy, advocate for legislative changes, and lobby. The aim of the body's activities should be that the social partners start to recognise the social economy and take its interests into account.

The body's activities should not be financed from the national budget. There was a proposal to apply for a grant directly from the European Commission.

It is also important to promote social dialogue in social economy entities and the involvement of the social economy in dialogue processes at local and regional level.

In addition, close cooperation between SEEs and trade unions should be established and joint actions should be taken to improve working conditions in Poland.

To social partners

Actions on working conditions

It is in the interest of both employers and trade unions to promote high standards of working conditions in Poland. It is therefore necessary to promote the involvement of trade unions and employers in improving standards of outsourcing public tasks and social services in competition procedures to both social economy entities and profit-oriented enterprises.

To public authorities and local governments

Public institutions and local governments can actively contribute to strengthening social economy entities within the existing legal framework by:

- ✦ *including social clauses in tenders – and addressing them seriously, e.g. by checking that the bidder actually meets the clause conditions, as well as giving the clauses the right weighting (if the price is 95% and the fulfilment of the clause requirements is 5%, the clause has no power to change reality into a more pro-social one);*

- ✦ *not applying the requirement of financial contribution and restrictions on cost categories in tenders for the provision of public services;*
- ✦ *commissioning social services in a multi-year mode, allowing SEEs to be financially stable.*

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